

**CITY OF EAST PALO ALTO
RENT STABILIZATION BOARD MEETING
WEDNESDAY, July 14, 2010
2415 UNIVERSITY AVENUE
Council Chambers
EAST PALO ALTO, CA
Minutes**

1. CALL TO ORDER

The meeting was called to order at by Chair Dorn at 7:13 p.m.

2. ROLL CALL

Board Members Present: Dorn, Randolph, Webster, Hart, Fremont
Board Members Absent:
Board Alternates Present: Allen
Board Alternates Absent:
Staff Present: Ford, Lee

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

3. APPROVAL OF AGENDA

Motion: It was moved (Allen) and seconded (Fremont) to approve the agenda with one change: to move item 12, Community Forum, before item 5. Motion passed unanimously.

4. APPROVAL OF MINUTES

- Minutes for the May 26, 2010, regular RS Board meeting

Chair Dorn referred to page 3 and questioned the comment, “Board Member Allen questioned where in the document provided by Staff Ford does it indicate, ‘Rent Control.’” She wanted to know what the document was that was referred to.

Board Member Allen responded that the document he referred to was the Federal Regulations that Staff Ford handed out. He asked for clarification from Legal about under what conditions in the Federal Regulations are properties exempt from rent control.

Staff Ford will make the necessary change.

Motion: It was moved (Allen) and seconded (Webster) to approve the minutes for the May 26, 2010, regular RS Board meeting, as amended. Motion approved with three abstentions (Hart, Randolph and Fremont who were not present at the May 26 meeting).

Discussion was held on whether or not the minutes could be approved with only three members, due to the fact that three Board Members were absent at that meeting and Board

Member Mitchell has resigned from the Board. Board Member Webster indicated that, in the past, if a Board Member had resigned, that Board Member was contacted to approve the minutes. Board Member Allen felt that the majority of Board Members present at a meeting could approve the minutes. Chair Dorn suggested getting clarification from Legal Counsel.

- Minutes for the June 09, 2010, regular RS Board meeting

Board Member Allen made a correction to the bottom of page 2, “James Turner, YUCA, 2135 Clarke Avenue, commented that YUCA and the community would like to be involved with the process of implementation of Measure ~~A~~.H.”

Board Member Hart referred to the paragraph on page 3, “Mr. Ewing advised that the money was not the Rent Program’s money but was the City’s money. The Rent Stabilization Program is a City program and the money is administered through the City Manager, City Council, and Finance Department.” He felt that there was quite a bit of dialogue that took place that was not included in the minutes. He recalled asking Mr. Ewing for clarification at the next meeting regarding money being eligible to go into the General Fund.

Staff Ford will review the tape and make the necessary change.

Motion: It was moved (Allen) and seconded (Randolph) to approve the minutes for the June 9, 2010, regular RS Board meeting, as amended. Motion approved with one abstention (Fremont).

- Minutes for the June 23, 2010, regular RS Board meeting

Chair Dorn pointed out that she had made comments at the beginning of the meeting asking Board Members to arrive at the meetings on time, but those comments were not included.

Board Member Fremont made a correction to the bottom of page 2, “Board Member Fremont suggested that the Board needs to provide policy direction to the person who will be drafting the Rules and Regulations, noting that in some cases, the ~~policies state~~ RSO states “The Board shall...” and “The Board may...”

Chair Dorn also referred to page 3 and recalled a conversation about what the alternate would be doing. She believed that she and Board Member Hart thought that the late member should participate in the discussion at the table but not vote.

Board Member Webster recalled saying that in the 1990’s, the practice was that if the regular member came after an alternate had been seated, at that time the regular member would sit in the audience and not participate; however, in recent years, the practice was changed so that the regular member joined in the discussion. He suggested the following change, “His ~~recommendation~~ recollection was that once the alternate was seated, the

regular member would sit in the audience and not participate in the discussion. In recent years, this has not been the practice.”

Chair Dorn recalled that she and Board Member Hart felt that late members should participate in the discussion at the table but not vote. There is an item on the agenda from the Rules and Regulations Committee there that issue could be discussed.

Board member Hart: There was no clarification on the status of the alternate sitting in.

Board member Allen: The old attendance rules would apply. When a regular member of the Board is not on time, the alternate is seated in the regular member’s seat. The alternate would participate and vote and the late regular member could participate but not vote.

