

**CITY OF EAST PALO ALTO
RENT STABILIZATION BOARD MEETING
WEDNESDAY, June 23, 2010
2415 UNIVERSITY AVENUE
Community Room
EAST PALO ALTO, CA
Minutes**

1. CALL TO ORDER

The meeting was called to order by Chair Dorn at 7:17 p.m. Chair Dorn welcomed Matthew Fremont on his appointment to the Board and to those whose positions were renewed.

2. ROLL CALL

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

Chair Dorn: Board members arrive by the scheduled start time of the meeting. Welcome to the newly appointed Board members.

3. APPROVAL OF AGENDA

Motion: It was moved (Webster) and seconded (Hart) to approve the agenda. Motion passed unanimously.

4. APPROVAL OF MINUTES

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

Board Member Webster made a correction to item 5, Approval of Minutes - Minutes for the April 14, 2010, regular RS Board meeting "Could not be approved for lack of a quorum of members eligible to vote on the minutes."

Board Member Hart pointed out that there was no quorum of Board Members who were present at the May 26, 2010, meeting and recommended that approval be tabled.

Motion: It was moved (Hart) and seconded (Webster) to table the minutes of May 26, 2010, to the next meeting. Motion passed with one abstention (Fremont).

5. AGENDIZED ITEMS FOR POLICY AND ACTION

- 5.1 Update on negotiations with Page Mill receiver and Wells Fargo

City Attorney Ewing reported that the City had, in good faith, negotiated a settlement agreement with Wells Fargo and the Page Mill receiver; however, when it came time to sign the agreement, Page Mill did not sign. The attorney for Wells Fargo, the receiver's attorney and he met by teleconference and agreed that Page Mill would be cut out of the

agreement. A final version is ready for everyone to sign, and he expects it to be signed by the end of the week; he anticipated it will be available to the public at that time.

5.2 Status update of condominium map approval of WestPark Apartments

City Attorney Ewing reported that he is still waiting for information that he requested from the Planning Department, including the tentative map from Mr. Tarr. His suggestion was that he would let Mr. Ford know when he received and analyzed the information, and the item could come back to the Board at that time.

Board Member Fremont questioned whether Mr. Ewing's research included looking at conditions that were placed on the approval of the tentative map.

Mr. Ewing responded that he would be looking at the conditions on the map.

5.3 Discussion of proposed RS Program Budget items

Chair Dorn advised that someone on the City Council stated that they wanted the funding to be in the budget for the computer program; her understanding was that the suggestion was made that it might come out of Legal expenses. 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.

Mr. Ewing reported that the City Council talked about the Rent Stabilization Board budget at its prior night's meeting and discussed taking \$25,000 for legal to pay for the drafter of the Rules and Regulations. The Council will approve the budget next week.

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

Mr. Ewing provided an update noting that the likely candidate will be Ken Barr to draft the Rules and Regulations. The Rent Stabilization Ordinance (RSO), current Rules and Regulations, and scope of work need to be given to Mr. Barr who will then provide the Board with a timeline. His anticipation is that by July 6, he will have an idea of the length of time and the cost for Mr. Barr to draft the Rules and Regulations.

Chair Dorn raised the issue of what happens when the alternate takes his seat for an absent regular member and then the regular member arrives to the meeting late.

Board Member Webster: The Board practice had been that if the Board member showed up after 7:10 the alternate remained on the Board and the late arrival sat in the audience.

Mr. Ewing was unsure but added that the Rules should address that situation.

Board Member Webster recalled the practice during the 1990's was that after waiting ten minutes for the regular member to arrive, the alternate remained in the position, and the late arrival had to sit as a member of the public. His recollection was that once the alternate was seated, the regular member would sit in the audience and not participate in the discussion. He said that in recent years this has not been the practice.

Chair Dorn: Could the alternate be seated if there are vacancies on the Board and the alternate shows up late?

Board Member Webster: Recommend that the past Board procedure be followed: The alternate be allowed to sit in the vacant seat. If the regular member shows up later and there is no place for anyone else then the regular member would sit in the audience.

