COUNCIL AGENDA: 3/13/2018
ITEM: 4.1 (18-304)

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

Memorandum

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: Toni J. Taber, CMC
City Clerk

SUBJECT: **SEE BELOW**

DATE: March 1, 2018

SUBJECT: Mobilehome Opt-In Update.

RECOMMENDATION: As recommended by the Community and Economic Development Committee on November 27, 2017, accept the report and provide direction on whether staff should continue with public meetings and the development of an Opt-In/Stay-In-Business ordinance. (Housing)
[Community and Economic Development Committee referral 11/27/17 - Item (d)(7)]

CED AGENDA: 11/27/17
ITEM: D (7)

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

Memorandum

TO: COMMUNITY AND ECONOMIC DEVELOPMENT COMMITTEE

FROM: Jacky Morales-Ferrand

SUBJECT: SEE BELOW

DATE: November 16, 2017

Approved Kim Walesh

Date Nov. 14, 2017

COUNCIL DISTRICT: Citywide

SUBJECT: MOBILEHOME OPT-IN/STAY-IN-BUSINESS ANALYSIS OF DRAFT FRAMEWORK

RECOMMENDATION

Accept the report and provide direction on whether staff should continue with public meetings and the development of an Opt-In/Stay-In-Business ordinance.

OUTCOME

The City Council's Community and Economic Development Committee ("CEDC") will consider the staff report and make a recommendation to the City Council as to whether the Housing Department should begin public outreach and if so, what elements of should the potential ordinance contain.

EXECUTIVE SUMMARY

Since 2015, the City Council has taken several actions regarding mobilehome park preservation. One of those actions directed the Housing Department to explore the "Opt-in/Stay-In-Business" ("Opt-In") concept proposed by mobilehome park owners. Opt-In was intended to provide mobilehome park owners with financial incentives to make needed capital improvements in return for keeping parks operating for a defined period of time. In late 2015, the Department conducted three public meetings to obtain feedback on the general concept. Mobilehome park owners declined to participate in the discussion due to the policy items that the City Council was considering at that time. Mobilehome park residents raised serious concerns about the Opt-In proposal, with most participants expressing no interest in considering it further.

On February 26, 2016, The City Council directed staff to continue to work with mobilehome owners and mobilehome park owners to seek compromise on the Opt-In proposal to provide additional protection of mobilehome parks in the City of San José.

The Opt-In/Stay-In-Business Advisory Committee held meetings from February through July 2017. Mobilehome residents and park owners worked diligently to discuss the components of the Opt-In concept. Throughout the discussions, it became clear that capital improvement pass throughs were unpopular with many mobilehome park residents; however, knowing a park would remain open for a specified number of years would provide a sense of housing security. Park owner representatives strongly opposed resident consent to Opt-In, while resident committee members favored some form of consent.

This report summarizes findings from the Advisory Committee process and provides additional staff analysis to understand the need and possible implications associated with creating an Opt-In/Stay-In-Business Program. Through this process, staff analyzed mobilehome data and developed the following conclusions:

- Residents and park owners disagree on who should decide if a park opts in.
- Redevelopment risk depends on location, residential densities allowed, and other factors.
- Many mobilehome parks are located in low income areas.
- Mobilehome prices have appreciated considerably over the past twenty years.
- The impact of partial vacancy decontrol on homeowner equity is hard to measure or predict.
- Mobilehome park conditions vary considerably and a one-size-fits-all policy will not be effective.

For these reasons, the Housing Department has concerns about devoting additional staff resources to this effort. However, should the City Council direct the Department to continue implementing this concept, staff has drafted a proposal that attempts to balance mobilehome residents' concerns regarding park closure, space rents and home values, with mobilehome park owners' desire to create an additional financial incentive to maintain their communities in future years.

Housing Department's Modified Opt-In Proposal Framework

- ***Resident Consent:*** Staff recommends that 51% of residents support the Opt-In program. Alternatively, if resident consent is not obtained, Opt-In would only be available for mobilehome parks that have a Mobilehome Park General Plan designation.

- ***Capital Improvement Pass through***: Staff does not recommend a capital improvement pass through outside of the fair return petition process. However, staff recommends that a mobilehome park's outstanding condition deficiencies be resolved before it could participate in an Opt-In program.

- ***Partial Vacancy Decontrol:*** Staff recommends an Opt-In program contain partial vacancy decontrol, allowing a rent increase of $100 per month no more than three times in any given 20-year period upon in-place transfers, to provide a limited financial incentive to owners to stay in business.
- ***Program Term and Compliance Period:*** Staff recommends that the term of an Opt-In agreement be no less than 20 years.