Under Item 5.3, Chair Dorn made the correction, “The budget was overestimated by \$17,000, and that amount would pay for the other two items the Board requested be added to the budget, plus an amount left over to help pay for the software program.”

On page 3, Chair Dorn made the correction, “Mr. Ewing pointed out that study sessions ~~would~~ could have to be noticed but no action would be taken. The Board could schedule a study session to draft the rules and regulations where the Board and the public could participate ~~in.~~”

On page 4, Chair Dorn made a correction, “Chair Dorn felt that the Rules and Regulations Committee ~~worked~~ should work on the rules and regulations first and bring matters to the Board to vote on.” Another correction on page 4: “Staff Ford commented that currently ~~nonprofits are exempt, and all the federally funded are exempt going forward. all nonprofits are federally funded and the nonprofits are exempt going forward.~~”

Staff Ford clarified that he was trying to say that nonprofits currently in the program are federally funded.

Chair Dorn pointed out that under item 9.1, on page 6, the Chair of the Outreach/ Education Committee is Board Member Hart. She added that items 9.1.c and 9.1.d. should indicate “No Report.”

Staff Ford will make the corrections to the minutes.

Motion: It was moved (Hart) and seconded (Fremont) to approve the minutes of the June 23, 2010, Regular RS Board meeting, as corrected. Motion passed with two abstentions (Allen and Randolph because of having been absent at that meeting).

4.a. (Old item 12) COMMUNITY FORUM

There were no comments from the public.

5. AGENDIZED ITEMS FOR POLICY AND ACTION

5.1 Update on negotiations with Page Mill receiver and Wells Fargo

City Attorney Ewing participated in the discussion by teleconference. He reported that the settlement agreement has been finalized and will be submitted to the Court tomorrow.

Chair Dorn asked that Board Members receive a copy of the settlement.

Mr. Ewing responded that the Board would receive copies of the settlement. He then proceeded to summarize the settlement, which included that all pre-existing lawsuits have been dismissed with prejudice, which means they cannot be refiled; the exception is the cases known as the Alleyway cases which were dismissed without prejudice. Once the Court approves the settlement agreement, Wells Fargo and the Receiver shall pay the City of East Palo Alto the sum of \$385,000. The Rent Stabilization Ordinance Registration Fees will be paid upon registration and the Bank agrees that it would pay for all unpaid 2011 registration fees. Pursuant to the settlement agreement, the City is waiving any claim to fees for the period prior to 2010; the Bank will register all its properties within ten days of the effective date of the agreement and complete the process within 60 days; the City agreed that the past due water bills were captured within the settlement amount.

Chair Dorn pointed out that the Rent Stabilization Program borrowed money from the City to run the program last year when registration fees were not received; her understanding is that the City expects the Rent Program to pay that amount back.

Mr. Ewing responded that the question would be best answered by the Interim City Manager and Finance Director.

5.2 Discussion of a process for the development of RS Program Rules and Regulations

Board Member Hart questioned whether the Council approved the hiring of the consultant, Ken Barr, to help with the new Rules and Regulations.

Mr. Ewing advised that the City has hired Mr. Barr, who has proposed to complete his portion of the project within 45 days after the agreement is signed. The Council authorized an agreement with an amount not to exceed \$25,000; the proposed agreement contained two scopes of work, and the Council chose the scope of work that would entail looking at the old ordinance and the new ordinance and preparing a new set of Rules and Regulations. He added that the money for the consultant will come from the General Fund.

Board Member Webster indicated that the Rules and Regulations Committee wants to be involved in the process with Mr. Barr.

Mr. Ewing responded that he would communicate the Rules and Regulations Committee's request with Mr. Barr.

Chair Dorn raised a question about the transition of registration, noting that January 1st would start registration under the new ordinance, but people registered on July 1 and paid fees on July 1.

Mr. Ewing suggested that the Board discuss the issue and set a policy decision.

Mr. Ewing ended the teleconference. Chair Dorn summarized the settlement agreement which the Board will receive once the Court has signed off on it.

Board Member Hart asked whether the \$385,000 could be used for the current fiscal year or the next fiscal year.

Chair Dorn advised that the \$385,000 could not come out of the current year's budget.

Board Member Hart suggested that the City Council Liaison Committee schedule a meeting during the week to discuss the \$385,000.