Hart concurred with Board Member Webster's recommendation. He said that he had wanted 15 minute grace period but that he was okay with ten minutes. He said he recalled that the Board had discussed the matter and that the Board had discussed that the Board member would not be able to vote but that they could sit at the Board and participate in the Board discussion.

Board Member Webster: That's how the procedure has evolved over the years.

Board member Hart: The Board should discuss this matter when more Board members are present.

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 Rent Stabilization Ordinance states "The Board shall..." and "The Board may..."

Board Member Hart commented he thought that the Board would refer to subcommittees to do the work and bring the work back to the Board; at that time, the general public would be included in the decision making process.

Chair Dorn concurred that when public input was necessary when the Board was finalizing something. She suggested that the Rules and Regulations Committee could go through the ordinance and bring changes to the Board.

Board Member Webster commented that the Rules and Regulations Committee was waiting to hear what the format would be; that Committee needs to be involved with the process. His understanding is that Mr. Romero wants Mr. Barr to be the consultant who would work with the Rules and Regulations Committee to produce the new Rules and Regulations.

Chair Dorn stated that she saw no reason why the Rules and Regulations Committee could not have already started analyzing the current rules and regulations in reference to the new ordinance.

Board Member Webster commented that the expectation from the City Council was that they wanted the consultant to provide expertise to the process.

Chair Dorn felt that the Rent Board, the Rules and Regulations Committee or both should have a rough draft to review that gets passed on to the consultant.

Board Member Hart commented that a consultant was not needed in telling the Board how to modify the rules and regulations; the consultant would modify the rules and regulations to concur with the law. The Board needs to take the step to develop the idea and concept and then move forward.

Board Member Webster welcomed Mr. Baar to work with the Rules and Regulations Committee in order to have top quality rules and regulations.

Board Member Fremont suggested making a distinction between drafting the language of the rules and regulations versus statements of policy or direction of policy; making a decision of what the Board wants to achieve is the first step rather than the text of the rules and regulations. One option is to have the three Rules and Regulations Committee members deal with policy direction; another option is to possibly hold a study session of the Board.

Mr. Ewing pointed out that study sessions would 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.

Board Member Hart voiced his concern with regard to the low productivity of the current Rules and Regulations Committee.

Chair Dorn asked Board Member Webster whether he thought it would be possible for the Rules and Regulations Committee to review the current rules and regulations in reference to the new ordinance and determine what needs to go before the Board for decision making.

Board Member Webster advised that he would contact Board Members Allen and Randolph about holding a meeting and entertaining input from the public as soon as possible.

Board Member Hart questioned whether it was possible for the Board to have a work session to deal with the rules and regulations.

Mr. Ewing responded that the Board could have a work session as long as it was noticed.

Board Member Hart recommended that the Board schedule a noticed meeting.

Chair Dorn felt that the Rules and Regulations Committee should work on the rules and regulations first and bring matters to the Board to vote on.

Board Member Hart recommended that this item be placed on the next agenda in order to have a discussion with the full Board.

Staff Ford advised that he will be looking at rules and regulations from other jurisdictions, including Santa Monica, Berkeley, San Francisco, West Hollywood, and Los Angeles. He suggested that Board Members look up the information on the websites.

Staff Lee arrived at 8:05 p.m.

5.5 Discussion of RS Program registration requirements of exempt properties

Staff Ford suggested that this item be dealt with in the Rules and Regulations Committee. Measure H specifies that property owners who believe their properties to be exempt shall attest to that. The Board could direct that to be part of the development of the rules and regulations. His concern was that the rules and regulations included language that said the properties “now shall be certified by the staff to be exempt during the annual certification process,” which Mr. Alvarado did not agree with. Changes to the Rules and Regulations should be done in an open, transparent way that would be vetted by legal staff to assure that the wording was within the authority of the ordinance.

Chair Dorn pointed out that whatever the Rent Board suggests for changes in the Rules and Regulations would be vetted by the Board’s attorney and the consultant.

