



File #: 21-0066, Version: 1

### REPORT TO COUNCIL

#### SUBJECT

Housing Strategy: Update and Discussion on Sunnyvale Mobile Home Park Memorandum of Understanding

#### BACKGROUND

On October 13, 2020, Council approved the 2020 Housing Strategy (RTC No. 20-0809). The Housing Strategy resulted in thirteen new policy recommendations called “strategies” and the City Council prioritized the strategies by categorizing each strategy as Tier 1, Tier 2 or Tier 3. Tier 1 strategies are to begin implementation in FY 2020/21, Tier 2 in FY 2021/22, and Tier 3 strategies are to be implemented as time and funding allow.

Mobile home park policy was one of the main features throughout the Housing Strategy and resulted in the most outreach events and most feedback from the community. The Housing Strategy considered two options for rent stabilization: a formal Rent Stabilization Ordinance or a Memorandum of Understanding (MOU)/Accord; the City Council ranked the MOU/Accord Tier 1. Due to the Council and community interest, work began immediately on the MOU discussions with key stakeholders (Mobile Home Park land owners and Mobile Home Park residents).

On December 8, 2020, the Council approved the MOU Scope of Work and budget (RTC No. 20-0898) associated with hiring BAE Urban Economics and Goldfarb and Lipman as consultants to lead the MOU process (Attachment 1). Official discussions on the MOU began on January 14, 2021.

#### EXISTING POLICY

General Plan: 2015-2023 Housing Element

**GOAL HE-1 ADEQUATE HOUSING** - Assist in the provision of adequate housing to meet the diverse needs of Sunnyvale’s households of all income levels.

**GOAL HE-2 ENHANCED HOUSING CONDITIONS AND AFFORDABILITY** - Maintain and enhance the conditions and affordability of existing housing in Sunnyvale.

- **Policy HE-2.6** Preserve Sunnyvale’s mobile home parks as an affordable housing option. Maintain at least 400 acres of mobile home park zoning.

#### ENVIRONMENTAL REVIEW

The action being considered does not constitute a “project” within the meaning of the California Environmental Quality Act (“CEQA”) pursuant to CEQA Guidelines section 15378(a) as it has no potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.

## **DISCUSSION**

On December 8, 2020, the Council approved the MOU Scope of Work and budget associated with hiring BAE Urban Economics and Goldfarb and Lipman as consultants to lead the MOU process (Attachment 1). Between that time and the formal meetings with stakeholders, staff worked to establish the formal representatives for each set of stakeholders; established a URL website ([Sunnyvale.ca.gov/HousingStrategy](http://Sunnyvale.ca.gov/HousingStrategy)) for ease of sharing information, and sent a notification mailer to all Sunnyvale mobile home park addresses notifying households of how to participate in the general process. Official conversations on the MOU began on January 14, 2021.

## **Stakeholders**

The City established two stakeholder groups for the MOU Negotiations. Together, these two stakeholder groups make up the MOU Working Group. Attachment 2 shows which parks have representatives for the stakeholder discussions.

- Mobile Home Park Owners and/or Representatives
  - Thirteen seats were available for the owner or their representative of each mobile home park in Sunnyvale. As some companies own or operate multiple parks, there are a total of eleven stakeholders on the Owner Stakeholder Group.
- Mobile Home Park Residents
  - Thirteen seats were available for residents interested in representing the mobile home park they reside in. As Sunnyvale Mobile Home Park Alliance (SMHPA) is the only operating park resident group in Sunnyvale, City staff asked the SMHPA Board of Directors to lead the process in recruiting park residents. Twelve residents and one Attorney make up the Resident Stakeholder Group. The twelve residents represent eight of Sunnyvale's thirteen parks. All mobile home park residents were invited to participate; the group is essentially self-selected by interested residents.
  - The Resident Stakeholders Group also communicates with the greater mobile home park resident population through social media, the SMHPA website, and general membership meetings.

To date, nearly all stakeholders have attended all of their designated meetings. While there has been lesser involvement from a couple of parks, the progress being made is still substantial.

## **MOU Meetings**

A total of ten private meetings have taken place since the kick-off meeting on January 14, 2021; four MOU Working Group meetings and three meetings each with the Resident Stakeholders and Owner Stakeholders individually. Limited meeting dates are scheduled following this Council meeting; however, meetings may be added depending on Council and community feedback as needed to reach the goal of trying to finalize the draft MOU by July 13, 2021 (revised City Council agenda date).

## **Current MOU Progress**

To date, 17 key terms have been identified to be included in the MOU and have been thoroughly discussed between the two stakeholder groups and are listed below. Five of these terms were identified by the Council as items that must be included in the agreement, those terms are starred.

- Annual Rent Increase\*
  - Includes Minimum and Maximum

- Rent Increase on Unit Turnover\*
- Capital Projects/Investments
  - Provisions for Capital Replacements
  - Provisions for Capital Expenses Already Underway
  - Provisions for New Capital Investments/Projects\*
  - Disappearing Amenities/Services
- Other Pass Throughs
  - Property Tax\*
  - Disaster-Related Costs
  - Government Mandated Costs
- Retroactivity of Agreement\*
- Dispute Resolution
- Safety Net Program
- MOU Effect on Subsequent Park Owners (i.e. Land Recordation)
- Duration of MOU
- Exclusions
- Mobile Home Units Owned by Park (i.e. renter occupied, rental units)
- Mobile Home Units Not Primary Residence (i.e. second home)

With all terms identified, frequent meetings have allowed the MOU Working Group to narrow down their positions. While not all positions have been finalized, and not all positions are equal, progress continues to be made. Staff sees progress toward finding mutually acceptable terms and expects that by continuing discussions with the owners and residents a draft MOU can be ready for the City Council in the coming months.