This framework represents the best possible compromise should City Council decide to move forward with an Opt-In ordinance. There are still numerous issues that should be considered if this framework is pursued. These issues are discussed in more depth in this memorandum.

BACKGROUND

San José's housing stock includes approximately 10,838 mobilehomes in 59 mobilehome parks. These homes provide housing to an estimated 30,000 inhabitants. Over half of the City's mobilehome parks are more than 50 years old and have varying infrastructure conditions. Mobilehome parks are governed by the State. As a result, the City's ability to intervene on code violations, maintenance or improvements of the parks' physical infrastructure is extremely limited.

The Housing Department administers the existing Mobilehome Rent Ordinance (Chapter 17.22 of the San José Municipal Code) through the Rental Rights and Referral Program. Staffing for the mobilehome portion of the Program is funded through fees paid by mobilehome park owners, of which 50% can be passed on to mobilehome park residents. Additional details about the existing ordinance are contained in the analysis section of this memo.

As the South Bay's vacant, developable land supply has dwindled significantly over the past decades, mobilehome parks have become increasingly more desirable for redevelopment. Since 2014, three high-profile efforts to preserve mobilehome parks have been covered extensively in the press. These include the Buena Vista Mobilehome Park in Palo Alto, the Winchester Ranch Mobilehome Park in West San José. The Blue Bonnet Mobilehome Park in Sunnyvale recently began the process of closure.

Mobilehome Preservation Efforts

In 2015, the City Council responded to mobilehome park resident concerns about development pressure to close or convert mobilehome parks. The City Council directed staff to research and recommend possible policy changes to further the protection of the City's mobilehome parks. Since 2015, the City Council has taken several actions regarding mobilehome parks. These are listed below.

- Adopted zoning provisions making the City Council the initial decision-making body for consideration of all proposed mobilehome park conversions, added provisions requiring

findings of consistency with the General Plan for CUPs; exempted parcels with mobilehome parks from being eligible for the conforming rezoning process; and requiring mobilehome and multifamily projects to be considered for relocation obligations prior to the City granting a demolition permit.

- Adopted City Council Policy # 6-33 to add specificity to the mobilehome conversion ordinance;
- Adopted General Plan text amendments concerning mobilehome park preservation.
- In addition, the City Council directed staff to return with a workload analysis and recommendation on further General Plan amendments and zoning changes to protect mobilehome parks. This mobilehome land use action is anticipated to return to the City Council in late 2017.

Opt-in/Stay-In-Business Concept

In addition to the previously mentioned actions, the City Council also directed the Housing Department to explore the "Opt-in/Stay-In-Business" ("Opt-In") concept first proposed by Brandenburg, Staedler & Moore in consultation with other park owners. Opt-In was intended to provide mobilehome park owners with financial incentives to make needed capital improvements in return for keeping parks operating for a defined period of time. Such financial incentives would take the form of an alternate mobilehome rent control ordinance.

In Fall 2015, a group of mobilehome park owners met with City staff several times to discuss the Opt-In concept to develop the concept so that it could be further discussed with stakeholder focus groups. Staff posted a draft summary of the concept on the Housing Department's webpage on November 23, 2015. The original park owners' proposal would have:

1) Allowed certain limited capital improvement costs to be passed through to residents without filing a fair return petition and without a hearing process; and,
2) Allowed limited vacancy decontrol upon the sale of a mobilehome to a new owner with no resident consent required.

In late 2015, the Department conducted three public meetings to obtain feedback on the general concept and to obtain mobilehome park residents' input. Mobilehome park owners declined to participate in the discussion due to the policy items that the City Council was considering at that time. Mobilehome park 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 returned to City Council with results from public comment showing a significant disagreement between park owners and residents. Staff sought direction from the City Council regarding further work on the concept given the oppositional positions of both stakeholder groups. At that City Council meeting, mobilehome park owners testified that they were willing to reengage on the Opt-In discussion. The City Council directed the Housing Department to continue to work with both mobilehome park owners and

mobilehome park residents and to develop a high-level concept on which an agreement could potentially be reached. The City Council gave City staff flexibility on how to bring the two groups together and structure the overall process.

Opt-in/Stay-In-Business Advisory Committee

In response to this direction, the Housing Department prepared an outreach strategy and workplan. The workplan called for the formation of an Opt-In Advisory Committee ("Advisory Committee") followed by a report-out to HCDC and the City Council. The workplan stated that the public was not to be invited to the Advisory Committee's meetings to facilitate members' free exchange of ideas about this sensitive topic. On June 9, 2016, staff presented the draft workplan to the Housing and Community Development Commission ("HCDC") for public comment. The Housing Department notified stakeholders about the meeting with a communication to 333 email subscribers and posted the information on Department's Mobilehome Policy webpage. A vast majority of residents who spoke at the HCDC and otherwise provided comments voiced opposition to the workplan. The Department incorporated the public input into the process to the extent possible.

