

Memorandum

TO: Rules and Open Government Committee
FROM: Richard Doyle
City Attorney
SUBJECT: Findings for a Temporary Moratorium on Mobilehome Conversion
DATE: May 1, 2014

RECOMMENDATION

Consider the recommendation from Vice Mayor Nguyen's memo to the April 9, 2014 meeting of Rules and Open Government Committee to direct staff to return to Council with an urgency interim ordinance that would establish a temporary 45-day moratorium on mobilehome park conversions and to direct staff to study potential changes to the City's mobilehome park conversion procedures.

BACKGROUND

The City has a mobilehome conversion ordinance, San José Municipal Code Chapter 20.180 that was adopted in 1986 and has not been substantially amended since that time. No mobilehome park conversions have been processed under that ordinance.

In the last several months, there has been discussion regarding the potential closure and conversion of the Winchester Ranch Mobilehome Park to another use. The mobilehome owners and the park owner have had many questions about how the ordinance would work. Staff has made presentations at the Housing and Community Development Commission and at Winchester Ranch Mobilehome Park and staff has met with the park owner.

Winchester Ranch Mobilehome Park is a senior citizen mobilehome park that includes over 100 mobilehomes, some of the residents are disabled and some are low income. Concerns about the lack of affordable replacement housing and the lack of vacancies at other comparable parks have been raised repeatedly by the residents.

On April 9, Vice Mayor Nguyen submitted a memorandum to the Rules and Open Government Committee requesting that the Committee direct staff to return with an urgency ordinance establishing a 45 day moratorium on mobilehome park conversions. The Rules Committee directed the City Attorney to determine if the findings required for an urgency interim ordinance could be met.

This memo discusses the findings that are required under state law and the City charter for the adoption of an urgency interim ordinance establishing a moratorium on certain uses and summarizes the facts presented in the Vice Mayor's memorandum and the memo submitted Housing that could support such findings.

ANALYSIS

Temporary Moratorium Ordinances

The adoption of the urgency ordinance establishing a moratorium must be in accordance with the requirements of state law and the requirements of City Charter Section 605.

- (1) California Government Code Section 65858 allows for a legislative body to protect the public safety, health, and welfare by adopting urgency measures on an interim basis that prohibit any uses that may be in conflict with a contemplated general plan, specific plan, or zoning proposal that the legislative body is considering or studying or intends to study within a reasonable time.
- (2) Section 605 of the Charter allows the adoption of an urgency ordinance pursuant to state law or, if the urgency ordinance is not authorized by a state law, it is authorized if it has been adopted as and declared by the Council to be an urgency measure necessary for the immediate preservation of the public peace, health or safety, containing a statement of the facts constituting such urgency.
- (3) In order for an urgency ordinance to be adopted, it would require approval by 4/5 of the City Council.

In general, upon establishing that there is a current and immediate threat to public health and safety, the Council may adopt an urgency ordinance establishing temporary moratorium for 45 days (which may be extended) on the conversion of mobilehome parks if that conversion may be in conflict with a contemplated general plan, specific plan, or zoning proposal that the legislative body is considering or studying or intends to study within a reasonable time.

Findings of Threat to Public Health, Safety, or Welfare

California Government Code Section 65858 allows the adoption of a moratorium ordinance when the Council finds that there is (a) a current and immediate threat to the public safety, health or welfare, and (b) that the approval of additional subdivisions, use permits, variances, building permits, or any other applicable entitlement for use which is required in order to comply with a zoning ordinance would result in that threat to public health, safety, or welfare.

City Charter Section 605(d), states that "An ordinance adopted as and declared by the Council to be an urgency measure necessary for the immediate preservation of the public peace, health or safety, [shall contain] a statement of the facts constituting such urgency..."

The memo submitted on April 9, 2014 (the "Vice Mayor's Memo") and the memo prepared by the Housing Department for the May 7, 2014 Rules Committee ("Staff Memo") contain the following facts demonstrating a current and immediate threat to public safety, health or welfare:

According to the Vice Mayor's memo, the sale of Winchester Ranch Mobilehome Park is currently being negotiated with the expectation of being redeveloped. Also, the memo notes that five parks (Winchester Ranch, Willow Glen Estates, Mobilehome Manor, Imperial San Jose, and La Buona Vita) are within urban village boundaries, and will face added pressure to be redeveloped to meet development goals and conform to the urban village plans in those neighborhoods.

