



MINUTES
CITY COUNCIL
CITY OF SOUTH SAN FRANCISCO

SPECIAL MEETING
MUNICIPAL SERVICES BUILDING
COUNCIL CHAMBERS
33 ARROYO DRIVE
SOUTH SAN FRANCISCO, CA

MONDAY, JULY 22, 2019
6:00 p.m.

CALL TO ORDER

6:02 p.m.

ROLL CALL

Present: Councilmembers Addiego, Nagales and Nicolas, Vice Mayor Garbarino, and Mayor Matsumoto.

AGENDA REVIEW

No changes.

ADMINISTRATIVE BUSINESS

1. Report regarding a study session exploring the potential adoption of an ordinance increasing the minimum wage citywide to \$15 per hour. (*Christina Fernandez, Assistant to the City Manager*)

Assistant to the City Manager Fernandez presented the report indicated that the State is moving forward with increasing the minimum wage to \$15 statewide by 2023. Currently the State's minimum wage is \$12.00 per hour. At a Special City Council meeting on April 9, 2019, City Council directed staff to increase the minimum wage to \$15 per hour for all city employees effective July 1, 2019. This was accomplished through the FY 2019-2020 City Budget, passed by City Council on June 26, 2019. In addition, council directed staff to explore the increase of the minimum wage to \$15 per hour for all businesses citywide with a targeted effective date of January 1, 2020. Most of our comparable cities in the County have moved forward ahead of the state increasing their minimum wage to \$15 in the past few years.

In April 2016, then Governor Jerry Brown signed into law Senate Bill 3 which increased the state's minimum wage to \$15 per hour for all employers with greater than 26 employees by January 1, 2022 (January 1, 2023 for employers with 25 or fewer employees). Thereafter, the minimum wage would be adjusted annually based on the National Consumer Price Index (CPI-W). In addition to California state law, several California cities have passed minimum wage ordinances that have moved ahead of the state's timeframe of 2023.

The cities of San Mateo, Redwood City, Belmont, and Daly City have passed minimum wage ordinances. The Cities of Redwood City, Belmont, and Daly City took a phased in approach incrementally increasing their minimum wage while San Mateo raised their minimum wage to \$15 for all businesses except for nonprofit organizations whose wages increased at a slower rate.

The City Manager's office, in coordination with the Economic and Community Development Department, hosted a series of four Business Town Hall meetings on July 17, 2019, June 24, 2019, June 27, 2019 and June 28, 2019. Two meetings were held in the morning and two in the evening.

The City advertised the town hall meetings through mailers sent to every business license holder citywide. Approximately 6,000 mailers were sent via U.S. Postal Mail to every business license address. Please see *Attachment 2* for a copy of the mailer. In addition, the non-profit organization Gatepath personally handed out mailers to every business along Grand Avenue and Linden Avenue.

Further, the City advertised the business town hall meetings on social media platforms including the City's Facebook page, the Economic and Community Development Facebook page, NextDoor and the City's Website Calendar of Events. The Economic and Community Development department and the City Manager's office also provided e-blasts to their distribution lists. Lastly, the city also called businesses along Grand Avenue to inform them of the business town hall meeting dates.

Representatives from the hotel, restaurant, tobacco retail, and grocer industries participated in the Business Town Hall meetings. However, despite the above named outreach efforts, fewer than 20 businesses cumulatively participated.

The proposed minimum wage ordinance increases the city's minimum wage to \$15.00 per hour effective January 1, 2020 for all employees who perform at least two hours of work per week within the geographic boundaries of the city. Beginning on January 1, 2021, and each January thereafter, the minimum wage will increase by a percentage amount equal to the prior year's increase, if any, in the Consumer Price Index (CPI) for San Francisco-Oakland-San José's as determined by the Department of Labor.

The City will publish and make available to employers a bulletin announcing the adjusted minimum wage rate to take effect January 1 of the following year. In conjunction with the bulletin, the City will by November 1 of each year make available to employers a notice suitable for posting by employers in the workplace informing employers of the current minimum wage rate and of their rights.

The employer will also give written notification to each employee of his or her rights under this ordinance. The City is authorized to prepare and make available to employers in the top three languages spoken by residents of the City per the U.S. Census Data a notice suitable for posting in the workplace.

The City's ordinance will not count tips or gratuities as part of the minimum wage for employees. California law prohibits an employer from using an employee's tips and gratuities as a credit toward its obligation to pay the minimum wage.

The City's ordinance will apply to all businesses regardless of size and type of business. While there is not a special exemption made for employees under the age of 18, per California State Law (California Industrial Welfare Commission Order No. 4-2001), an employee who is defined as a "learner" shall be paid no less than 85% of the applicable Minimum Wage for the first 160 hour of employment. Thereafter, the learner shall be paid the applicable minimum wage.