The Housing Department convened the Advisory Committee between February 23, 2017, and July 26, 2017. Housing Department staff hosted three meetings with mobilehome park owner representatives and three meetings with mobilehome park resident representatives to better understand their positions and concerns. These meetings were followed by four joint meetings held with both park residents and park owners. The meetings were facilitated by Joshua Abrams, a professional facilitator from Baird Driskell Community Planning. The Housing Department selected and paid for the facilitator. The meetings focused on clarifying concepts and discussing issues. The process was constructive in identifying alternatives and in fostering communication among a small subset of stakeholders. Feedback from the Advisory Committee is included in the Analysis section of this Memorandum.

On August 9, 2017, the Housing Department updated its Opt-In workplan to include public meetings after the Advisory Committee and before presenting a recommendation to CEDC. However, after hearing input from the HCDC and members of the public, City staff decided to postpone public meetings to allow time for staff to conduct additional fact-based policy analysis and to redraft a proposed Opt-In framework.

On October 12, 2017, City staff presented its policy analysis report to the HCDC. The report included an evaluation of the existing capital improvement pass through petition process, redevelopment pressure on mobilehome parks, resident incomes, and the possible impact of partial vacancy decontrol on mobilehome resale values. Staff also presented a revised a proposed Opt-in framework and a public outreach plan. The Commission Recommendation section included in this memo provides details on the HCDC's recommendations.

ANALYSIS

On February 23, 2016, the City Council directed staff to work with mobilehome owners and mobilehome park owners "to identify and seek compromise on resolving economic issues that will further the Council direction to further the protection of mobilehome parks in the City of San José." The motion also directed staff to explore (1) capital improvement pass throughs without having to make a fair return determination, (2) vacancy decontrol and ways to compensate a home owner for lost equity, (3) recommendations for park owners to buy mortgages when mortgages extend beyond the commitment timeframe, and (4) explore elements of a consent buy-in for the mobilehome residents.

The following analysis responds to City Council direction and provides additional information to understand the implications and tradeoffs of adopting an "Opt-In" ordinance and program. The analysis is based on the following factors.

1) Evaluation of Redevelopment Pressure
2) Resident Ability to Afford Capital Improvement Pass-throughs
3) Impact of Partial Vacancy Decontrol on Mobilehome Values
4) Resident Consent
5) Summary of Opt-In Advisory Committee Findings
6) Implementation Issues

The following sections include analysis pertaining to each section and a summary of staff's analysis per each area.

1. Evaluation of Redevelopment Pressure

Several mobilehome park residents have expressed concern regarding the long-term future of their mobilehome parks, given redevelopment pressures in San José's strong real estate market. Mobilehome residents make long-term investment decisions when they purchase their homes. Their decisions include the ongoing availability of a space and the space rent for their owned homes. Mobilehomes are not truly mobile. It is highly unlikely that residents of parks that close could find new spaces for their homes as existing parks do not have vacant spaces. Therefore, displaced residents would very likely have no comparable housing available to them in San José or Santa Clara County. Resident participants in the Advisory Committee indicated that when they bought their homes, they assumed their mobilehome parks would remain in business indefinitely.

Staff sought additional information to better understand a park owner's motivation to continue operations or to convert and redevelop the park into a different use. According to an appraiser experienced in appraising mobilehome parks,[1] a park's value is typically calculated by use of a similar methodology as for other commercial businesses. The as-is value of a park assumes that it continues operations based on rents and other income and expenses. According to the

[1] Norm Hulberg, principal at Valbridge Associates.

appraiser, this value is generally far lower than if the land were able to be redeveloped for residential uses given the high prices of the current real estate market.

The value of residential land is commonly based on how much income it could generate, either with its current use or as redeveloped. Income is a function of rental or sales revenues in that area or submarket, and how many residences could be allowed on that site. Therefore, the financial incentive to sell and convert a mobilehome park is based on the difference between the income from current uses versus income from potential allowed alternative uses. The difference between these values can be significant, depending on the permitted alternative uses for the land and the value that those uses bring in that location. Therefore, owners' financial incentives to convert mobilehome parks to other residential uses in a robust residential submarket can be substantial.

There are two primary drivers that may increase the value of mobilehome parks for an alternative use, increasing the redevelopment pressure. First, General Plan land use designation may increase the value of the mobilehome park if it is designated for residential land use. The allowed residential uses for mobilehome parks vary throughout San José, and the following designations within the City's General Plan can apply:

- Urban Residential Land Use – allowing up to 95 units per acre
- Residential Neighborhood Land Use – allowing up to 8 units per acre
- Urban Villages – submarkets expected to accommodate future growth.

