



CITY COUNCIL STAFF REPORT



April 23, 2024

ITEM TITLE

Mobilehome Space Rent Review: Reduce the Administrative Fee for Mobilehome Rent Control Services to \$5 for Fiscal Year 2024-25 and Amend Chula Vista Municipal Code Chapter 9.50 "Mobilehome Space Rent Review" to Streamline Administration and Hearings

Report Number: 24-0134

Location: No specific geographic location

Department: Housing and Homeless Services

G.C. § 84308: No

Environmental Notice: The activity is not a "Project" as defined under Section 15378 of the California Environmental Quality Act ("CEQA") State Guidelines; therefore, pursuant to State Guidelines Section 15060(c)(3) no environmental review is required.

Recommended Action

Adopt: A) an Ordinance Amending Chapter 9.50 of the Chula Vista Municipal Code "Mobilehome Park Space Rent Review" to add section 9.50.025 "Mobilehome Rent Review Hearing Officer – Creation of Position – Authority", amend section 9.050.030 "Administrative fee" to update reporting requirements, amend section 9.50.070 "Initiation of space rent review" to update procedures, and update references accordingly **(First Reading)**; B) an Ordinance repealing section 2.31 of the Chula Vista Municipal Code "Mobilehome Rent Review Commission" **(First Reading)**; and C) Resolution Amending Chapter 18 of the City's Master Fee Schedule and reducing the administrative fee from \$10 to \$5 for fiscal year 2024-2025.

SUMMARY

Under Chula Vista Municipal Code Chapter 9.50, "Mobilehome Park Space Rent Review", mobilehome park owners have the right to raise rental rates above the Annual Permissive Rate. Park residents are also given the right to petition such rental rate increases. Historically, cases were heard by the Mobilehome Rent Review Commission, although there has not been a case since updates were made to the ordinance in 2012. This item provides recommended changes to transition hearing of cases from the Mobilehome Rent Review Commission to a Hearing Officer and seeks to reduce the administrative fee from \$10 to \$5 for fiscal year 2024-2025.

ENVIRONMENTAL REVIEW

The activity is not a "Project" as defined under Section 15378 of the State CEQA Guidelines because the proposal consists of a reporting action, is not for a site-specific project(s) and will not result in a direct or indirect physical change in the environment. Therefore, pursuant to Section 15060(c)(3) of the State CEQA Guidelines the activity is not subject to CEQA.

BOARD/COMMISSION/COMMITTEE RECOMMENDATION

The Housing and Homeless Advisory Commission ("HHAC") will be provided with an update at their next meeting.

DISCUSSION

Background

The City of Chula Vista has long recognized that mobilehomes and trailer parks are a critical source of naturally occurring affordable housing for low-income residents of Chula Vista, and that sudden or large rent increases may leave residents vulnerable to displacement and homelessness. In order to protect these residents, in 1982 the City adopted Chula Vista Municipal Code (CVMC) Chapter 9.50, "[Mobilehome Park Space Rent Review](#)" ("CVMC 9.50" or the "Ordinance"), as allowed by Mobilehome Residency Law. Over the years, the Ordinance has been amended several times to update the process for reviewing petitions and disputes, adjust the rental cap formula, and revise the method of payment for administration of the program. Most recent amendments were made in 2010-2013, to remove the right to petition increases on change of ownership (CVMC section 9.50.077, "Vacancies and rents upon change of mobilehome ownership") and create an optional administrative fee (CVMC section 9.50.030, "Administrative fee").

Effective August 18, 2011, CVMC section 9.50.030 established an Administrative Fee which allows eligible mobilehome residents to annually opt in or out of receiving benefits and services under the Ordinance. The establishment of the administrative fee was necessary to continue the administration of CVMC 9.50 at the time of the 2010-2012 amendments when staff were processing several cases each year and to continue providing administration of the Ordinance.

At present, eligible residents opt into rent control services by paying an administrative fee on an annual basis, currently \$10. Residents who opt in can only have their rent raised once in a 12-month period and only by the annual permissive rate established by a formula based on the Consumer Price Index. As of February 13, 2024 the annual permissive rate is 3.6%.

Under CVMC section 9.50.063 mobilehome park owners have the right to raise rental rates above the annual permissive rate for existing residents; however, park residents can in turn petition to challenge these rental rate increases. This process begins when park owners or managers provide a 90-day notice of rental increase. Park owners must then hold a mandatory meeting with residents within 10 days of issuing a rent increase notice above the annual permissive rate. Park owners must then seek to come to an agreement with more than 50% of the affected residents. Alternatively, residents may file a petition with the City within 30 days of the notice of increase. The filing of a petition will trigger a hearing to be scheduled within 30 days of the petition filing.