The City of South San Francisco may contract with the City of San José's Office of Equality Assurance to conduct initial investigations of complaints, resolve complaints, and provide restitution of wages to employees. Cases where the employer refuses to pay wage restitution are to

be administered by the City under an existing administrative enforcement provision set forth in Chapter 1.24.

The City may take any enforcement action set forth in Chapter 1.24 of the Municipal Code to address violations. An employee may also bring an action against the employer in court to enforce the Minimum Wage Ordinance seeking remedies such as back pay, reinstatement, injunctive relief, or civil penalties. In addition, to back wages unlawfully withheld payment of an additional civil penalty in the amount of \$50 to each employee per day in violation.

PUBLIC COMMENTS

Grace Streltzov, County of San Mateo - Health System Community Health Planner, provided an overview of Low Wage Workers in San Mateo County and Get Healthy San Mateo County, made up of community organizations, County agencies, cities, schools and hospitals working to remove social and economic barriers to health so every County resident has the opportunity to have a long and healthy life. One of our key priorities is fostering a strong local economy with financial security for all.

Will White, Director of Policy and Gov't Affairs for United Way of the Bay Area, a regional non-profit organization working to promote policies and programs throughout the region to help people move out of poverty and put themselves on a path towards financial stability and success. Mr. White expressed his support of increasing the minimum wage to help families towards financial stability. He urged the Council to approve the minimum wage ordinance for City employees.

Liza Normandy, CEO of the South San Francisco Chamber of Commerce, addressed the Council to express her concern with enacting a Citywide ordinance increasing minimum wage to \$15 an hour. She provided an overview of California Minimum Wage policy and indicated that South San Francisco employers are paying competitive wage, and if an increase is approved some of the businesses will not be able to keep their doors open. She urged Council to consider a tiered approach.

Rayna Lehman, San Mateo County Central Labor Council, addressed the Council and expressed his support of a minimum wage increase by January 2020.

Mayor Matsumoto indicated that the Council would not be voting on the item, but will provide direction to staff.

Councilmember Addiego expressed his support of the minimum wage increase.

Councilmember Nagales inquired if the ordinance would also cover probationary employees. City Attorney Rosenberg indicated that it includes all employees learning the trade (probationary employees are not excluded). The learner provision gives employers an ability to pay, probation could be extended and the wage would not apply.

Assistant to the City Manager Fernandez discussed enforcement and indicated that some cities contract out complaints for enforcement. She indicated that the City is still in conversation with the City of San Jose and indicated that the contract will allow for feasibility.

Vice Mayor Garbarino expressed his concern with employers objecting to a \$15 minimum wage increase prior to January 1, 2020. He is in support of increasing the minimum wage to help support families in the Bay Area.

Councilmember Nicolas reiterated her support of a minimum wage increase and expressed her desire to help Bay Area families.

Mayor Matsumoto expressed her support to increase the minimum wage and support staff's recommendation.

City Manager Futrell will have staff prepare the ordinance noting Council's comments and concerns. The item is scheduled for Council discussion at the August 28, 2019 Council meeting and if approved, will go into effect January 1, 2020. City Attorney Rosenberg will work with staff to incorporate learner's provision as written by State law for Council consideration.

2. Report regarding an update on outreach efforts concerning the potential regulation of Flavored Tobacco and E-Cigarettes. *(Christina Fernandez, Assistant to the City Manager)*

Assistant to the City Manager Fernandez presented an update on business outreach efforts and requested further direction and guidance on the potential regulation of flavored tobacco and e-cigarettes in South San Francisco with the objective of limiting youth access to tobacco products.

According to the California Department of Public Health, 80% of young people who used tobacco started with a flavored tobacco product. A majority of youth report flavoring as a leading reason for using tobacco products. This includes 82% of e-cigarette users, 79% of hookah users, 74% of cigar users, and 69% of smokeless users. Flavors such as watermelon, cherry, chocolate, mint, and gummy bear appeal to kids and teens. Flavorings mask the taste of tobacco making it more palatable for youth to begin tobacco use. Flavored tobacco products also use the same flavoring chemicals as Jolly Rancher, Kool-Aid, and Life Savers. Certain minority groups also disproportionately use flavored tobacco products, including menthol cigarettes. In one survey, 82.6% of African American cigarette smokers reported smoking menthol cigarettes in the month prior.

The U.S. Surgeon General warns that flavored tobacco products help new users establish habits that lead to long-term addiction. Flavors like menthol in tobacco products make it more difficult for users to quit. All nicotine products are addictive and increase the risk of developing serious health problems including cancer, heart disease, and emphysema.

