Agenda Item No. 1

City of Yucaipa
Mobilehome Rent Review Commission Minutes
Regular Meeting of August 25, 2020

A Regular meeting of the Mobilehome Rent Review Commission of the City of Yucaipa, California was called to order in the Council Chambers, 34272 Yucaipa Boulevard, Yucaipa, California, on August 25, 2020at 10:00 AM.

PRESENT: Jim Holbrook, Chairperson
Brandy Gomez, Vice-Chairperson
Ceacilia Johns, Commissioner
Bill Mecham, Commissioner
Amy Greyson, Commission Attorney
Jennifer Crawford, Assistant City Manager/Rent Administrator
Don Lincoln, City Staff Attorney

ABSENT: None

CONVENE MOBILEHOME RENT REVIEW COMMISSION

The meeting was opened with the Pledge of Allegiance led by Chairperson Holbrook.

PUBLIC COMMENT

None

CONSENT AGENDA

1. **SUBJECT**: APPROVE COMMISSION MINUTES OF FEBRUARY 3, 2020.

   RECOMMENDATION: That the Commission approve Mobilehome Rent Review Commission Minutes of February 3, 2020.

   ACTION: MOTION BY COMMISSIONER MECHAM, SECOND BY VICE-CHAIRPERSON GOMEZ, CARRIED 4-0 TO APPROVE COMMISSION MINUTES OF FEBRUARY 3, 2020.

PUBLIC HEARING

Chairperson Holbrook opened the Public Hearing.

ADMINISTRATION OF OATH

Rent Administrator Crawford administered the oath. City staff, City staff experts, Applicant, Applicant experts, Opposition, and members of the audience that were presenting testimony stood and agreed to the oath administered.

1.5 **SUBJECT:** VALLEY VIEW MOBILEHOME PARK MNOI/FAIR RETURN APPLICATION

RECOMMENDATION: That the Mobilehome Rent Review Commission (MRRC):

1. Consider Applicant's July 13, 2020 Submissions offered in Rebuttal to the Staff Report, and determine if that "late filing" (late by only a few hours) should be accepted as part of the hearing record; and

2. Consider Applicant's Prehearing Submission, dated July 24, 2020, and determine if that "late filing" should be accepted as part of the hearing record; and

3. Consider Urban Futures Addendum in response to the Applicants "late filing" and determine if the Addendum should be accepted as part of the hearing record; and

4. Consider Dr. Kenneth Baar's Addendum in response to the Applicants "late filing" and determine if the Addendum should be accepted as part of the hearing record.

INTRODUCTION

City Staff Attorney Lincoln Esq. presented an overview of the Application and additional materials attached to Agenda Item No. 1.5, the Indenture of Trust dated August 1, 2012, and additional materials submitted on August 21, 2020.

Applicant Attorney Alpert requested 45 minutes versus the standard 30 minutes for presentation and testimony and the Commission's consideration of additional materials.

Resident Attorney Stanton stated that he had no objection to the additional time requested and supported the Commission's consideration of additional materials.

ACTION: MOTION BY COMMISSIONER MECHAM, SECOND BY COMMISSIONER GOMEZ, CARRIED 4-0 TO CONSIDER MATERIALS INCLUDED WITH AGENDA ITEM NO. 1.5 AND ADDITIONAL MATERIALS HANDED OUT AT THE MEETING OF AUGUST 25, 2020.

ACTION: MOTION BY COMMISSIONER MECHAM, SECOND BY COMMISSIONER GOMEZ, CARRIED 4-0 TO ALLOW 45 MINUTES FOR ALL PARTIES TO PRESENT AND PROVIDE TESTIMONY.

2. **SUBJECT:** VALLEY VIEW MOBILEHOME PARK MNOI/FAIR RETURN APPLICATION

RECOMMENDATION: That the Mobilehome Rent Review Commission (MRRC) should conduct a Public Hearing and:

1. Adopt a Motion finding that Valley View Mobilehome Park ("Applicant") did not meet its burden of proof to support its claim that its 1987 space rents should be adjusted to $190 per month, finding that the analysis of the Staff's appraisal expert, James Brabant, MAI ("Brabant'), is more credible than the claims made by Applicant's Appraiser, John Neet, MAI ("Neet") and further finding that the Applicant's 1987 average monthly space rents of $144, while disproportionately low when compared to rents being charged in comparable parks in Yucaipa, should instead be adjusted to $173 per month; and

2. Adopt a Motion finding that the Applicant did not meet its burden of proof to support its claim that it is entitled to a $234.53 monthly space rent increase using the YMC §15.20 Maintenance of Net Operating Income ("MNOI") approach, and finding that the analysis of the Staff's expert, Kenneth K. Baar, PhD. ("Dr. Baar") is more credible than the Applicant's expert, Michael McCarthy, CPA ("McCarthy"), and further finding that Dr. Baar's calculation of the required monthly space rent increase of $37.88 using Mr. Brabant's 1987 space rent adjustment and Dr. Baar's adjustments to the income and expense items under the MNOI formula is consistent with Yucaipa Municipal Code ("YMC") §15.20 and provides the Applicant with a fair return while not requiring the Residents to pay excessive rent; and