Second, the location is very important. Mobilehome parks in areas with above average apartment rents and sales prices and with higher density land use designations may be at higher risk of conversion than other parks. These factors indicate that an assessment of redevelopment pressure differs for each mobilehome park.

Most of the City's mobilehome parks have been in business for several decades and so are assumed to be financially sound. Several of the City's mobilehome parks have sold to new owners and have continued operations, indicating the businesses are financially viable. Another appraisal firm[2] indicated that mobilehome parks' annual operating expenses typically are approximately one-third of their gross revenues, and that mobilehome parks are considered very safe financial investments as they perform predictably well over time. Demand for all types of reasonably-priced housing also vastly exceeds the local supply, so mobilehome parks continue to have robust demand.

The financial benefit derived from converting uses is another factor that would influence an owner's decision to redevelop a park. The City does not have detailed knowledge of mobilehome parks' financials, as park owners universally have declined to provide this information to staff. Therefore, it is difficult to quantify how large the financial upside could be for owners of certain parks to seek to convert to other uses. This analysis would differ for each park. However, the financial advantage of conversion is likely largest for parks with the highest residential density

[2] Valbridge Associates.

allowed under the General Plan and in submarkets with the highest apartment rents and/or home sales prices.

Summary of Redevelopment Potential Analysis

In summary, most of the City's mobilehome parks have stayed in business for several decades and are assumed to be financially viable businesses given the high demand for housing in this market. The City does not have detailed knowledge of mobilehome parks' financials so it is difficult to quantify how large the financial upside could be for owners to convert a park to other uses. However, owners' financial incentives to convert may be substantial depending on the location and the residential density allowed by the General Plan. While many parks are located in predominately low income areas, other parks are sited in areas that may yield substantial financial gains if they were able to redevelop.

2. Resident Ability to Afford Capital Improvement Pass-throughs

It is difficult to confirm how many residents would face hardship if capital improvement pass-throughs were more frequently allowed under an Opt-In framework. In public meetings, constituents commented that many mobilehome households have low incomes and/or are comprised of seniors with fixed incomes. Unfortunately, the City does not have data on the incomes of residents in San José's mobilehome parks.

In order to estimate resident incomes, staff analyzed San José's household income data from the American Community Survey in the areas of the City's mobilehome parks. The results are provided below.

- As of 2014, 30% of San José households qualified as Very Low Income ("VLI"), earning up to $50,950 per year for a family of four.[3]
- 34 of 59 (58%) mobilehome parks are likely to house VLI households:
    - 26 mobilehome parks (3,625 mobilehomes) are located in Census Block Groups where more than 50% of all households are VLI.[4]
    - 8 mobilehome parks (974 mobilehomes) are located in Census Block Groups where more than 67% of all households are VLI.[5]
- On average, the City's VLI households are likely to pay too much for housing costs:
    - 76% of these households pay more than 30% of their gross income for housing, defined by the federal government as "cost burdened," and,[6]

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[3] Comprehensive Housing Affordability Strategy ("CHAS") data for San José, 2010-14.
[4] American Community Survey ("ACS") data for San José, 2011-15.
[5] ACS data for San José, 2011-15.
[6] CHAS data for San José, 2010-14.

- 51% of these households pay more than 50% of their gross income for housing costs, defined by the federal government as "extremely cost burdened."[7]

Summary of Resident Ability to Afford Capital Improvement Pass-Throughs

This information shows that a significant number of mobilehome residents live in areas with higher concentrations of VLI households than the Citywide average. It is likely that many mobilehome parks contain a significant number of VLI households. There is a higher concentration of VLI households in smaller, older parks with lower space rents. It is also probable that a significant proportion of mobilehome park residents pay a high percentage of their total income for housing costs. Therefore, many mobilehome residents would find price increases difficult to accommodate. Additional data would be needed to more precisely determine the number of households that would encounter financial hardship if capital improvement pass throughs were allowed without requiring a fair return determination.

3. Impact of Partial Vacancy Decontrol on Mobilehome Values

Sale Price History

Staff analyzed mobilehome sale prices and space rents for homes sold over the last 20 years in San José. The results of this analysis is provided in **Attachment A.** During this period, there were two significant economic downturns: the "dot com" bust in 2001; and, the Great Recession in 2007-09. As illustrated in Table 1 of Attachment A, during the past twenty years, mobilehome sale prices increased by 249% for single-wide, 220% for double-wide, and 149% for triple-wide mobilehomes. Much of this upward spike occurred between 2012-2017 when sale prices increased by 195% for single-wide, 166% for double-wide, and 160% for triple-wide mobilehomes.[8]

Space Rent History

In contrast, Table 2 in Attachment A illustrates that space rent for mobilehomes sold in San José increased more steadily over the past 20 years. Increases were 54% for single-wide, 85% for double-wide, and 73% for triple-wide. This gradual climb is likely due to the City's Mobilehome Rent Ordinance and, more specifically, to the fact that rents remain controlled when a vacancy occurs under the Ordinance. Data is not available on rents for mobilehomes that did not sell during this period.