According to the Vice Mayor's memo, due to the lack of clarity in our current conversion ordinance as to how it provides displaced residents with the necessary means to find other affordable housing options, any conversion at Winchester Ranch Mobilehome Park, or at any of the other 58 parks in San José, would represent a threat to the health and welfare of senior and low income residents.

The Vice Mayor's memo notes that in many cases it is not possible to simply relocate manufactured housing, and if it were, there are likely few parks willing to accept the relocated coaches. The Staff Memo provides that as of April 17, 2014, there were only 43 San José mobilehomes listed for sale on the Multiple Listing Service (or a vacancy rate of 0.4%); another 32 mobilehome units for sale were listed elsewhere in Santa Clara County, for a total of 75 Countywide. The Staff Memo states that in a recent survey of 48 parks in San Mateo, Alameda and Santa Cruz counties 24 spaces were vacant and 23 spaces had mobilehomes for sale out of a total 4,028 spaces in those parks (a 1.2% vacancy rate).

The Vice Mayor's memo notes that a rental subsidy, regardless of the amount, also is likely to be a poor solution because the City's rental vacancy rate is 2.7%, which is the third highest in the country, and translates to an average rent few mobile home park residents can afford. (The Staff Memo states that for the first quarter of 2014, RealFacts reports that vacancy rates are in the 0.3% to 2.4% range in San Jose for the lowest-rent, unrestricted rental housing (rents in the \$1,230-1,370 average per month range.)

The Vice Mayor's memo also notes many of our parks (ten, according to the Staff Memo) are also home to seniors who will face additional threats to their quality of life if displaced. Seniors are the fastest growing demographic in our city, and often live on a fixed income. Relocating to another apartment or location within the region would break

up the support network they currently rely on, and potentially place them further from the critical care and support they need.

It is not possible to predict exactly when the City will receive applications for conversion, however, as the Vice Mayor's memo notes, the sale of Winchester Ranch Mobilehome Park is currently being negotiated with the expectation of being redeveloped, so an application for the of conversion of Winchester Ranch Mobilehome Park could be imminent.

Use Conflicts with a Zoning, Specific Plan or General Plan Proposal

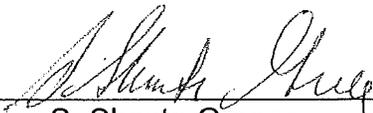
Additionally, the uses that may be prohibited under California Government Code Section 65858 are uses that may be in conflict with a contemplated general plan, specific plan, or zoning proposal that the legislative body is considering or studying or intends to study within a reasonable time.

Any current application for mobilehome conversion would likely conflict with the proposal in the Vice Mayor's memo that staff study and recommend changes to the mobilehome conversion ordinance to provide for the protection of the health, safety and welfare of mobilehome park residents and the Staff Memo recommendation to consider amendments to the General Plan to address the potential impacts of mobilehome park conversions.

CONCLUSION

The two memos provide sufficient facts to allow the Council to make the findings required for the proposed moratorium on mobilehome conversions under Section 605 of the City Charter and California Government Code Section 65858, provided that the City Council provides direction to study an amendment to the General Plan or Chapter 20.180 to address the health and safety issues.

RICHARD DOYLE
City Attorney

By 
S. Shasta Greene
Sr. Deputy City Attorney



Memorandum

TO: RULES AND OPEN
GOVERNMENT COMMITTEE

FROM: Leslye Corsiglia

SUBJECT: MOBILEHOME PARK
CONVERSIONS

DATE: April 30, 2014

Approved

Date

5/2/14

BACKGROUND

On April 9, 2014, the Rules and Open Government Committee considered a recommendation from Vice Mayor Nguyen regarding the adoption of an urgency interim ordinance that would establish a temporary 45-day moratorium on mobilehome park conversions. The Committee requested that the City Attorney explore whether the necessary findings could be supported, and that the issue be agendaized for further Rules Committee discussion.

The City Attorney has submitted a separate report to the Rules Committee on this agenda that provides information about the City's Mobilehome Conversion Ordinance and describes the requirements for establishing a moratorium on conversions, should the City Council choose to take that action. This staff report provides supplemental information that may be helpful to the City Council during the discussion of this request.

ANALYSIS

Since 1986, conversion of a rental mobilehome park has required the issuance of a Conditional Use Permit (CUP) or Planning Development (PD) Permit under the Mobilehome Park Conversions Ordinance (or "Ordinance," which is Chapter 20.180 of the Municipal Code). The approval of either type of permit requires that the park-owner applicant provide certain special noticing and relocation options to park residents, and further requires that certain findings be made in the approval of either type of permit. To the extent that such a CUP or PD Permit is approved and the park is converted to another use, the residents of that park would be required to move and, if possible, to move their homes.