In 2009, the Federal Government passed the Family Smoking Prevention and Tobacco Control Act that banned the manufacture of flavored cigarettes. Menthol cigarettes were exempt from this ban. The ban also does not restrict non-cigarette tobacco products such as smokeless tobacco.

More recently, the Food and Drug Administration announced a new plan to protect youth by preventing access to flavored tobacco and banning menthol in cigarettes. The proposed plan would ban menthol cigarettes finding that menthol cigarettes are easier to smoke and harder to quit. It is also the choice combustible cigarette for youth and underserved communities.

Most commonly used among youth, e-cigarettes deliver flavorings, nicotine and other additives via an inhaled aerosol. E-cigarettes entered the marketplace in 2007, and since 2014 have been the most commonly used tobacco product among youth. E-cigarette use among U.S. middle and high school students have increased 900% between 2011-2015. During the past year, e-cigarette use has increased 78% among high school students. In 2018, more than 3.6 million U.S. youth, including 1 in 5 high school students and 1 in 20 middle school students currently use e-cigarettes. The

chemical Diacetyl is found in 75% of flavored e-liquids and is linked to “popcorn lung” which causes irreversible lung damage.

In 2008, the City enacted South San Francisco Municipal Code (SSFMC) Section 6.46.010 “Authorization of enforcement by San Mateo County personnel” which adopts by reference San Mateo County Ordinance Code Chapter 4.98 “Tobacco Retailer Permit.”

San Mateo County Ordinance Chapter 4.98 requires all retailers to obtain and maintain a valid tobacco retailer’s permit from San Mateo County for each location where tobacco products are sold. Further, Chapter 4.98 authorizes the County’s Environmental Health Division to hold hearings, suspend permits, and issue administrative fines in enforcing the governing of tobacco retailer permits. The adoption of SSFMC Section 6.46.010 is significant as it serves as the mechanism for enforcement should the City Council decide to adopt a Flavored Tobacco Ban.

In 2012, the City enacted SSFMC Chapter 20.420 “Prohibition on new significant tobacco retailers,” which regulates a business whose principal or core is selling tobacco products and/or paraphernalia. Significant tobacco retailers are defined as any tobacco retailer with 20 percent or more of floor area and display area devoted to the sale or exchange of tobacco products, tobacco paraphernalia, or both; or 50 percent or more of completed sales transactions include tobacco products or paraphernalia.

At a Special City Council Meeting on April 9, 2019, Council directed staff to explore the prohibition of flavored tobacco and e-cigarettes citywide at all businesses with the exception of adult only retailers. Adult only retailers allow those 21 and over on their premises. Minors may only enter an adult only establishment if accompanied with a parent.

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The City advertised the town hall meetings through mailers sent to every business license holder citywide. Approximately 6,000 mailers were sent via U.S. Postal Mail to every business license address. In addition, the non-profit organization Gatepath personally handed out mailers to every business along Grand Avenue and Linden Avenue.

Representatives from the hotel, restaurant, tobacco retail, and grocer industries participated in the Business Town Hall meetings. However, despite the above named outreach efforts, fewer than 20 businesses cumulatively participated.

A significant tobacco retailer attended a Business Town Hall meeting and were supportive of the direction provided by Council at its April 9, 2019 study session. At this study session, the City Council directed staff to study prohibiting the sale of flavored tobacco and e-cigarettes at all retailers citywide with the exception of adult only establishments. Adult only establishments only allow those 21 and over to enter their premises unless they are with a parent.

A large South San Francisco grocer is also supportive of Council’s direction to prohibit the sale of flavored tobacco and e-cigarettes, as they consider it important to limit youth access to tobacco products.

JUUL Labs, Inc. has provided the City with a plan to implement additional, targeted youth prevention measures to restrict youth access. Some of those measures include: Deployment of automated point-of-sale (POS) systems that restrict sales to verified adults 21+ and limit the amount of product that can be purchased, targeted secret shopper program that ensures compliance with age verification and bulk purchasing requirements, and partnerships with track-and-trace programs for JUUL products to identify where products are being obtained by youth

PUBLIC COMMENTS

Rachel Mesia, Program Co-Chair Community Bay Health Advisory Council, addressed the Council and urged the Council to support and adopt the proposed ordinance prohibiting the use of flavored tobacco.

Craig Pittman, resident of South San Francisco, addressed the Council to share his smoking experiences and expressed his opposition to banning of products.

Aija Goto, The Vaping Budha, addressed the Council to express her support of the ban on flavor tobacco products including age restriction for businesses. She indicated that JUUL does not offer retail flavored tobacco products in South San Francisco, consumers can purchase online. The Vaping Budha does not sell JUUL products. She provided an overview of the FDA's direction to protect young adults and limit sale on age restriction businesses.