Historically, cases were heard by the Mobilehome Rent Review Commission (the "Commission"), originally formed in 1991 by [CVMC Chapter 2.31](#), who establish a fixed space rent based on information and documentation reviewed during the hearing. The following factors may be considered:

- a. The need for the proposed rental increase in order to permit the owner to secure a fair and reasonable return.
- b. Rate of return earned by the park owner in previous years as determined by a fair return analysis expert.
- c. The extent to which the proposed rental increase will cause a reduction in the resale value of the mobilehome.
- d. Changes in the Consumer Price Index for all urban consumers in the San Diego Metropolitan Area published by the Bureau of Labor Statistics.
- e. Fair market rental value as determined by “comparables” of similar and existing mobilehome spaces or mobilehomes in the South Bay area of San Diego County
- f. The timing and amount of rents and increases for this and other spaces at the mobilehome park.
- g. The quantity and quality of the improvements and features at the mobilehome park and any decrease or increase in such improvements and features.
- h. The quantity and quality of services offered to park residents and any decrease or increase in such improvements and features.

In considering the existing or expected expenses in owning and operating the park in following prudent business practices, the hearing may consider the following or any similar or related items of expense, the reasonableness of such items, and changes to them:

- a. Actual financial investment in park improvements.
- b. Property or other taxes.
- c. Mortgage or ground rent payments.
- d. Utility costs.
- e. Capital improvements or rehabilitation work.
- f. Repairs required.
- g. Other operating and maintenance costs.

Due to the complexity of the financial analysis needed to appraise and calculate a fair rate of return within mobilehome parks, third party experts are often needed for rent review cases.

Current Conditions

Rent Review Hearing Advisory Authority

Since updates to CVMC 9.50 were last made in 2013, there have not been any cases brought to a hearing for mobilehome space rents in the City. Two parks, Ranch Bonita and El Mirador, initiated increases beyond the annual permissive rate; however, in both cases, either the residents voluntarily agreed to the increase or the park retracted the proposed increase. There has therefore been little reason to convene members of the Mobilehome Rent Review Commission other than to provide educational workshops, park tours, and conduct the annual review of the administrative fee prior to Council adoption each May. The infrequency of Commission meetings has resulted in administrative difficulty surrounding staffing of the commission or ensuring a quorum is available when the need for a Commission meeting does arise. This also coincided with Citywide efforts to consolidate and enhance Boards and Commissions, as presented to Council on [November 8, 2022](#), and staff recognized a potential opportunity to transition away from the Mobilehome Rent Review Commission and adopt alternative hearing measures.

Administrative Fee Collection & Fund Balance

The administrative fee was initially set at \$60, to cover the costs of administration and maintain a contingency to hire experts if cases were brought forward. City staff reviews the fee annually, to ensure that it is set at an amount that will cover the estimated costs of administering the Ordinance and the City's mobilehome rent control program, in accordance with Proposition 218 (1996) and Proposition 26 (2010). The fee analysis includes the estimated costs of holding hearings, hiring experts, and noticing and collecting the fee, among other costs. Due to the decreased demand for administrative hearings, the fee has been reduced several times since it was implemented to reflect the accumulated balance and estimated annual costs. It is currently set at \$10.

Public Engagement

Due to the timing of the collection of the annual administrative fee in May of each year, and the accumulation of a fund balance, staff felt it was critical to move quickly to hold public meetings and gauge community input into potential changes to a hearing officer format and options surrounding the administrative fee.

Therefore, two meetings were held, as follows: 1) a Virtual meeting April 5 from 10-11 a.m. for park owners and managers; and 2) a Public meeting at City Hall on April 8 from 5-6 p.m. In addition, all materials and updated information were maintained on the City's [Mobilehome Community](#) webpage and a public comment period was held for stakeholders to review proposed Ordinance amendments.

