

**CITY OF EAST PALO ALTO
RENT STABILIZATION BOARD MEETING
WEDNESDAY, MARCH 10, 2010
REGULAR SESSION
2415 UNIVERSITY AVENUE
City Council Chambers
EAST PALO ALTO, CA
Minutes**

1. CALL TO ORDER

The meeting was called to order by Chair Dorn at 7:08 p.m.

2. ROLL CALL

Board Members Present:	Randolph, Hart, Hernandez, Dorn, Webster (arrived at 7:15 p.m.)
Board Members Absent:	Mitchell
Board Alternates Present:	Allen
Board Alternates Absent:	
Staff Present:	Ford, Lee, Ewing

Board Member Allen acknowledged that he was seated in the Tenant seat at this meeting.

3. APPROVAL OF AGENDA

Request was made to move Item 12 **COMMUNITY FORUM** to item 4a.

Motion: It was moved (Hernandez) and seconded (Randolph) to approve the agenda, as amended.

4. APPROVAL OF MINUTES

- Minutes for the January 27, 2010, regular RS Board meeting

Board Member Hart he had a question about page 3 at the top of the page. He said that he recalled that Mr. Ewing had said that he would provide some workshops for tenants and landlords. Hart says that he had requested a proposal from Ewing.

City Attorney Ewing said that he and the committee had agreed to meet to plan these outreach and education workshops. He said that the other development was that the City Council voted decided to fund the CLS outreach activities.

Mr. Hart said that he had asked Mr. Ewing to attend an outreach and Education Committee meeting to develop the workshop materials.

On page 3, Chair Dorn asked for a change to “Chair Dorn pointed out that CLS suggested using YUCA and holding meetings at various complexes, churches, and schools.” Chair Dorn said that the minutes needed to reflect that Mr. Ewing said that he would be willing to work with YUCA to hold meetings at various rental complexes in the community.

Board Member Allen pointed out that Board Member Hernandez was listed as being both Present and Absent under ROLL CALL. Minutes will reflect that she was absent and that Chair Dorn was present.

Chair Dorn referred to page 3, “Chair Dorn read the heading of the resolution, “A Resolution of the Rent Stabilization Board of the City of East Palo Alto Revising Rules and Regulations Section 626(D)” and recommended waiving reading of the full text.”

Motion: It was moved (Hernandez) and seconded (Randolph) to approve the minutes for the January 27, 2010, regular RS Board meeting, as amended. Motion failed because there was not a quorum present from that meeting to approve the minutes.

Motion: It was moved (Hart) and seconded (Webster) that the minutes be not approved until the corrections are made and that the minutes will be brought back on the next agenda. Motion passed, with Allen and Hernandez abstaining.

- Minutes for the February 10, 2010, regular RS Board meeting

It was pointed out that Board Member Hernandez was listed as being both Present and Absent. Minutes will be corrected to reflect that she was Present and also that Chair Dorn was Present.

Board Member Allen referred to the bottom of page 3 and made a change, “Board Member Allen understood that many people are leaving because their leases are expiring, ~~they fear increased rents~~ and they are going to where there are better rates.”

Motion: It was moved (Hernandez) and seconded (Allen) to approve the minutes of the February 10, 2010, regular RS Board meeting, as amended. Motion passed with one abstention (Hart).

4.a. (Old item 12) **COMMUNITY FORUM**

Jessica Kirton, 5 Newell Court, asked the Board to be more professional and to take a greater role in the negotiations with Wald, the Page Mill Properties Receiver.

Board Member Allen acknowledged that the Board has not been invited to negotiate on the issues before the City; the Board indicated to City staff and the City Council what it would like to see done.

5. AGENDIZED ITEMS FOR POLICY AND ACTION

5.1 Development of Board Mission, Values, Norms

Board Member Allen recommended tabling this item until Board Member Mitchell is in attendance.

Chair Dorn suggested that if Board Member Mitchell is unable to attend the next meeting, he might be able to pass information on to the Board.

5.2 Status update, discussion and possible action on development process of
FY2010-2011 Rent Stabilization Program Operating Budget

Staff Lee reported that he had not additional information; the Finance Director and City Manager are holding meetings with the various City departments. He added that at the last meeting, Board Member Allen requested information with respect to investment funds; that request has been forwarded to the City Manager and Finance Director; and no response has been received at this time.

Board Member Webster reported that at the Council meeting last night, Council Member Romero maintained that the Rent Stabilization Board is sitting on \$400,000 and asked whether staff had confirmed that.

Staff Lee responded that he would ask Council Member Romero where he got that information as he was not aware of that figure.