Daniel Nava, resident of South San Francisco, addressed the Council and indicated that he attended a prior meeting and researched JUUL products and purchase locations. He indicated that purchase locations were not listed on the website, however, he was able to purchase products at the following locations: Circle K, Buri-Buri Liquors, and Cigarette Depot. He expressed his concern with the availability of these products for youth consumers.

Evelyn Fung, resident of South San Francisco, addressed the Council to express her concern about the availability of flavored tobacco products for youths and supported the ban.

Bob Gordon, Alameda County Tobacco Education Coalition, addressed the Council to urge them to consider prohibiting pharmacy sales of tobacco products similar to San Mateo County. He discussed the health impacts on the continued use of JUUL products and expressed his concern on youth and young adult health impacts.

Craig A. Wingate, Health Educator, addressed the Council to express his concern with epidemic of youth consumption of flavored tobacco and encouraged Council to implement measures to address the issue.

Janet Crosetti, volunteer with the City of San Mateo, addressed the Council to share her experience in monitoring flavored tobacco and tobacco product sales in South San Francisco. She expressed her concern of public health due to the use of tobacco products.

Randy Uang, Breathe California, addressed the Council to express his concern on the use of tobacco products and the impacts to the health.

Parker Kasmin, JUUL Labs representative, addressed the Council to state JUUL's desire to form a partnership with the City to restrict youth access. He provided an overview of point of sale systems

that will require ID verification, limit the number of products to purchase per transaction to address social sourcing and not limiting products for adult users.

Colin Gomez, resident of South San Francisco, addressed the Council and shared his experience of being a smoker for 40 years and his current health conditions. As a JUUL consumer, he encouraged Council to consider restricting youth access and not restricting the product for adult users.

Councilmember Nagales shared with the Council and the community findings of youth users and indicated that youths consume e-cigarettes (JUUL) 20 times or more per month due to the availability of the product, considered an “epidemic” by the Food and Drug Administration and the U.S. Surgeon General. He expressed his concern with the use of flavored tobacco and shared his findings of products that include images and smells that attract youth. He inquired if the general ban would include pharmacies. City Attorney Rosenberg indicated that the Council could discuss sale restrictions and propose a general ban for specific industries. He indicated that the current ordinance prohibits additional tobacco retail vendors in the City. Councilmember Addiego requested that Council support a moratorium for future Vape shops.

Councilmember Nicolas expressed her opposition in the proposed partnership with JUUL Labs due to the partial ban on tobacco and encouraged staff to outreach and educate youth on the use and health, excluding adult establishments.

Councilmember Addiego expressed his concern with youth consumption of flavored tobacco and students’ vaping in class. He supports the proposed ordinance, excluding adult establishments.

Vice Mayor Garbarino expressed his support of the proposed ordinance, excluding adult establishments. He requested staff to research further.

Mayor Matsumoto thanked Mr. Kasmin and JUUL Lab for their willingness to work with the City to address youth access. She expressed her support of the proposed ordinance and requested staff research further.

City Attorney Rosenberg clarified Council’s request to staff including banning the General Sale of flavored tobacco and e-cigarettes (Safeway, gas stations and pharmacies), excluding 21 and over shops in South San Francisco and indicated that the ordinance could be amended and brought back to Council at the end of August. City Manager Futrell reiterated Council’s desire to expand prohibition of future Vape shops and the ban of all e-cigarettes and flavored tobacco. Staff will research and define further for Council’s review.

3. Study Session regarding City of South San Francisco’s Draft Green Infrastructure Plan. (Matthew Ruble, Principal Engineer, and Andrew Wemmer, Environmental Compliance Supervisor).

Principal Engineer Ruble presented the report and indicated that on February 27, 2019 staff provided City Council with a staff report and presentation outlining the City’s progress towards meeting its September 2019 deadline for preparing a Green Infrastructure Plan required by the RWQCB. This staff report and presentation includes the completed Draft Green Infrastructure (GI) Plan and provides Council the opportunity to comment in advance of City Council’s vote on the Final GI Plan next month.

The Draft GI Plan outlines the roadmap for the City to improve the cleanliness of storm water runoff. It identifies targets for improvement in the 2020-2030 and 2030-2040 timeframes established by the RWQCB. It has been drafted by Schaff & Wheeler (consultant to the City) based on City/County Association of Governments of San Mateo County (C/CAG) green infrastructure plan materials, including the green infrastructure targets, Green Infrastructure Design Guide, green infrastructure standard details and specifications, outreach materials, and funding study.