Mobilehome Turn Over Rate

Table 3 of Attachment C illustrates that the average number of mobilehomes sold during this 20-year period was 344 out of 10,838 total mobilehomes in the City. This amounts to a Citywide

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[7] CHAS data for San José, 2010-14.
[8] Multiple Listing Service, October 2017.

turnover rate of 3.2% per year. This rate was relatively consistent over this period. Double-wide mobilehomes represented the majority of sales.

Mobilehome park owners have stated that the value of the mobilehome is not based on the financial structure itself but that value is derived based on the location, condition of the home and park, and the fact that the park is under rent control. Data collected by staff indicates that instead of mobilehomes losing value over time due to depreciation, existing mobilehome prices increase over time. Park owners have stated that under the current vacancy decontrol provisions of the Mobilehome Rent Ordinance, all the increased value is paid to the mobilehome owner. Park owners feel the equity earned should be shared with the park owners through limited vacancy decontrol, which would allow rents to increase a defined amount when a mobilehome is vacated. Park residents commented that park owners already make sufficient profits and that some owners do not maintain their parks.

One of the Opt-In incentives proposed by mobilehome park owners was to allow limited space rent increases or "partial vacancy decontrol" when a mobilehome owner sells to another owner occupant. This situation is referred to as an "in-place transfer." Such increases are currently not allowed under the Mobilehome Rent Ordinance.

Estimated Financial Benefit for Mobilehome Park Owners

Staff created a model to estimate the benefit that could accrue to a park owner under partial vacancy control. The assumptions that staff used are as follows: a double-wide mobilehome, 4% regular rent increases, no more than a $100 rent increase when a homeowner sells to another owner-occupant, and no more than three such $100 increases within the 20-year period. The model found that a park owner could earn an additional $6,329 per space, or approximately $202,000 - $2.83M more over 20 years, if 3.2% of homes in that mobilehome park sold each year. It is not clear if this range of added revenues would be enough to entice mobilehome park owners to commit to 20 years of continued operation. See **Attachment B** for details.

Impact on Homeowner Equity

Mobilehome residents commented that a rise in rent could reduce the equity in their homes and make it harder to sell their homes. Two memorandums from the Golden State Manufactured Home Owner's League ("GSMOL") dated February 21, 2017, and October 12, 2017, referenced a mobilehome industry rule of thumb that, "for every $100.00 in increased rent in most metropolitan areas, homeowner equity decreases by $10,000." Both memorandums cited a 1999 study by Seifel Associates for the City of Fremont (included as **Attachment C**) whose purpose was to determine what effect, if any, vacancy control had on the cost of housing in Fremont's three mobilehome parks.

The City of Fremont adopted its mobilehome rent control ordinance in 1987 with vacancy control. It later removed vacancy control in 1990, then reinstated vacancy control in 1992. In 1999, the Meridian Group, an experienced mobilehome appraiser, conducted a paired analysis of

16 mobilehomes in Fremont under rent control to determine if vacancy control added a premium to the value of the home. The study found that it did add a premium, but that the premium varied from $2,200 - $17,308; further, three mobilehomes sold for *more* during the vacancy decontrol period despite having higher rents. The report concluded that the exact dollar value of a vacancy control premium could not be precisely quantified due to the limited number of paired sales and the fact that the available data was gathered during a recession. The report noted that other conditions such as the economy, supply and demand in the real estate market, size, age, and condition of a coach, space size, location and amenities were likely greater factors in determining home value than was space rent.

Staff also interviewed two mobilehome appraisers in October 2017 to understand how they would consider the value of two comparable mobilehomes with different space rents in San José.[9] Both appraisers indicated they would make downward adjustments to a home's value if space rent exceeded $100 per month for a comparable home. Appraised value is not equal to what a given buyer can or will pay and it is possible that a rent increase of less than $100 per month could deter some buyers.

Summary of Vacancy Decontrol on Mobilehome Value Analysis

In summary, this analysis shows that San José's mobilehomes have appreciated dramatically over the last twenty years while space rents have incrementally due to rent control. The majority of sales during this period were double-wide mobilehomes and the average turn-over rate was 3.2% citywide. The estimated twenty-year financial benefit of partial vacancy decontrol for a park owner would range from approximately $202,000 - $2,830,000 depending on the number of spaces in the mobilehome park, the turn-over rate and other factors. Research indicates that significant increases in space rents do impact mobilehome values. However, it is hard to predict if and by how much partial vacancy decontrol alone would impact a given homeowner's equity in this San Jose's housing market.