Rent Review Hearing Advisory Authority

To address the concerns related to the lack of rent review hearings in over ten years and ability to convene the Commission, staff considered and presented the following options:

- 1) Creation of a Hearing Officer. In the event a case arises, this position would perform the duties and monitoring previously conducted by the Mobilehome Rent Review Commission. Staff recommends that the Hearing Officer be the City Manager, or designee, who would be responsible for considering cases, presiding at hearings, and making impartial decisions on matters based on the written materials prepared prior to the hearing, testimony of experts, and information received at the hearing.
- 2) Hiring of a Third Party for Appeals. If either party objected to the results of the City held hearing, a third party appeal through the [Office of Administrative Hearings](#) (OAH) could be held. OAH is a quasi-judicial tribunal that hears administrative disputes. Established by the California Legislature in 1945, OAH provides independent Administrative Law Judges (ALJs) to preside as neutral judicial officers at hearings, mediations, arbitrations, and settlement conferences. Current rates for utilizing OAH can be found on page 16 of the [2023-2024 Price Book](#).

Administrative Fee Collection & Fund Balance

In light of the accumulation of a fund balance, and a decrease in petitions for rent review hearings, staff considered and presented the following options:

- 1) Continue to collect the fee. The City could continue the existing program, whereby, park residents have the option of paying the administrative fee in order to opt-in to the City's rent control program. If the City Council elects to do so, City staff would recommend that it:
 - a. Review its current operations to see if there are other activities that reasonably fall under its rent-control program, and that could, therefore, reasonably be funded with the revenue from

this fee. This would be a way to keep the program as it is but spend down some of the funds that have been collected. The funds would have to be spent on activities for which the fee was collected. Thus, the fee revenue could be used for things beyond rent review hearings, such as developing any administrative guidelines beyond what's in the Ordinance, processing communications from park owners and residents about the rent control program, etc.

- b. Reduce the fee for the 2024-2025 year, in light of the accumulated fund balance and decrease in the number of anticipated hearings.
- 2) Cease collecting the fee. Alternatively, the City could cease collection of the fee and utilize the remaining balance for continued staff administration of the Ordinance and Hearing Officer expenses until the fund balance is exhausted. If this option is pursued, City staff would develop guidelines as to how the accumulated funds would be most appropriately allocated.

Stakeholder Outcomes

Stakeholders (both park owner and residents) voiced concerns about the Hearing Officer being an unknown person and wanted staff to consider utilizing known mediation services. In addition, stakeholders indicated that they were not ready for the administrative fee to be repealed, but staff should consider suspending the fee for a period. To staff's surprise, a majority of mobilehome residents expressed that they wished to keep the fee in place, because it provided a greater level of confidence that they are indeed protected by the rent control program. Based on this feedback, and remaining concerns about fully repealing or suspending the fee, staff are proposing to make changes to the Ordinance to address the advisory authority for rent review hearings and maintain the fee at a reduced rate for this coming fiscal year. Staff would then conduct additional outreach and research over the next 6-8 months and return to Council, if needed, with further proposed revisions. Therefore, final recommendations for consideration tonight are summarized below.

Proposed Updates

Amendments to CVMC 9.50

As proposed in Attachment 1, amendments to Chapter 9.50 would address the current concerns as detailed below.

- *Creation of a Hearing Officer (add section 9.50.025 and update references as necessary)* - Staff are proposing the creation of a Hearing Officer position to relieve City Council or any Commission of the required functions necessary to hear cases and fix mobilehome space rents. Staff intends for the City Manager, or designee, which can include a third party, to serve as a Mobilehome Rent Review Hearing Officer, as further described in the proposed addition of section 9.50.025. Staff are not proposing to further alter the current process for rent review hearings or appeals at this time. If approved, this action would also require the repeal of Chapter 2.31 "Mobilehome Rent Review Commission".
- *Annual Approval of Administrative Fee (amend section 9.50.030.A)* - Chapter 9.50 requires that the Administrative Fee be established annually by the action of the City Council. Staff recommends amending Section 9.50.030 to eliminate the yearly obligation of adopting the administration fee if there are no alterations to its amount.

Administrative Fee for FY25

Chapter 9.50 offers unique benefits and services solely to eligible mobilehome residents. As part of the annual Administrative Fee update process, staff are reporting out on prior year revenues and expenditures to establish the amount necessary to recover the costs of administering Chapter 9.50. This report provides

an update on revenues and expenditures for July 1, 2023 - June 30, 2024, and the fee recommendation for FY 25.

Fiscal Year 2023-24 ("FY 24") Projected Revenues and Expenditures

Revenues for FY 24 were anticipated to total \$23,000 based on 2,300 residents paying a fee of \$10. Actual payments were received from 2,358 eligible spaces, with some residents overpaying. After all attempts were made to return overpayments, efforts resulted in total collected revenues of \$23,670. A summary of revenues and projected expenditures is provided in Table 1, followed by a description of related activities.