Key components of the GI Plan include:

- Mapping and prioritization mechanism to identify and prioritize both private and public green infrastructure project opportunities;
- Locations and timeframes for implementing green infrastructure, including numeric targets for retrofitting impervious areas to achieve mandated pollutant load reductions;
- Regionally consistent process for tracking and mapping completed projects to ensure progress towards meeting the pollutant load reduction targets;
- Design and construction guidelines and standard specifications and details for green infrastructure to guide and enable the completion of projects;
- Other planning efforts that need to be integrated, including updating City plans policies, codes, and ordinances to incorporate green infrastructure for storm water management;
- Evaluation of long-term funding options, including those for design, construction, and long-term operations and maintenance, from the City and other sources;
- Legal mechanisms to enable implementation of the plan and projects within and by the City of South San Francisco; and
- Public outreach on development and implementation of the plan.

Robin Lee with Schaaf & Wheeler provided an overview of GI Plan Goals including moving from grey to green as part of the City's regular course of business. Serving as a reporting guide and implementation tool to ensure runoff TMDL waste load allocations are met and set targets for GI Implementation and identify future actions needed to address the adverse water quality impacts of urbanization and urban runoff on receiving waters with targets for 2020, 2030 and 2040. She presented strategies to address GI targets for South San Francisco.

Matt Fabry with C/CAG provided an overview of C/CAG Sustainable Streets Master Plan (SSMP), C/CAG Potential Regional Funding Support and C/CAG MRP 3.0, currently under development with permit expiring end of 2020.

Mayor Matsumoto inquired about C/CAG Green Infrastructure funding support and requested staff consider green infrastructure for future projects. Principal Engineer Ruble indicated that C/CAG currently has no funds allocated. The City will receive funding based on allocation.

In response to Vice Mayor Garbarino's inquiry, Principal Engineer Ruble indicated that jurisdictions are going beyond the established requirements and requiring projects to have green streets on public right of way, with long term operations and maintenance, planning ahead to do less on green streets.

Recess: 9:28 p.m.

Meeting resumed: 9:33 p.m.

Councilmember Addiego requested staff to prioritize and schedule accordingly items of community interest. He thanked members of the public for their participation.

4. Report regarding renter protection measures for residential tenants in South San Francisco. (*Nell Selander, Deputy Director of Economic Development and Housing*)

Deputy Director of Economic Development and Housing Selander presented the report and provided information on five renter protection measures, three of which Council requested additional information at its January 9, 2019 meeting.

Enhanced Notification Requirements

Currently, State law requires landlords to notify tenants at least 30 days prior to rent increases of 10% or less. If the increase is 10% or more, landlords must provide 60 days' notice (Civil Code Section § 827b). State law preempts the City from increasing these notification requirements. However, Assembly Bill 1110 (Friedman) would increase notification requirements. If AB 1110 passes as currently drafted, it will take effect in January of 2020 and will increase the notification of tenants of a rent increase of more than 10% from 60 days to 90 days.

Staff recommended Council consider requiring landlords to notify the City if they increase rent more than 5%. At this time, the City does not monitor rent increases. This notification procedure will provide the City with valuable rental unit data and rental rate information to inform future policies. It is industry practice to assume a 3% increase in rental rates year over year when developing new housing. Additionally, the Consumer Price Index (CPI) fluctuates year-to-year, but on average is below 4%. As such, setting the noticing requirement at 5% will still allow for the profit typically assumed by developers and account for usual increase in the cost of goods without imposing a noticing requirement on reasonable rent increases.

Minimum Lease Terms

Currently, when an initial residential lease term expires, the lease converts to a month-to-month tenancy. Minimum lease term policies afford tenants the right to lock in their rental rate and lease term for a minimum of 12-months or longer, if desired. Tenants have the option of waiving the minimum 12-month term to negotiate a shorter-term or elect a month-to-month lease, but landlords at minimum must offer a 12-month lease term option. Because rents cannot be increased during the term of a lease, unless stipulated at the outset, minimum lease terms can provide stability and predictability to renters. At the end of the lease term, the landlord and tenant may renew the lease at a new rate with the offer of another minimum term.

Relocation Assistance

Tenant relocation assistance policies establish financial assistance to eligible residential households displaced due to code violations, remodel, renovation, demolition, or repurposing of a property. Staff recommends approaching relocation assistance in two ways.

- 1) Requiring payment of relocation assistance to tenants when the housing unit they occupy is deemed unsafe and uninhabitable by the City's Building Division or Code Enforcement (also referred to as "red-tagging").
- 2) Requiring relocation assistance for households evicted at no fault of their own who earn less than 120% of the area median income (AMI).