4. Resident Consent

From the beginning of the process, mobilehome park residents have wanted decision making power on whether their park would opt in. This was particularly important because earlier versions of this concept included a capital improvement pass through which contemplated increased monthly housing costs for residents without their consent. Park owners commented that the program would be infeasible if some threshold of resident consent was required.

This memo proposes that the Opt-In be implemented as an alternative concept that would not raise monthly costs for existing residents, but could impact resale value if partial vacancy decontrol is permitted. Given the potential impact on mobilehome resale value, the Housing Department is recommending that at least 51% resident approval be obtained. This would require considerable outreach, education about how Opt-In would work and its possible trade-

[9] Rene Jennings (Benchmark Appraisers) and John Hibbard (Meridian Evaluation Group).

offs, and trust building. Such outreach and voting would need to be overseen by the City to ensure that the process is transparent and the information is accurate, accessible, and easy to understand. In particular, outreach would need to respond to the needs of Seniors and residents who do not speak English. Such oversight would require a significant amount of staff time if most of the 59 mobilehome parks decided to pursue Opt-In.

5. Summary of Opt-In Advisory Committee Findings

The Opt-In Advisory Committee held meetings from February through July 2017. Mobilehome residents and park owners worked diligently through these meetings with Housing Department staff to discuss the components of the Opt-In concept. Members of the Committee shared their own perspectives on the advantages and disadvantages to proposed program components. A summary of their discussion is included as **Attachment D**.

The Opt-In framework discussed by the Committee included the following components:

- Purpose of the Program
- Participation Mechanism
- Capital Improvement or Replacement Pass through Process
- Rent Increase Upon In-Place Transfer
- Resident Assistance Program
- Administrative Funding Mechanism, and
- Disclosure Requirements.

The Opt-In Committee members worked well together discussing challenging issues facing our community. In particular, several individuals set aside their own personal interests to find a solution to the complex issue of preserving mobilehome park communities for future generations.

Summary of Advisory Committee Findings

Throughout the discussions, it became clear that the needs of smaller, older mobilehome parks are different than the needs of larger, well-maintained parks. Creating a program to fit all mobilehome parks may be challenging. It was also noted that capital improvement pass throughs would be complicated to administer and were unpopular with many mobilehome park residents. Park owners were willing to establish an assistance program for low-income residents to offset higher pass through costs, but did not agree to compensate residents for lost equity or to buy out resident mortgages that would extend beyond the Opt-In term. If park owners were required to offset these costs, there may be limited financial incentive to Opt-In. Park owner representatives strongly opposed resident consent, while resident committee members favored some form of resident consent, but weren't sure the program would be feasible if it were required. Residents indicated the decision to purchase a mobilehome was a long-term decision. For some residents, knowing the park will remain open for a specified number of years would provide a sense of relief when making plans for the future.

6. Implementation Issues

In the event Council to directs staff to pursue an Opt-In program, the Housing Department would need to devote additional resources to this effort. Staff work on this project will require community outreach, policy analysis, drafting of an ordinance, preparation for HCDC and City Council meetings, and program implementation work. A Draft Staffing Plan is included as **Attachment E**.

Summary of Staff Findings

In conjunction with the presentation of the initial Opt-In proposal and throughout this process, mobilehome park owners stated that the City's Mobilehome Rent Ordinance was too onerous, and made repair or replacement of aging infrastructure in their parks difficult to do while also operating their parks as a profitable business. Other park owner stakeholders commented that although their parks do make a fair return, they have no reason to make new investments because those investments do not yield additional financial gain. These park owner stakeholders also commented that the amount of the annual increase on rents remains the same regardless of the level or type of new investment.

Most mobilehome owners participating in the process have voiced strong opposition to the weakening of the Mobilehome Rent Ordinance. Many mobilehome residents have low incomes, and others are seniors living on fixed low incomes. Residents have voiced concerns that they already endure rising rents and they have a hard time affording basic necessities like food and medicine. They believe park owners are financially solvent and do not need additional incentives to improve their parks. Some residents have voiced interest in knowing their mobilehome parks will remain open, as the prospect of parks closing and the value of their homes being diminished is very stressful. In addition, mobilehome residents have indicated they are fatigued with all the mobilehome meetings over the past few years and asked for resolution on these issues.