Attachment 3 outlines all terms and the current positions of the owners and residents and refers to various example MOUs to compare the terms. As discussions and positions come closer, staff has made recommendations to the group on compromises to ensure a draft MOU will be ready in the coming months. These recommendations/ compromises have so far encouraged further discussions, and have been shared with the stakeholders on several occasions ahead of meetings for the stakeholder groups to consider internally before a negotiation meeting.

### **Key Considerations**

The balance of terms is a main component of this agreement; changes in one term can alter the positions toward other terms or the agreement in its entirety. Being able to accommodate the unanimous agreement of all park owners and to satisfy the residents is challenging; compromises may be needed to result in an agreement that meets most of the needs of current and future residents and works for the property owners. The MOU cannot reverse past rent increases or property sales, but it can preserve mobile homes as a more cost effective housing opportunity in Sunnyvale for current and future residents. Staff finds that while additional refinement is needed, the owners have strived to establish parameters that immediately positively impact existing residents and protect future residents. The residents stated that their goals include supporting existing residents with equity and preserving the affordability of mobile homes for future residents.

### ***MOU vs. Rent Stabilization Ordinance (RSO)***

As previously mentioned, the City Council chose an MOU over an RSO during the Housing Strategy

adoption in late 2020. It is important to understand that while there are a handful of differences between the two policy options, the oversight and process are considerably different. As this is the first mobile home park rent policy in Sunnyvale, the MOU allows ample flexibility in determining the critical balance between the needs of the residents and economic feasibility for the park owners.

Key Issues	RSO Ordinance	MOU/Accord
Cap on Rent Increases	✓	✓
Vacancy Control	✓	✓
Park Owner Petition Process to ensure Fair Return on Investment	✓	x
Mediation/ or other form of dispute resolution	✓	✓
Park Owner Voluntary Compliance	x	✓
City Administration – Rent Commission and/or hearing process	✓	x
Just Cause for Eviction for space renters (MRL dictated)	✓	✓
MH Space Renters AND MH Renters	✓	✓
City Enforcement	✓	?
"Opt in" or Long-term Lease Signing Required	x	✓

One large factor of an RSO is the requirement of a rent board or administrative hearing process where residents can petition reduced services or rent increases, and owners can petition fair rates of return. The cost of operating an RSO is typically covered by an administrative fee charged to the mobile home park based on number of spaces, often passed through to the residents. As a result, RSOs often come with a greater rate of litigation.

**Renter Occupied Mobile Homes**

Sunnyvale has two fully renter occupied mobile home parks, Rancho and Thunderbird, and Aloha which offers rental mobile home units in addition to RVs and traditional apartments. The park owners of these three parks are involved in the continuing MOU discussions; however, most of the critical MOU terms do not apply to rental parks. While the stakeholders recommend excluding rental parks and any renter occupied mobile home unit from the MOU as they are also excluded from the Mobile Home Residency Law, staff recommends a future policy to ensure these residents receive protections in one form or another. Other jurisdictions have covered renter occupied mobile homes through tenant protection ordinances, applying the mobile homes to the State Rent Control Law, or other mechanisms outside of traditional RSOs or MOUs. Staff is seeking Council feedback on excluding renter owned units from the current MOU and addressing these housing units as part of a future Housing Strategy.

**FISCAL IMPACT**

At this point, no fiscal impact has been identified for the MOU. As negotiations finalize and

parameters for each of the terms are completed, staff will have a better understanding of potential internal and external costs associated with implementing the MOU.

### **PUBLIC CONTACT**

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall, Sunnyvale Public Library and Department of Public Safety. In addition, the agenda and report are available at the Office of the City Clerk and on the City's website.

### **ALTERNATIVES**

1. Direct staff to continue to negotiate final terms with MOU Stakeholders.
2. Determine that there is insufficient progress on the MOU and direct staff to not continue with the MOU and direct staff to proceed with development of a Rent Stabilization Ordinance.
3. Other action as determined by City Council.

### **STAFF RECOMMENDATION**

Alternative 1: Direct staff to continue to negotiate final terms with MOU Stakeholders.

Staff believes that stakeholders have made significant progress in defining terms and that an MOU can be established through remaining conversations. While the timeline may be delayed in bringing the draft MOU to Council for final consideration due to the complexity of the remaining terms, the final MOU can support both the residents and owners in a more timely manner than other forms of mobile home policy could.

In addition, staff is seeking guidance from the Council on including or excluding renter occupied mobile home units (mobile home units owned by park owners) from the MOU. Should the Council wish to include these units, certain sections of the MOU may be carved out that do not apply to renter occupied units; however, if the Council decides to exclude these units, a future Housing Strategy policy such as the Right to Lease Ordinance or Tenant Protection Ordinance could provide a level of tenant protections to mobile home renters at a later date, outside of the MOU process.

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### **ATTACHMENTS**

1. MOU Scope of Work
2. Overview of MOU Stakeholders by Mobile Home Park
3. Draft MOU Terms and Current Positions as of April 8, 2021.
4. Correspondence Received as of April 14, 2021