At this time, staff does not recommend adopting a minimum lease term policy because it may have the unintended consequence of inducing landlords to raise rents. For example, if a landlord does not want to offer a tenant a new, year-long lease, they may offer the new lease term at an unreasonably high rent, so that the tenant cannot accept it.

Displacement Due to Red-tagging

In the red-tagging scenario, relocation assistance would be triggered when a code violation is issued and the tenant household is required to vacate the unit whether temporarily or permanently. Staff recommends that this relocation assistance be provided regardless of the tenant household's income, as it is incumbent upon landlords to maintain housing in safe and habitable condition. If the landlord is unable to pay the relocation assistance at the time it is required, staff would recommend that the City remit the relocation assistance to the tenant and place a lien against the property.

Displacement Due to No-fault Eviction

No-fault eviction occurs when a tenant's lease is terminated at no fault of their own. For example, a tenant may be evicted so that the landlord or their family member can move into the unit, for the landlord to complete a remodel or extensive renovations, or because the landlord intends to change the use of the property from residential to some other use, such as commercial. In the no-fault eviction scenario, relocation assistance would be triggered when a planning or building permit application is submitted to the City for discretionary or ministerial approval that will result in the displacement of a tenant, or when notice is given to the tenant that their lease is being terminated. Tenants who are evicted due to their own conduct (non-payment of rent, breach of lease, nuisance, etc.) would not be eligible for relocation assistance under this program.

Further, staff recommends that tenant households be eligible for this no-fault eviction relocation benefit if they earn 120% or less of the area median income and occupy a unit in a multi-family housing property with two or more units. Generally speaking, households in South San Francisco earning about 60% of the area median income are most rent burdened. However, staff recommends setting the threshold for eligibility at 120% of the area median income to help prevent discrimination against lower income households. For example, if a landlord has to provide relocation benefits to a household of four earning \$80,000 per year, but not a household earning \$120,000, that landlord may be more likely to rent to the higher income household.

Relocation Benefit

For both the red-tagging and no-fault eviction relocation assistance programs described above, staff recommends Council consider requiring a relocation assistance benefit equal to three months' rent based on the Department of Housing and Urban Development's Fair Market Rent (FMR) calculation for San Mateo County for a similar-sized rental unit. For Fiscal Year 2019, the FMR calculations are as follows: \$2,069 for a studio, \$2,561 for a one-bedroom, \$3,170 for a two-bedroom, \$4,153 for a three-bedroom, and \$4,392 for a four-bedroom.

Additionally, City Council may want to consider providing a hardship exemption to landlords, as well as an extra month of compensation to households meeting special circumstances. A hardship exemption would exempt low income landlords or those impacted by accident or natural disaster from having to provide relocation assistance. Some special circumstances to consider for an additional benefit for displaced households include senior or handicapped households, households

including at least one minor, or households that have occupied the subject housing unit for a long period of time, such as five or more years.

Mediation

In the cities of San Leandro and Palo Alto, mediators or rent review boards mediate between tenants and landlords on issues related to rent increases and encourage them to come into voluntary agreement. Rent mediation ordinances typically require owners of residential rental properties to include specified language on the availability of rent mediation services on rent increase notices to tenants. While there is no limit on how much rent can be increased, a tenant may request mediation (typically to a Landlord Tenant Mediator or Board) if she/he feels the increase is excessive. Mediation ordinances typically establish a timeframe for rent increase notification. A key feature of existing rent mediation ordinances is that the final decision of any mediation process is non-binding.

The goals of rent mediation generally are the same as rent regulation (limiting unreasonable rent increases and preventing displacement). The main difference is that mediation programs attempt to achieve this goal through a non-binding mediation process rather than legally binding regulatory requirements, and that mediation programs generally tend to be more permissive in establishing acceptable rent increases. Rent mediation can also be applied to more rental units and not, like rent regulation, only to units built before 1995.

Staff does not recommend adopting a mediation or rent board at this time since the City is still exploring rental protection policies and has not established rental ordinance to set rules for mediation.

Anti-Rent Gouging

Assembly Bill 1482 (Chiu) currently being considered in the State legislature caps annual rent increases by 7% plus the percentage change in the cost of living, or 10%, whichever is lower. In this case, the bill would ban property owners from increasing the rental rate more than 10% in the preceding 12 months. This rent cap would not apply to owners with less than 10 single-family homes. Although this bill does not have any reporting requirements tied to the rental caps, it does prevent landlords from increasing rents more than 10% every year. If AB 1482 passes through Senate votes it will go back to the Assembly for a final vote. If approved, AB 1482 will take effect in January of 2020. Staff recommends that Council consider adopting local anti-rent gouging legislation similar to AB 1482 should it not pass the State legislature.