Board Member Allen noted that it appeared that the \$385,000 covered the registration fees that were due during the previous year. He was unsure how much the Rent Stabilization Board borrowed from the City. Chair Dorn added that she meant to call Stephanie Osaze to find out how much was borrowed.

Board Member Webster advised that he put together a package of documents for Mr. Barr to work with the Rules and Regulations Committee. His criterion was to find language that could be converted into process. He went through the current rules and regulations and made notations where the language was noncompliant with the new Rent Stabilization Ordinance. The document before the Board is a composite document that attempts to indicate language that lends itself to be used as the basis for new rules and regulations. The Rules and Regulations Committee, at its July 7 meeting discussed the process involving Mr. Barr and the need to work out the details of the process. Also at that meeting, members of YUCA made a presentation of their input into the new rules and regulations. YUCA was invited to submit a letter that could be incorporated into the packet that was sent out by Mr. Ford; however, the letter might not have been ready as it was not included in the packet. Dr. Eric Oberle is working on an annotated list of suggestions that he has which he will submit to Mr. Ford. The Rules and Regulations Committee will put together the materials received, and Mr. Barr will work with the Rules and Regulations Committee and create a new set of rules and regulations. A study session could then be held to review the proposed rules and regulations.

Chair Dorn questioned what the Rules and Regulations Committee thought would be the least onerous and most efficient way to proceed.

Board Member Webster advised that the most efficient way to handle the process was to have all the input sent to the Rules and Regulations Committee who would go through the input, organize it, and decide what would be the pleasure of the Board. That material would then be sent to Mr. Barr for his review. His suggestion was to have a study session

with the full Board. A public hearing could be held to give the Board and the public the opportunity to review the document, raise issues, and make changes. A motion would then be made to pass the amended rules and regulations, a first and second reading would be held, prior to approval.

Board Member Randolph commented that it was the duty of the Rules and Regulations Committee to come up with the new working rules and regulations. She did not believe that the full Board needed to work on the process. Her suggestion was to have a study session with the full Board to hear everyone's ideas, and then the Rules and Regulations Committee should meet, if necessary, on a weekly basis during the summer.

Board Member Allen suggested that Mr. Barr receive a copy of Mr. Webster's information and his own comments, and then the Rules and Regulations Committee should have a meeting with Mr. Barr. He did not believe it was proper for the Board to ask one person or a couple of people to produce a draft copy of the entire rules and regulations.

Board Member Hart commended Board Member Webster for the information he put together and added that the Board had not requested that Board Member Webster prepare the information. He wants the Rules and Regulations Committee to take the leadership on the process.

Board Member Fremont pointed out that the rules and regulations included things such as "the Board shall" and "the Board may" adopt rules and regulations. He reviewed the ordinance to note the places where the inconsistency occurs. He was unclear whether the appropriate action was to tackle the issue by agendaizing the areas for policy discussion of the full Board or to have Board Members submit comments to Mr. Ford for review by the Rules and Regulations Committee first.

Board Member Hart agreed that areas should be identified and put on an agenda for Board discussion.

Chair Dorn suggested discussing the issues at a work study session, with the input going to the Rules and Regulations Committee.

Board Member Webster concurred with holding a formal study session. He would like to see all the ideas presented in written form.

Anthony Clark, YUCA, 2135 Clark Street, advised that YUCA looked at the rules and regulations language from Berkeley, San Francisco and Santa Monica and offered changes.

Chair Dorn suggested that the Board Members read the suggestions by YUCA and pass comments on to Board Member Webster for the Rules and Regulations Committee.

Board Member Hart asked that Staff Ford be included also.

The Board reviewed a document received from Board Member Allen.

Board Member Allen explained that the information involved issues that he raised at the Rules and Regulations Committee meeting. His suggestion was to eliminate section 500 and replace the language; the ordinance does the defining. The job of Mr. Barr will be to capture what is in the ordinance and expand on it. He suggested that the full Board discuss the issue of waiving penalties for not paying registration fees on time. The ordinance includes Section 900 which has to do with limitations on rent increases; a new section needs to be created to mirror Section 900 in the new ordinance. A new Section 1100 should be created to elaborate on YUCA's comments on vacancy decontrol and Costa-Hawkins, per the Ordinance. He believed that Mr. Barr should be directed to extensively footnote the new Rules and Regulations with references and explanations. He suggested the possibility of a new tenancy registration form that tenants can fill out along with providing copies of their lease, and requesting a certificate based on their tenancy, if that has not been done by the landlord.