Table 1: FY 24 BUDGET SUMMARY

| | Budgeted | Actual |
|------------------------------|-----------|-------------------|
| Revenues: | | |
| Fund Balance as of 7/1/23 | | \$ 229,127 |
| Fee Revenues | \$ 23,000 | \$ 23,670 |
| Investment Earnings | \$ 0 | \$ 0 |
| TOTAL FUNDS | | \$ 252,797 |
| Expenditures: | | |
| Staff Charges | \$ 37,000 | \$ 28,000* |
| Experts | \$ 25,000 | \$ 0 |
| Administrative/Billing Costs | \$ 5,000 | \$ 4,959 |
| TOTAL EXPENDITURES | | \$ 32,959 |
| Surplus/Deficit | | \$ 219,838 |

**Projected charges through June 30, 2024*

Staff Charges

Administration of Chapter 9.50 is projected to result in staff charges of \$28,000 for FY 24. Staff provided the following services:

- Ombudsman Activities (Office Visits & Mobilehome Information Line) – Staff responded bilingually to all inquiries related to Chapter 9.50.
- Resident Invoicing Preparation – A June 1st billing and/or ineligible notice was sent to all mobilehome/trailer residents. In August, reminder notices were sent to all residents with a balance due and to those residents determined ineligible.
- Fee Collection – Collection and processing of fee payments received, including additional administrative expenses for online payment portal maintenance issues.
- Database Maintenance – Maintained the database with current resident information.
- Mobilehome Rent Review Commission ("MHRRC") Educational Meetings - Provided general ombudsman related activities to residents.
- Annual Permissive Rent Calculations - Twice a year, the Consumer Price Index (CPI) is released. Notification was sent to all park owners and managers of the annual permissive rate as calculated under CVMC Section 9.50.050.
- Rent Review Inquiries/Hearing Administration – Staff coordinated inquiries regarding rental increases between residents and park management as needed.

Experts

No rent review hearings or hiring of experts was necessary during FY 24. Funds collected will be available to appropriate in FY 25 for hiring of experts if a rent review case is required. The lack of hearings also resulted in staff time reimbursement savings to the program.

Administrative Costs (Postage, Office Supplies and Printing)

In FY 24, the billing of the administrative fee was contracted out for the sixth year. Additional annual administrative costs, including CPI notices and publication of this hearing notice were incurred.

FY 25 Budget and Administrative Fee

Staff recommends the Administrative Fee be reduced to \$5 for FY 25, due to the current fund balance and lack of rent review hearing activity. Important factors taken into consideration include:

- Since the Ordinance amendments in 2013, no rent review cases have been heard for existing residents. However, two rent review cases began the process (Rancho Bonita in fiscal year 2014-15 and El Mirador in fiscal year 2017-18). In both cases, the rent increases were agreed upon between resident and owner prior to hearing. Prior to the 2013 amendments, existing resident rent review cases occurred approximately every other year. Therefore, staff has forecasted expenditures with one case every three years. This is a change from prior forecasting of every other year.
- Staff costs to administer the fee and rent review services have remained stable.
- Since the fee has been reduced to \$30 or less, more residents have been consistently paying. Therefore, it is projected that 2,350 residents will pay this coming year.

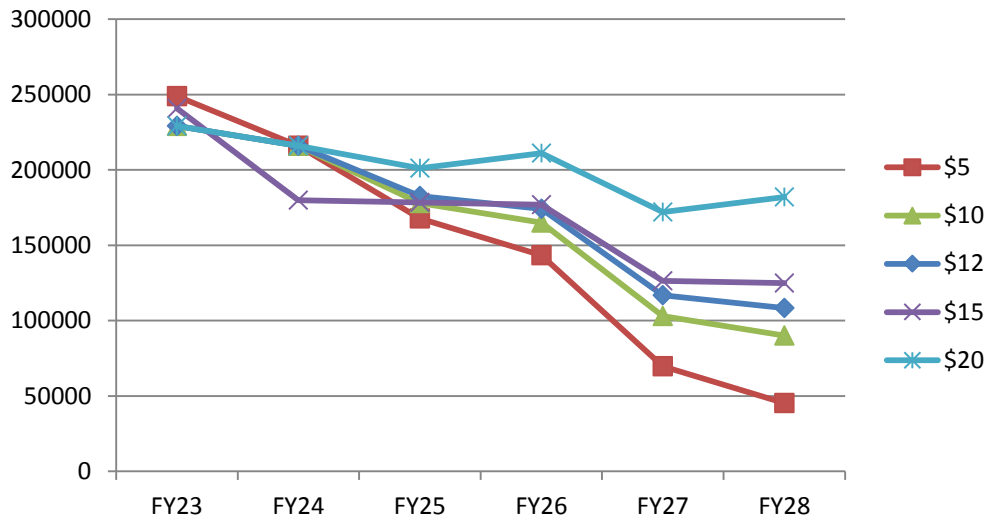
Table 2 provides a summary of the FY 25 budget which anticipates one rent review case and a contingency of \$25,000 for expert time related to one additional case, if needed, with an estimated ending fund balance of \$141,588.