According to rentcafe.com, as of July 2019, the average rent for a one-bedroom apartment in South San Francisco is \$2,883 (5% increase from last year). In order for a household to afford a one-bedroom apartment in South San Francisco, the household must earn at least \$115,320. The median income in South San Francisco is \$92,074.

Furthermore, over 49% of renter households are rent burdened, meaning they spend more than 30% of their household income on rent. More specifically, over 65% of renter households earning less than \$75,000 a year experience rent burden, whereas less than 18% of households that make more than that experience rent burden. Households earning between \$20,000 and \$35,000 are most rent burdened (84%).

Mayor Matsumoto indicated that the Council will not be voting on this item and will only provide direction to staff.

PUBLIC COMMENTS

John Prouty addressed the Council to express his opposition to the proposed renter protection measures. He shared his experience of being a landlord and his desire to keep his properties occupied with low rent.

John Geeseker, addressed the Council to express his opposition to increase the restrictions on renter properties, noting a possible negative impact of rent increases. He cautioned Council on their decisions.

John Penna, realtor, addressed the Council to express his concern and opposition to rent control and indicated that the report presented to Council had inaccurate information.

Teresa Delarenti presented a speaker card regarding rent control. Mr. Delarenti was not present during the discussion of this item.

Lee Ginsburg, addressed the Council to express his opposition and discuss renter restrictions and rent control, he shared his experience in working with the City of San Francisco and their failed rent control efforts. He informed Council about the expansion of Section 8 Housing and a \$1k bonus for new landlords.

John Worthing, addressed Council to express his concern with the proposed restrictions indicating a potential chaos, unless there is a justifiable reason to enact these protections. He cautioned Council on their decision.

Gina Zari, SAMCAR, addressed Council to express her opposition to the proposed renter protection policy and encouraged Council to utilize mediation as an assistance tool. She stated her opposition and referenced the City of San Francisco.

Suzanne Moore, retired Nurse Practitioner, addressed Council to express her support of the proposed renter protection, discussing the current shortage of affordable housing. She indicated no fault evictions affect school age children and families.

Rhovy Lyn Antonio, California Apartment Association, commended Council on their efforts to address the housing shortage citing a positive impact to the community. She expressed her opposition to rent control due to its unintended consequences.

Peng Cao, housing provider in South San Francisco, addressed Council to express his opposition for rent regulations and rent control. He noted the supply and demand imbalance caused by rent control.

Frank Vella, San Mateo County resident and realtor, addressed Council to express his opposition to the proposed renter protection. He stated that these types of protections result in less housing. He encouraged Council to consider alternative options.

Councilmember Addiego expressed his concern with gauging landlords and indicated that new developers in South San Francisco are not worried about rent control, rent control can only be applied to rental properties built before 1995. He shared past experiences with displaced residents due to gauging landlords and reiterated the Council's efforts to protect tenants and expressed his support.

Mayor Matsumoto stated that she does not support rent control, but supports renter protection. She indicated the need to protect renters and requested Council's support for relocation benefits for no fault eviction.

Councilmember Nagales requested data from staff showing increase in rent costs and minimum lease. Deputy Director of Economic Development and Housing Selander indicated that staff would reach out to neighboring cities for additional information. She stated that in the drafted ordinance, the tenant has control; landlord must provide a longer lease term. Councilmember Nagales expressed his concern in imposing longer terms for lease agreements. He shared his professional experience working with Project Sentinel and the numerous calls for relocation assistance due to project remodels.

Vice Mayor Garbarino expressed his opposition of rent control and AB1482.

Councilmember Nicolas expressed her opposition of rent control. She indicated that a registry of data would need to be controlled and expressed her support of renters and the need to protect landlords.

Mayor Matsumoto invited Public Comment

John Penna addressed the Council and indicated that the City would need a data bank to consider all factors involved. He requested Council invite Board of Realtors and Landlords on the discussion of future protections.

Suzanne Moore addressed Council and shared stories of patients complaining about a drastic increase of rent caused by gouging landlords. Residents are spending over 30% of their income in rent.

Rhovy Lyn Antonio addressed the Council and indicated that in previous discussions, Council was clear on their opposition of rent control. She encouraged Council to consider reasonable measures that will be impactful and not punitive to housing industry.

Deputy Director of Economic Development and Housing Selander provided a recap of Council's direction on items for Council consideration: data on rent increases in South San Francisco, cost of mediation with an analysis of what other cities have done, additional research on anti-rent gouging and dialogue with affected parties i.e., tenants, landlords, and associations. Staff will continue to monitor the progress of AB 1482.