Mobilehomes are a unique form of housing in that the home is typically owned by its occupant but is located on rented space in a mobilehome park. In San Jose, there are 10,778 mobilehomes -- the largest number in any jurisdiction in California -- located in 59 parks located throughout the City. Nineteen parks are large-- with more than 200 spaces. Ten of the parks (with a total of 1,610 homes) are restricted to seniors (generally, at least one member of the household must be age 55 or older).

Mobilehomes are an important component of the affordable housing supply in the City. In particular, they are a particularly affordable homeownership option. Monthly space rents vary

widely depending on park location and amenities, and whether the space is for a trailer or a single-, double-, or triple-wide coach. The lowest current space rent is \$307, with the highest at \$1,450; the vast majority are in the \$560-1,070 range (SOURCE: 2009 Housing Department Mobilehome Park Site Visits, updated to account for allowable rental increases in the intervening years). Many of the individual rent levels are affordable to persons and households of low- and very-low incomes, particularly when the trailer/coach is owned outright (such incomes range from a low of \$37,150 for a one-person household up to \$84,900 for a four-person household).

As documented in the City's 2010-2015 Consolidated Plan, there was an unmet need for affordable housing of over 59,000 homes at lower income levels in 2010. The City's limited affordable housing resources will enable it to assist in the production of only 2,273 new homes over the five-year span of the plan.

Following are the opportunities available for any mobilehome park residents displaced as a result of a mobilehome park conversion:

- As of April 17, 2014, there were 43 San Jose mobilehomes listed for sale on the Multiple Listing Service – at an average listing price of \$140,954 – or a vacancy rate of 0.4%. Another 32 mobilehome units for sale were listed elsewhere in Santa Clara County, for a total of 75 Countywide (the average listing price Countywide was \$160,097).
- According to information posted by the City of Redwood City, as of 2012, there were 14 mobilehome parks in San Mateo County, with fewer than 1,800 spaces.
- A relocation plan recently prepared in connection with the proposed conversion of a mobilehome park in Palo Alto reported that of 48 parks in San Mateo, Alameda and Santa Cruz Counties that responded to a survey of available spaces, 24 spaces were vacant and 23 mobilehomes were for sale out of a total 4,028 spaces in those parks (or, a 1.2% vacancy rate for the combined vacant spaces plus homes for sale).
- Nearly all income-restricted affordable housing developments in San Jose – whether for families, seniors or single-room occupancy – have existing waiting lists, thereby not providing an immediate source of replacement housing.
- For the first quarter of 2014, RealFacts reports that vacancy rates are in the 0.3% to 2.4% range in San Jose for the lowest-rent, unrestricted rental housing (rents in the \$1,230-1,370 average per month range).
- There are more than 22,000 individuals and families on the Housing Authority of Santa Clara County's waiting list for Section 8 vouchers; the list has not been opened for new names since 2006.

A survey with an income profile of mobilehome residents is not available. However, what is known is that:

- The Housing Department has made hundreds of mobilehome-repair loans and grants over the past 25+ years to low-, very low- and extremely low-income park residents.
- The income profile of mobilehome owners who participated in the Mobilehome Seismic Retrofit Program is illustrated in the chart below. Note that this information is not statistically scientific, as the survey participants were not randomly selected.

Income Level	%-age of Area Median Income (AMI)	Number of Participants	%-age of Participants
Low-/Very low-/Extremely low-income	0-80% of AMI	562	73%
Moderate-income	81-120% of AMI	150	20%
Above Moderate-income	Above 120% of AMI	53	7%
		765	

As the information provided above indicates, there are presently very few relocation options locally for lower-income mobilehome residents who would be displaced by the conversion of a mobilehome park. Even if it is assumed that only half or any park's mobilehome residents are lower income, the impact of conversion of a large park would still be a very significant event. The mobilehome that a resident owns is typically his/her most significant investment, and if that mobilehome cannot be moved to a new park, the resident may face significant economic impacts as a result of conversion. Additionally, a displaced resident who succeeds in moving his/her coach into a new park will not take his/her affordable rent along, and as a result may end up with a significantly higher space rent.

The conversion of mobilehome parks is a land use regulatory issue. Such issues are governed not only by the Zoning Code but also by the General Plan. Therefore, to the extent that the City Council wishes to re-examine the City's regulations that govern such conversions, amending the General Plan should be included in that study.

COORDINATION

Preparation of this memorandum was coordinated with the Office of the City Attorney and the Department Planning, Building and Code Enforcement.