Chair Dorn commented that she sent an email to the City Manager asking about the Rent Stabilization Board budget that the City Manager was planning to present to the Council at its public hearing. Her understanding is that the budget that the Rent Board presents to Staff Lee that goes to the City Manager is the budget that would go forward to the City Council; and the City Manager would then present what he agrees with or does not agree with.

City Attorney Ewing responded that the City budget is presented by the City Manager to the City Council. The City Manager and Finance Director develop the budget with input from parties, and that budget goes to the City Council for approval. The City Manager can make changes to the proposed budget.

Chair Dorn reiterated that the Rent Board would like a response from the City Manager with regard to the budget that is proposed to the City Council. She indicated she would talk to the Mayor about the budget.

5.3 Status update on tenant outreach and education-related services to be
carried out by Community Legal Services (CLS)

Staff Lee reported that the City Council, on February 16, 2010, approved funds for Community Legal Services (CLS) to do Board training. Contracts have been signed, and the first training is scheduled for March 18. Trainings will be conducted on the third Thursday of each month. He will send an email to the Board when he receives the topics and locations for the trainings.

Board Member Hernandez expressed concern that no information has been received at her apartment about the training on March 18.

Board Member Allen commented that he saw an announcement at his apartment building regarding the training which is to be held at Three Brothers.

A member of YUCA indicated that the workshop would be on tenant's rights and changes with regard to Page Mill Properties.

5.4 Status update and possible action on tenant/landlord outreach and education-related materials – brochures

Board Member Hart reported receiving an email from Staff Ford with correct contact information. He felt that one of the companies in East Palo Alto was too expensive. He contacted another person in the community who provides media services but he has not received a proposal. He will get samples of work from the companies and prepare a list of the written proposals for the next meeting.

Chair Dorn suggested that the Outreach Committee meet prior to the next Board meeting to review the proposals.

5.5 Status update on negotiations with Page Mill receiver

City Attorney Ewing reported that he and the Receiver's attorney, David Pasternak, are having conversations. The City Council indicated that it is willing to listen to proposals from the Receiver. The transactions are not complete until the Court signs off on the sale of the property. The underlying litigation was one of the negotiation terms, and the Receiver offered to dismiss all the remaining pieces of litigation; there are currently eight outstanding cases. Some of the cases involved Brown Act issues and all were based on Page Mill Properties being a landlord in the City. Pursuing the cases would be difficult since Page Mill Properties is no longer a landlord. His suggestion to the Receiver was that he dismiss all the cases. Other remaining issues include the calculation of maximum allowable rent and an attempt to delay putting the ordinance on the ballot. He is finalizing an ordinance that would deal with the calculation of maximum allowable rent. The City does not represent individual tenants with regard to the certificates, so the City is not in a position to negotiate for them.

Chair Dorn pointed out that in the past, the City Council considered putting rents back to where Page Mill Properties started and moving them up by the appropriate AGA, and her question was if the City would be involved in that.

Mr. Ewing responded that the City would not be involved.

Board Member Hart asked for clarification on comments made by the City Attorney with regard to the City not representing individual citizens.

Mr. Ewing clarified that the City does not represent tenants in negotiations.

Board Member Hart pointed out that the City represents the East Palo Alto tenants' best interests through the negotiations and the Ordinance.

Board Member Allen pointed out that Page Mill Properties owed the Board \$1 million in penalties, which could be a negotiating tool for the Board to do what it needs to do for the tenants of the City.

Chair Dorn said that she recalled a discussion about whether or not the City would be representing the Rent Stabilization Ordinance, and that the City interpreted it as they could

not represent individuals. She asked that her comments be added, that the City, in asking for the rents to be rolled back, would be representing the RSO and not be representing the tenants and how the RSO was supposed to be carried out. Chair Dorn said that she and board member Hart had presented the argument that the City, in asking for the rents to be rolled back, would be representing the RSO and how the RSO was supposed to be carried out and not representing the individual tenants.

Mr. Ewing explained that the presumption in the law is that City officials and staff are going to carry out their duties; it is not the place of the Courts to “step on toes” because of separation of powers. Mr. Ewing commented that tenants have remedies under the Rent Stabilization Ordinance (RSO). He added that a meeting with the Receiver will be held on April 6.

Mathew Fremont, 1986 Euclid, asked whether Mr. Ewing had a sense of the extent of the Receiver’s authority to settle the cases.

Mr. Ewing was unsure, adding that the Receiver might not be able to get to Court until sometime in April.

Chair Dorn questioned who tenants appeal to on their petitions against Page Mill Properties since Page Mill Properties is no longer in the picture.

Mr. Ewing responded that the tenants were aggrieved by Page Mill Properties so the appeals still go to Page Mill Properties.