Council will not pursue continued discussion on lease terms, relocation assistance and rent control.

5. Report regarding Resolution No. 93-2019 approving 1) the acquisition of a Below Market Rate (BMR) unit at South City Lights, 2) approving the use of \$350,000 from the City's Affordable Housing Trust Fund (Fund 205) for the preservation and sale of the BMR unit, 3) authorizing the City Manager to execute documents in connection with such preservation. *(Deanna Talavera, Management Analyst II)*

Deputy Director of Economic Development and Housing Selander presented the report and indicated that on January 9, 2002, the City Council adopted ordinance 1306-2002 approving a Development Agreement for the Marbella Housing Development, now known as South City Lights.

The Development Agreement required the developer to sell 70 below market rate ("BMR") units to families of low-, median-, and moderate-incomes.

The BMR units in the first three City Lights buildings successfully sold out. In 2007, the housing market began to slow and it became increasingly difficult to sell the moderate-income (120% Area Median Income) units in the development. Consequently, the City released 28 units and an additional two units were lost to foreclosure. Only 40 deed restricted BMR units remain in the South City Lights development. The subject unit is one of those 40 BMR units.

The subject unit was sold to its current owner in 2007 and the owner and City entered into a Resale Restriction and Right of First Refusal Agreement. These agreements were recorded with the County of San Mateo so that they appear on any title search for the property. This provides a safeguard in the event that the owner later sells or otherwise loses possession of the residence.

Around August 2014, the owner of the property defaulted on loan payments and homeowner association dues. Meriwest Mortgage sent a City Notice of Default letter, notifying the City of foreclosure proceedings. Attempts to reach the owner were unsuccessful. The lien was eventually cured by the owner and foreclosure proceedings were suspended. In May 2016, the City received another Notice of Default and attempts to reach the owner via phone, email, and certified mail were unsuccessful. The lien was again cured by the owner and the account was reinstated to good standing.

The City was again notified of foreclosure proceedings on the property by letter from Cenlar FSB on June 25, 2019. The notice of default and election to sell allows the City to exercise its First Refusal Rights prior to any trustee sale, judicial foreclosure sale, or transfer by deed in lieu of foreclosure. Deputy Director of Economic Development and Housing Selander provided an overview of the City's options.

The loss of BMR units eliminates affordable housing opportunities for low- to moderate-income residents and affects the City's affordable housing production credit. For this reason, staff recommends - exercising the option to purchase and take title of the unit. Therefore, staff is requesting that the City Council authorize the use of \$350,000 from the Affordable Housing Trust Fund to purchase and facilitate the sale of the unit. Purchasing the unit and curing the default is the most economical means to preserve a unit at risk of losing its affordability. It is much less expensive to preserve an existing affordable unit created under the City's Inclusionary Housing Ordinance than it is to create a new affordable unit. Preserving the BMR unit at City Lights also meets the City Council's desire for affordable units in mixed-income developments.

As the property owner, the City would need to pay the \$376 monthly costs for HOA dues until the property is sold to a qualified buyer. The City's estimated cost for acquisition, resale, and HOA fees is approximately \$350,000.

The City will purchase this property from the bank and place it again into BMR stock. The units resale value is \$525,000. Due to the limited supply of two bedroom BMR units, staff believes this unit will sell quickly. The property will be offered to qualified buyers via a lottery, with preferences given to those who live or work in the City of South San Francisco.

Councilmember Addiego requested clarification on the property owner's history of defaults and the City's effort to contact the property owner. He suggested utilizing social services to attempt contact with the property owner. Deputy Director Selander indicated that the property has a deed restriction

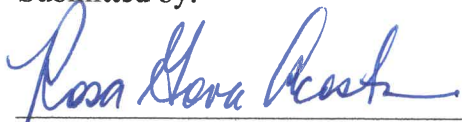
of 55 years and explained the numerous forms of contact attempted including a welfare check from the South San Francisco Police Department with no positive results.

Motion—Vice Mayor Garbarino/Second—Councilmember Nicolas: to approve Resolution No. 93-2019 approving 1) the acquisition of a Below Market Rate (BMR) unit at South City Lights, 2) approving the use of \$350,000 from the City's Affordable Housing Trust Fund (Fund 205) for the preservation and sale of the BMR unit, 3) authorizing the City Manager to execute documents in connection with such preservation. Unanimously approved by roll call vote.

ADJOURNMENT

Being no further business Mayor Matsumoto adjourned the meeting at 9:42 p.m.

Submitted by:



Rosa Govea Acosta, CMC, CPMC
City Clerk

Approved by:

Karyl Matsumoto
Mayor

Approved by the City Council: ____ / ____ / ____