Board Member Fremont suggested scheduling a meeting within the next two weeks.

Board Member Hart commented that devoting the next meeting would be an ideal time to discuss to the rules and regulations process.

Board Member Allen offered his thoughts on questions regarding changes from the old ordinance to the new ordinance in terms of references on certain types of dates, such as: What is the annual registration due date under the new ordinance (January 1, 2011); When is the registration fee due date (January 1, 2011); and When does the registration program notify landlords about the annual general adjustment (changed to before May 15 each year). The annual general adjustment will not be based on the change in consumer price index (cpi) in February of each year. That information will not be released until March. He then questioned what must happen before January 1, 2011, to send out the registration fee due date (the budget must be passed). The City will have to provide the Rent Program with realistic percentage choices of what they estimate the change will be so that the Rent Program could take the current salaries and increase that amount for the next fiscal year. He suggested that the Board hear from Mr. Ewing on the process.

Board Member Fremont responded to what should happen prior to January 1, 2010, and suggested there is a need to have a clear set of regulations dealing with registration and appeals of certificates; the Program needs to be in a position to send out the right forms. One area that needs Board discussion is the design of the certificate as far as the information that needs to be included.

Chair Dorn noted that the new Rent Stabilization Ordinance (RSO) is more specific than the old Ordinance. She thought there were places where the fees said they would be \$35 and \$25; there can be fees in the RSO that can be set but those fees should be open for the Board to change the fees in the future. She would like to see something in the rules and regulations about landlords notifying tenants about the RSO. She clarified that the Rules and Regulations Committee will come up with areas they think are important for the

Board to discuss; a work study session will be held; the Rules and Regulations Committee will meet with Mr. Barr and discuss with him the process; and then hold a public hearing.

Board Member Hart offered that the Board is interested in having discussion on some of the major issues with the rules and regulations. He noted that the Board will not meet during the next month but did not believe the Board could afford to not have a meeting during that time. He believed the major issues should be discussed within the next two weeks.

Board Member Webster pointed out that the Rent Board had not always taken a recess during the month of August and added that the Rules and Regulations Committee will be meeting during August.

Chair Dorn suggested asking the Rules and Regulations Committee to bring to the next Board meeting the more controversial issues that they want the Board to give guidance on. She agreed that the Board should meet in August and that any concerns or ideas should be passed on to the Rules and Regulations Committee through Staff Ford or Board Member Webster.

Board Member Webster advised that the Rules and Regulations Committee will need to agree on a meeting schedule.

Board Member Allen advised that City Attorney Ewing was taking care of the technical details of adopting the current rules and regulations in the areas that do not conflict with the new ordinance.

5.3 Discussion of distribution of Rent Stabilization Program brochures

Board Member Hart reported that the brochure has been proofed and is ready for publication. The Spanish version will be ready next week. The plan is to produce 1,000 English and 1,000 Spanish brochures which should be available in about two weeks. At that time, the Board can discuss how the brochures should be dispersed.

Board Member Fremont questioned whether the brochure was reviewed in relation to the new Ordinance to make sure there were no conflicts.

Board Member Hart explained that City Attorney Ewing, Staff Ford, Chair Dorn and himself looked at the brochure.

The Board will finalize the distribution after the brochures are printed.

5.4 Discussion of implementation of new Rent Stabilization Ordinance.

Board Member Fremont brought up the question of how the registration fees and forms are handled during the transition of the old Ordinance and the new Ordinance. He suggested it would be helpful for the Board to have a sense of what has been

communicated to landlords about the transition and to discuss what other forms of communications from the Board are appropriate to landlords as the new Ordinance is implemented.

Staff Ford responded that the Operational Excellence Committee should meet to discuss forms of communications to landlords. His anticipation was that staff would send a letter within the next month that there is a new Ordinance. He explained that the registration process was done under the old Ordinance but there has not been a new registration process under the new Ordinance. As the new Ordinance goes into effect, staff would go through the registration process with everyone under the new Ordinance. He understood from City Attorney Ewing that there might be a pro-ration of fees for new landlords.

Chair Dorn understood that if there were new fees that started in January and people had already paid for the 2010-11 year, they would be given credit for what they had paid.