5.6 Status update on RSO development process

City Attorney Ewing reported that the City Council approved the Rent Stabilization Ordinance (RSO) at its meeting the previous night, and he needs to make some final changes prior to posting it on the website.

Matthew Fremont, 1986 Euclid, commented that the City Council did a commendable job in taking input from the community. One concern had to do with the language of a partial exemption. The draft ordinance had language that could have been construed to exempt any properties or units that receive any form of government subsidy. Members of the Rent Board who brought that to the Council’s attention at its March 2 Council meeting were thanked. He and Eric Oberle worked with Council Member Carlos Romero and the City Attorney to come up with proposals; they ended up with language that was adopted by Berkeley that was more precise than what was in the draft ordinance. Concern has been expressed about how the exemption would affect the Program going forward and whether the exemption would impose a hardship or put the Program in jeopardy. He offered to work with the Board Members or members of the Rules and Regulations Committee to review the exemption.

Board Member Allen spoke about matters he brought before the City Council on March 2, 2010. He commented that he started the issue about fully exempt units, and then Community Legal Service (CLS) got involved in the issue. He was trying to modify and reintroduce comments he made last summer on definitions of the maximum allowable rent and trying to put language into the definition which was in the previous ordinance. He was

disappointed by Council Member Romero's moving the registration fees from nonprofit housing.

Board Member Webster suggested hiring a specialist to analyze the Rent Stabilization Program.

Board Member Ford asked staff whether any new, low/moderate housing that is built in East Palo Alto would be exempt from the Rent Stabilization Ordinance.

Staff Lee responded that was the way the current Ordinance read.

Board Member Allen pointed out that any apartment built after 1988 was exempt from any local rent control ordinance.

5.7 Discussion of Rent Stabilization Board projects

Staff Ford provided a follow up of projects that were originally brought to the Board in the Fall 2009. One of the items at the top of the list was the inundation of public records requests from Page Mill Properties' attorneys but those requests no longer take much staff time. The Board retreat and training will probably be held during the summer months. Staffing is yet to be determined; will be decided by the budget. Mailing of registration packets had been listed as "to be determined" because it was in the draft ordinance; it was determined in the draft ordinance that the next registration would be January 1. Registration would be done in December for January 1. Website and development is still in the planning process and depends on the budget. Rules and Regulations will come to the Board for a hearing at its next meeting.

Elizabeth Jackson spoke with regard to item 5.6 and commented that she attended the City Council meeting and was very disappointed with the action taken by the City Council with regard to exempting all the nonprofits.

5.8 Discussion of attendance at Housing California Conference 2010

Staff Lee asked who would be interested in attending the Conference on April 26-28, 2010.

Board Member Hart indicated he would be interested in attending.

Chair Dorn indicated she would let staff know by Monday whether or not she could attend.

Staff Lee commented that he would contact Board Member Mitchell to see if he is interested in attending.

Board Member Hernandez announced that this would be her last Board Meeting because she is moving to San Jose. She was thanked by the Board Members for her service on the Board.

5.9 Discussion of April 2010 Board meeting dates

Staff Ford pointed out that the conference is on April 28, which is the regular meeting date.

Staff Lee asked whether the Board wanted to meet on another date or only hold one meeting in April.

Consensus was to hold the meeting on Thursday, April 29. Staff Lee will check the room availability for that date.

6. **CONSENT CALENDAR**
7. **PUBLIC HEARING**
8. **RESOLUTIONS or RULES**
9. **REPORTS OF COMMITTEES AND STAFF**

Chair Dorn questioned the feasibility of the Board receiving a report on the new computer program which is supposed to make things easier for the Rent Board.

Staff Lee said an ad hoc Budget Committee would be set up when he receives financial information from the City, so that the information could be reviewed in preparation for a recommendation to the City Council by the second meeting in May.

- 9.1 Report out from RS Board Members and Committees:
 - a. Operational Excellence (**Allen**, Mitchell & Hernandez) – No report
 - b. Outreach/Education (**Dorn** & Hart)

Board Member Hart reported that the Outreach/Education Committee would be on April 14th at 6:30 p.m.

- c. City Council Liaison (**Hart & Mitchell**)

Board Member Hart indicated there are issues that the Committee needs to discuss with the City Council Liaison.

- d. Rules and Regulations (**Webster**, Allen & Randolph) – No report

10. **ADMINISTRATIVE ITEMS**
11. **WRITTEN COMMUNICATIONS**
13. **RECOMMENDATIONS FOR FUTURE ACTIONS AND AGENDA ITEMS**
14. **ADJOURNMENT**

There being no further business, the meeting adjourned at 9:29 p.m.