The issues of mobilehome parks closing is a sensitive one, as both owners and park residents are invested in their mobilehome communities. The long-term costs and benefits of rent control in San José are complex and difficult to measure. It is difficult for staff to predict mobilehome park owners' future plans, as decisions to continue long-term operations or to convert to other uses are based on many factors that change over time. It also is difficult for staff to truly ascertain the parks' financial conditions, as there is no financial reporting requirement except for the optional pass through petition process. In reviewing the above analysis, it is clear that Opt-In is a complex topic. Conditions in each mobilehome park vary greatly, and there is no simple, one-size-fits-all set of rules that would be suitable for all parks.

In summary, any version of Opt-In will provide a greater financial return for mobilehome park owners. An Opt-In program constitutes a gradual weakening of the City's Mobilehome Rent Ordinance, which has been in place since 1979. Staff is concerned that the City should avoid creating a mechanism that provides financial incentives to owners that were not intending to

convert their parks anyway, and does not actually change incentives for park owners who do want to convert.

Revised Mobilehome Opt-In Proposal.

Notwithstanding these concerns, the Housing Department has developed a proposal that attempts to balance mobilehome residents' concerns regarding park closure and potential changes in rents or home values, with mobilehome park owners' desire to create a financial incentive to maintain their communities in future years. Any draft framework would require the City Attorney's Office's validation prior to it moving forward.

Resident Consent: Staff recommends that 51% of residents support the Opt-In program. Alternatively, if resident consent is not obtained, Opt-In would only be available for mobilehome parks that have a Mobilehome Park General Plan designation.

Summary of Key Issues

1) Mobilehome park residents indicated that some amount of resident consent should be required.
2) Mobilehome park owners indicated it may be difficult to obtain such consent and that such a requirement could make an Opt-In program infeasible.
3) Extensive outreach and education efforts would be essential if resident consent was required.
4) There is currently no Mobilehome Park General Plan designation. If a substantial number of parks were to opt in, this would be a very large undertaking for the Planning, Building and Code Enforcement Department that is currently not funded.

Capital Improvement Pass through: Staff does not recommend a capital improvement pass through outside of the fair return petition process. However, staff recommends that a mobilehome park's outstanding condition deficiencies be resolved before it could participate in an Opt-In program. The program would need to define what constitutes condition deficiencies. Producing a list of the conditions that are acceptable to both park owners, and mobilehome owners could be challenging. This could entail considerable staff effort.

Summary of Key Issues

1) Smaller, older parks need significant investment. These parks generally have lower rents, and lower income residents. It is not clear that a limited pass through, such as $75 monthly, will result in the incentive necessary for the investment in smaller parks.
2) Many parks are well-maintained and have successfully used rental income to maintain their infrastructure. An incentive for capital improvements is not necessary for those mobilehome communities that invest in infrastructure and offer high-quality park management.

3) The existing fair return process provides an option for mobilehome park owners who must raise rents to receive a fair return.
4) Allowing capital improvement pass throughs negatively impacts current residents, many of whom are likely low-income households or those with fixed incomes.
5) Creating a capital improvement program outside of the fair return petition process would create significant additional administrative costs.

Partial Vacancy Decontrol: Staff recommends an Opt-In program contain partial vacancy decontrol, allowing a rent increase of $100 per month no more than three times in any given 20-year period upon in-place transfers, to provide a limited financial incentive to owners to stay in business.

Summary of Key Issues

1) A 10% rent increase with a cap of a $100 rent increase upon an in-place transfer could reduce the value of current assets held by mobilehome owners, although the magnitude of such an impact is difficult to predict over the next 20 years.
2) A 10% rent increase with a cap of a $100 rent increase upon an in-place transfer could provide additional revenue to mobilehome park owners. The significance of this revenue depends on existing rents and the size of the mobilehome park.
3) Current residents would not experience an increase in monthly rent.
4) Administration of limited vacancy decontrol would have a limited impact on administrative costs.

Compliance Period: Staff recommends that the term of an Opt-In agreement be no less than 20 years. Then renew term or revert to the existing Mobilehome Rent Ordinance provisions.

Summary of Key Issues

1) The City's General Plan cycle is set in 20-year increments, so the planning cycle for mobilehome parks could follow this same pattern of looking forward 20 years at a time.
2) Land use designations are a factor in mobilehome park owners' long-term commitments to stay in business, or to change use of their sites.
3) If the City moves forward with a General Plan land use designation of Mobilehome Park, an Opt-In requirement for a mobilehome park owner to convert to this new land use designation would strengthen the enforceability of owners' long-term commitment.
3) A 20-year period for which parks would stay in business may hamper mobilehome sales and purchases, as typical mobilehome mortgage terms range from 5-25 years.

EVALUATION AND FOLLOW-UP

This report will be transmitted to the City Council on December 12, 2017. If the City Council directs staff to begin work to create an Opt-In program, staff would conduct public outreach in early 2018, and work with the City Attorney's Office bring a draft ordinance back to City Council for final approval.