Board Member Allen commented that the pro-ration involved pro-rating new landlords who may come in and only pay for a partial year.

Board Member Fremont suggested there are two issues involving fees: one which is how to handle the fee for the January 1, 2011, registration; and the other is the question of landlords who are now subject to the new Ordinance and the fee they might pay. He offered to serve on the Operational Excellence Committee. He questioned how many landlords who were invoiced had actually paid to date.

Staff Ford estimated 40 out of 60 landlords have paid registration fees. He added that the Rent Program received a check from Wells Fargo for \$511,484 including registration forms.

5.5 Discussion of possible impact on RSP of units covered under RSO to non-profit ownership.

Chair Dorn suggested that the Board needed to get input from City Attorney Ewing.

Item continued to the next meeting.

6. CONSENT CALENDAR

7. PUBLIC HEARING

8. RESOLUTIONS or RULES

8.1 Discussion and consideration for adoption of a resolution allowing the Board's interim use of Rules and Regulations previously used to implement the City's 1988 RSO, that are not in conflict with the RSO passed by a majority of the East Palo Alto voters on June 8, 2010.

Board Member Fremont spoke about the regulations that, to him, had the greatest potential for confusion which were the regulations that dealt with vacancy control, such as Regulations 1000, 1601, 1602, 1603, and 1605.

Chair Dorn pointed out that the area of owner move-in had also changed.

Board Member Fremont questioned how specific the wording needed to be as to what is in conflict.

Board Member Allen suggested keeping the wording in the non-specific form.

Motion: It was moved (Hart) and seconded (Webster) to waive the reading of the Resolution concerning the implementation of the new Rent Stabilization Ordinance. Motion passed unanimously.

Motion: It was moved (Webster) and seconded (Hart) to adopt Resolution No. ____, a Resolution of the Rent Stabilization Ordinance of the City of East Palo Alto adopting interim use of Rules and Regulations previously used to implement the City's 1988 Rent Stabilization Ordinance that are not in conflict with the RSO passed by a majority of the East Palo Alto voters on June 8, 2010. Motion passed unanimously.

9. REPORTS OF COMMITTEES AND STAFF

9.1 Report out from RS Board Members and Committees:

a. Operational Excellence (**Allen**) – No report

b. Outreach/Education (**Dorn** & Hart)

Board Member Hart reported that the Outreach/Education Committee will meet on July 28, prior to the Regular Board Meeting.

c. City Council Liaison (**Hart & Fremont**)

Board Member Hart reported that he and Board Member Fremont will meet on July 19 prior to meeting with the City Council.

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

Board Member Allen announced that he was resigning from the Rules and Regulations Committee.

Board Member Webster thanked Board Member Allen for his efforts over the years as a member of the Rules and Regulations Committee.

Board Member Webster advised that he distributed two documents that were shared at the People for Rent and Affordable Homes meeting. The information gave a precinct by precinct vote of Measure H. He reported receiving the minutes of the final meeting of the

Measure H Campaign which indicated that the total number of absentee votes was 48% of the total vote.

Board Member Hart thanked Board Member Allen for all of his good work on the rules and regulations. He distributed a flyer regarding “Dad and Me @ the Pool,” which is sponsored by the San Mateo County Fatherhood Collaborative. The event will be held at the East Palo Alto YMCA on August 7 and is for fathers and their children. The intent is to promote fathers to be more active in the lives of their children.

Chair Dorn reported talking to someone at Bridge about how nonprofits who own property in East Palo Alto would interact with the Rent Stabilization Board. She anticipates bringing back further information. She discussed issues with Mobile Home rent control.

10. ADMINISTRATIVE ITEMS

11. WRITTEN COMMUNICATIONS

- 11.a Written communication from Board member Robert Allen on recommendations for the 7 July 2010 Rules & Regulations subcommittee meeting on updates

13. RECOMMENDATIONS FOR FUTURE ACTIONS AND AGENDA ITEMS

Items include how to transition fees, communications, etc.; the impact of the Rent Stabilization Program; and discussion of possible impact on RSP of units covered under RSO to non-profit ownership.

14. ADJOURNMENT

There being no further business, the meeting adjourned at 10:07 p.m. At the request of Board Member Allen the meeting was adjourned in the memory of Kathy Lesh.