Table 2: FY 25 BUDGET SUMMARY

| | | Budget |
|----------------------|---|-------------------|
| Revenues: | Projected Fund Balance as of 7/1/24 | \$ 219,838 |
| | Anticipated Fee Revenues (2,350 @ \$5) | \$ 11,750 |
| | TOTAL ANTICIPATED REVENUES | \$ 231,588 |
| Expenditures: | Staff Charges | \$ 35,000 |
| | Experts | \$ 25,000 |
| | Administrative/Billing Costs | \$ 5,000 |
| | TOTAL ANTICIPATED EXPENDITURES | \$ 65,000 |
| | <i>Contingency for Expert</i> | <i>\$25,000</i> |
| | Anticipated Fund Balance as of 6/30/24 | \$ 141,588 |

With the fee of \$5, annual revenues alone will not cover costs if heavy administrative costs are expended in any given year. Therefore, fund balance would then be used to maintain administrative services. If cases were to occur every third year, program funds would rapidly be depleted, however due to the lack of cases staff will continue to monitor the fee for future year increases or decreases. Account projections based on differing fee amounts and assuming cases every third year are detailed in Table 3 below.

Table 3: FUND BALANCE PROJECTIONS



Given current workload and few actual cases, staff has projected being able to maintain the fee for several years at \$5, as established by amendments to Chapter 18 of the City's Master Fee Schedule, reference Attachment 2, and will make further considerations to changes in the fee if any cases are heard in the next few years.

Conclusion

Staff remains committed to streamlining and reducing expenses associated with the administration of the Mobilehome Rent Review Ordinance, while still ensuring a fair and effective process for protecting the rights of both mobilehome park owners and mobilehome coach owners. The amendments to create a Hearing Officer process and thereby eliminating the need for the Mobilehome Rent Review Commission, and updates to the annual administrative fee collection would reduce staff costs and eliminate ongoing challenges to maintain the Commission. Any matters related to mobilehome living could be brought before the Housing & Homeless Advisory Commission for consideration in the future.

Staff will continue the public dialogue started this month to determine if further revision to the administrative fee collection process are needed and return to Council prior to April of next year if necessary.

DECISION-MAKER CONFLICT

Staff has reviewed the property holdings of the City Council members and has found no property holdings within 1,000 feet of the boundaries of any property (mobilehome parks) which is the subject of this action. Consequently, this item does not present a disqualifying real property-related financial conflict of interest under California Code of Regulations Title 2, section 18702.2(a)(7) or (8), for purposes of the Political Reform Act (Cal. Gov't Code §87100, et seq.).

Staff is not independently aware, and has not been informed by any City Council member, of any other fact that may constitute a basis for a decision-maker conflict of interest in this matter.

CURRENT-YEAR FISCAL IMPACT

There is no current year fiscal impact to the General Fund as a result of this action. Costs associated with administration of CVMC 9.50 are included in the Housing Authority budget within the Mobilehome fund.

ONGOING FISCAL IMPACT

There is no ongoing fiscal impact to the General Fund as a result of this action as currently presented. Updates made to CVMC 9.50 will have minor impacts on staff administrative process and will streamline many staff duties. Staff will continue to evaluate impacts and provide the HHAC with updates related to administrative changes and/or budgetary impacts. Funds in the Housing Authority budget within the Mobilehome fund will be utilized for ongoing administrative expenses.

ATTACHMENTS

1. Redline Amendments to CVMC Chapter 9.50
2. Redline to the City's Master Fee Schedule Chapter 18

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