POLICY ALTERNATIVES

Alternative #1: Recommend that staff cease work on Opt-In.

Pros:	This would end a long and controversial discussion that has caused much concern in the mobilehome community and that would weaken the City's Mobilehome Rent Ordinance. Value would not be transferred from mobilehome owners, many of whom are low-income, to mobilehome park owners. Would allow staff to work on other priorities and would avoid hiring additional staff.
Cons:	This would eliminate a potential tool to reduce the likelihood of unanticipated mobilehome park conversions for some parks, and would provide additional certainty to mobilehome owners.
Reason for not recommending:	The City Council directed staff to seek a compromise solution. However, if CEDC or the City Council does not concur with staff's suggested program elements and desires to increase incentives to park owners, staff would instead recommend against an Opt-In program.

PUBLIC OUTREACH

As detailed in the memorandum to HCDC on August 3, 2017, the Housing Department convened a total of 10 meetings with the Opt-In/Stay-In-Business advisory committee between February and July 2017. The Opt-In/Stay-In-Business Advisory Committee was constructive, but it was no substitute for a robust public discussion on this concept. There are 59 mobilehome parks in San José that house over 35,000 residents. Structuring meaningful community outreach for such a large group of stakeholders is quite challenging, given limited staff capacity.

The Housing Department considered input from the August 3, 2017, HCDC meeting and presented a revised public outreach plan at the October 5, 2017, HCDC meeting. Staff seeks to employ this plan if the City Council directs the Housing Department to develop an Opt-In ordinance.

COORDINATION

This memorandum was coordinated with the City Attorney's Office.

COMMISSION RECOMMENDATION/INPUT

On October 12, 2017, City staff presented policy analysis to evaluate the existing capital improvement pass through petition process, redevelopment pressure on mobilehome parks, resident incomes, and the possible impact of partial vacancy decontrol on mobilehome resale values. Staff recommended moving forward with an Opt-In program with $100 rent increase (three times in a 10-year period) in exchange for a 20-year agreement to stay in business. Staff also presented a revised public outreach plan.

Public Comments: Numerous speakers opposed the Opt-In concept and were concerned it would reduce the resale value of their homes. Others questioned the validity of the staff analysis regarding the impact of a $100 increase to base rent (partial vacancy decontrol). Some voiced concerns that vacancy decontrol would permanently alter the demographics of the park and make it harder for seniors to live in MHPs. Others felt that park owners already collect too much profit.

No mobilehome park owner representatives spoke during the public comment period.

HCD Commission Comments: The Commission held an in-depth discussion on the Opt-In proposal. Several concerns were raised regarding the program concept including concern 20 years was not sufficient, the lack of mobilehome owner consent, the impact of Opt-In on subsequent relocation benefits (if followed by mobilehome conversion), concern regarding the condition of mobilehome parks, questions regarding mobilehome sales and rental information, and concern that Opt-In would impact homeowner equity. Overall, the Commission was concerned that Opt-In may not provide a viable, long-term solution for preserving mobilehome parks in San José. HCDC passed the following motions:

- Limit the vacancy decontrol charge to 10% of the rent with a maximum change of $100, no more than three times in 20 years.
- Require the mobilehome park owner to submit for a land use designation for mobilehomes at the time they choose to participate in the Opt-In program.
- Require that 2/3rds of mobilehome park residents approve the Opt-In before a land owner can sign up for the program.
- Accept the staff analysis, but reject the recommendation of the Draft Mobilehome Opt-In/Stay-In-Business framework, and recommend that staff cease work on the project.

FISCAL/POLICY ALIGNMENT

This action pertains to the *City of San José's Adopted Housing Element 2014-2023*, in that it addresses potential preservation of mobilehomes affordable to lower-income households and seniors.

COST SUMMARY/IMPLICATIONS

As mentioned, staff work on this project will require community outreach, policy analysis, drafting of an ordinance, preparation for HCDC and City Council meetings, and program implementation work. A draft staffing plan is included as Attachment E.

BUDGET REFERENCE

Not applicable.

CEQA

The Staff Report outlined above is not a project under CEQA. (Reference: Not a Project, File No. PP17-009, Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City action.)

/s/
JACKY MORALES-FERRAND
Director, Department of Housing

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

Attachments:

A. Mobilehome Sales Price and Space Rent History
B. Model: Estimated Financial Benefit to Mobilehome Park Owner
C. City of Fremont and Seifel Associates, "Report on the Economic Analysis of the Fremont Mobilehome Rent Stabilization Ordinance," 1999.
D. Final Draft Framework and Notes from the Opt-In/Stay-in-Business Advisory Committee
E. Draft Staffing Plan for Opt-In