Staff Ford commented that currently all nonprofits are federally funded and the nonprofits are exempt going forward. Non-profit housing developments in the program are federally funded.

Board Member Hart expressed concern that there are nonprofits in the City that are getting money from the City, HUD, and the County that are not regulated. He felt that a work study of the entire Board was necessary to set the tone for the Rules and Regulations Committee to move forward.

5.6 Discussion of Board members appointed by City Council

Staff Ford commented that this item was on the agenda to congratulate the Board Members.

Board Member Fremont pointed out that there will be at least one vacancy when the new ordinance goes into effect, and he asked whether it would be appropriate for the Board to remind the City to re-advertise that.

Staff Lee responded that there was one person at the Council Meeting interested in the Rent Board; the Council will schedule interviews in September for Board and Commission candidates.

Charisse Domingo of YUCA commented on item 5.4, asking whether it refers to the old rules and regulations or ordinance.

Mr. Ewing responded that the Board is currently operating under the old ordinance and will do so until July 8 when the election results will be certified and the new ordinance would then be in effect. He advised that the Board could take an action at one of its meetings that indicates that the Board is in the process of drafting the rules and regulations under the new ordinance, but in the meantime, those not in conflict with the existing rules and regulations or the new ordinance are in effect by action of the Board. He saw no reason for the Board to hold a special meeting. His recommendation was that the Board take action by Resolution.

6. CONSENT CALENDAR

7. PUBLIC HEARING

8. RESOLUTIONS or RULES

9. REPORTS OF COMMITTEES AND STAFF

Board Member Fremont reported that Assembly Bill 2337 is before a Senate subcommittee on June 28 in Sacramento; members of the public are invited to attend and provide input. He will be out of town and unable to attend.

Board Member Fremont questioned how often the Council Liaison Committee meets.

Board Member Hart responded that the Committee has met several times in the past; however it has been difficult for he and Board Member Mitchell to get together. He encouraged and supported any member of the Board who might be interested in the Committee to join.

Board Member Fremont commented that when the new Ordinance is implemented and a new City Manager is hired, good communication between the Board and City Council is very important. He expressed interest in being on the Committee.

Board Member Webster pointed out that Measure H won by 79 percent of the vote; the victory was very impressive and those who participated in the campaign deserve a round of applause. He added that the community should be commended for its support for Measure H.

Chair Dorn questioned when the Board held its elections.

Staff Ford responded that the elections are held in July.

Staff Lee added that he would check the minutes from last July and email the Board Members with the information as to elections.

Staff Ford reported attending a Community Legal Services workshop on rents which was not well attended. He added that he and Staff Lee are working with the County to get an updated data base of the units that will be in the program under the new Ordinance.

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

Board Member Hart reported that the brochure should be completed by the end of the week, and he will forward a copy to each of the Board Members.

Staff Ford pointed out that Mr. Esparza needs to get all his invoices in by July 15.

- c. City Council Liaison (**Hart & Mitchell**)
No report.

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

Board Member Webster reported that he will contact the necessary people to organize a meeting of the Rules and Regulations Committee as soon as possible.

10. ADMINISTRATIVE ITEMS

11. WRITTEN COMMUNICATIONS

12. COMMUNITY FORUM

There was no one from the public who wished to speak.

13. RECOMMENDATIONS FOR FUTURE ACTIONS AND AGENDA ITEMS

Board Member Webster recommended that the Board call for a study, take a stand, and make a recommendation to the City Council as to the Board's thoughts with regard to the disposition of the properties under the aegis of the Rent Stabilization Program.

Chair Dorn advised that item 5.4 would be added to the next agenda and well as approving the use of the old rules and regulations if they are not in conflict with the new ordinance, distribution and discussion of brochures, discussion of Rent Board taking a stand on nonprofits in the hand of Wells Fargo. The Board would like a report from Mr. Ewing asking for direction as to how the new ordinance will be implemented as far as the notice of changes to landlords or tenants.

14. ADJOURNMENT

There being no further business, the meeting adjourned at 8:50 p.m.