/s/
LESLYE CORSIGLIA
Director, Housing Department

For questions please contact Jacky Morales-Ferrand, Assistant Director of Housing, at 408-535-3855.



Memorandum

TO: Rules Committee

FROM: Vice Mayor Madison Nguyen

SUBJECT: SEE BELOW

DATE: April 1, 2014

Approved:

Madison Nguyen (cc)

Date:

4/1/14

SUBJECT: MOBILE HOME PARK CONVERSION ORDINANCE

Recommendation:

Direct staff to return with an urgency interim ordinance establishing a temporary 45 day moratorium on mobile home park conversions. Upon making findings of a current and immediate threat to the public health, safety, or welfare of mobile home park residents direct staff to provide follow up procedures to extend the interim ordinance for no longer than one year. Staff will then return to council with recommended changes for adoption prior to the expiration of the moratorium.

Background:

San Jose's mobile home park conversion ordinance, which was originally adopted in 1986, is outdated, untested, and unclear as to how it provides displaced residents with the necessary means to find affordable housing options. We need to ensure that our existing laws governing conversions are clear, up to date, and adequate given the changing state of the economy and new laws pertaining to mobile home park conversions.

In west San Jose there has been much attention paid to the Winchester Ranch Mobile Home Park. The sale of the park is currently being negotiated with the expectation of being redeveloped. Residents there, and at other parks, have shown increasing concern about the future of their homes. Any conversion there, or at any of the other 58 parks in San Jose, would represent a threat to the health and welfare of thousands of seniors and low income residents. Because we have over 10,000 mobile homes in parks throughout our city, we should take the time to update this ordinance and provide necessary safeguards for affected residents.

As we begin to look at completing our urban village plan we also may put several other mobile home parks in jeopardy. Five parks (Winchester Ranch, Willow Glen Estates, Mobilhome Manor, Imperial San Jose, and La Buona Vita) are within urban village boundaries, and will face added pressure to be redeveloped to meet development goals and conform to the urban village plans in those neighborhoods.

Throughout the state we have also seen much attention paid to the conversion of mobile home parks. Last year Costa Mesa denied conversion of a mobile home park, and several court cases regarding conversion eventually wound up in the state Supreme Court. In December, Governor Brown signed into law SB 510 that helped clarify this issue, but at all levels more issues remain.

Our city ordinance includes provisions to relocate mobile homes or provide rental subsidies for displaced residents. However, in many cases it is not possible to simply relocate manufactured housing, and if it were, there are likely few parks willing to accept them. We should take time during this moratorium to do an accurate catalogue of options available for relocation throughout San Jose.

Simply providing a rental subsidy, regardless of the amount, also is likely to be a poor solution. While we are seeing a lot of residential development in San Jose, it has not yet provided enough supply to bring down the cost of housing. Our rental vacancy rate is 2.7%, which is the third highest in the country, and translates to an average rent few mobile home park residents can afford.

A search of affordable housing listings in San Jose yields 122 locations, but all except four of them have waiting lists. Sadly, if the search is for senior housing options, the results provide only three locations. The reality is the housing situation in San Jose was much different when this ordinance was drafted. The median cost of housing was less than half of what it is today, and we have lost the tools to increase the amount of affordable housing options we once did.

Many of our parks are also home to seniors who will face additional threats to their quality of life if displaced. Seniors are the fastest growing demographic in our city, and often live on a fixed income. The community they build in these mobile home parks creates an environment that provides them with the network they need to ensure access to health care or other necessary services. Simply relocating to another apartment or location within the region would break up this network they rely on, and potentially place them further from the critical care and support they need.

Recently, the City of Mountain View has begun updating its ordinance governing conversions and displaced residents, specifically looking at how rental subsidy and relocation assistance are calculated. Before that the City of Sunnyvale also reviewed and upgraded their conversion and relocation ordinance. Each of these cases can perhaps provide some inspiration and guidance toward necessary clarifications. However, San Jose has more mobile home parks than any other city in the county with the potential for many more residents to be impacted than in these other examples.

Considering all of these issues, we need to be sure that we have clarity in our conversion ordinance and protections for the health, safety, and welfare of displaced residents. Our dearth of affordable housing alternatives and likely inability to provide more housing in the immediate future makes this a necessity. A moratorium would provide the necessary time for staff to conduct further research, reach out to threatened mobile home park

residents, and communicate with park owners. Additional consideration also needs to be given to seniors and their additional needs. Prior to the end of the moratorium staff will return with clarifications and changes to the ordinance for council consideration.