3. Adopt a Motion finding that the Applicant did not meet its burden of proof to support its claim, that to be comparable, the Valley View space rents should be $450 or $500 per month per space, finding that Brabant's analysis is more credible than the analysis made by Neet, and finding that to be comparable to the "rents being charged for spaces subject to the YMC in comparable mobilehome parks" the Valley View monthly space rents should be $365, and therefore Valley View's space rents are $48.52 per month per space below those of comparable spaces, and further finding that while Brabant's comparable rent analysis could justify a slightly higher space rent increase as compared to Dr. Baar's MNOI analysis ($48.52 vs. $37.88), the difference between the two is relatively small ($10.64), and since they are within the same "range of rents," the comparable rent approach does not justify a higher rent increase than the $37.88 per month per space rent increase shown by the MNOI approach; and

4. Adopt a Motion finding that the Applicant did not meet its burden of proof to support its claim that its proposed permanent monthly space rent increase of $150 is below the amount properly established by the use of the MNOI methodology and/or properly established comparable rents. As pointed out above, the $150 rent increase exceeds both the monthly space rent increase of $37.88 using Dr. Baar's Analysis under the MNOI formula and the $48.52 monthly space rent increase using Brabant's comparable rent analysis; and

5. Adopt a Motion finding that the Applicant did not meet its burden of proof to support its claim that its proposed $58.53 temporary space rent increase to pay off alleged prior unpaid management fees because there is no recovery of this type of

claim unless there is a showing (not present nor alleged here) that this deficiency was due to a prior "miscalculation" in setting the Valley View space rent levels by the MRRC; and

6. Adopt a motion finding that Applicant did not meet its burden of proof to support its claim that it should recover past "Borrower Administrative Fees" because it had been operating at a negative cash flow for 2013-2018 and instead finding that Anderson's analysis showed that even after paying not only debt service but also "Borrowers Administrative Fees", Applicant had Net Revenues for four of the six years, and the annual net revenue for all the six years totaled $61,388 in Net Revenues. Applicant's claim that it is entitled to recover $266,773 for Borrower's Administrative Fees not paid for that period has no basis in fact. Nothing in *Kavanau v. Santa Monica Rent Control Bd.*, 16 Cal 4th 761 (1997) authorizes Applicant to recover an alleged past unpaid Borrower Administrative Fees. Finally, Applicant's claim that these "unpaid past Borrower's Administrative Fees" are a current obligation of the Park has no basis; and

7. Adopt a Motion to grant an additional temporary rent increase in the amount of $15.66 per month per space for a period of five years and at an interest rate of 7% per year, based on the amortized cost to Valley View for preparing the application and participating in the hearing process in accord with Dr. Baar's analysis and report; and

8. Adopt a Motion granting the Residents of Valley View the option of paying the temporary rent increase representing the costs associated with the application and participating in the hearing process ($790.75) in a lump sum without any payment of interest, rather than amortized over five years; and

9. Adopt a Motion finding that the temporary rent increases determined above, shall not be included in the Base Rent for the purposes of calculating any future rent adjustments and the amortized amount shall be identified as a separate line itemized on the monthly rent invoice; and

10. Adopt a Motion finding that both the July 1, 2012 Valley View Regulatory Agreement between the Independent Cities Finance Authority and Augusta Communities LLC and the October 1, 2000 Valley View Regulatory Agreement contained provisions requiring a certain percentage of Valley View spaces be occupied by Low and Very Low Income Residents and that any space rent increases for Very Low and Low Income Residents be limited to the lesser of the amount specified in the Regulatory Agreements and the amount permitted by this Rent Decision; and

11. Adopt a Motion finding that while Applicant did make some expenditures for capital improvements from 2012 through 2015, some of those capital improvements which involved maintenance of the electrical systems would be disallowed because of PUC preemption, some other expenses would be disallowed because they were used to improve Park owned mobilehomes and spaces, and any remaining claim for

a Capital Improvement rent increase is rejected because Applicant did not follow the required procedures for obtaining such a rent increase; and

12. Adopt a Motion authorizing the MRRC's Legal Counsel to prepare a written Resolution memorializing its findings and decisions.

Chairperson Holbrook stated that the order of business for the Public Hearing will be conducted in accordance with the City's rules and procedures for the conduct of mobilehome rent hearings (Hearing Rules and Procedures), which was received by all parties on July 16th and also included as part of the packet, and asked if any of the parties felt that they could not present their case in the time allotted in the Hearing Rules and Procedures. No parties responded.

Chairperson Holbrook requested that the Commissioners disclose whether they have visited Valley View Mobilehome Park and/or the parks represented in two (2) appraisal reports and reviewed the pertinent materials prior to the hearing.

Commissioner Johns stated that she did visit Valley View Mobilehome Park and has reviewed the materials presented.

Commissioner Mecham stated that he did visit the mobilehome parks and has reviewed the materials presented.

Vice-Chairperson Gomez stated that she did not visit the mobilehome parks and has reviewed the materials presented.

Chairperson Holbrook stated that he did not visit the Mobilehome parks and has reviewed the materials presented.

Chairperson Holbrook announced the commencement of the Public Hearing and presented introductory remarks pertaining to presenting public testimony and comments to the Commission.

TESTIMONY SECTION

Applicant Testimony

Mark Alpert, Gregory Beam & Associates, Inc., 23113 Plaza Pointe Drive, Laguna Hills, CA 92653, Attorney representing the Applicant, presented testimony on behalf of the Applicant.

Lee McDougal, President of Augusta Communities, presented testimony on behalf of the Applicant.

Suzanne Taylor, Founder and Executive Director of Augusta Communities, presented testimony on behalf of the Applicant.

Michael McCarthy, CFE CPA, presented testimony on behalf of the Applicant.

John Neet, Real Estate Appraiser, presented testimony on behalf of the Applicant.
Mark Alpert, Applicant Attorney, requested additional time to provide 5 minutes of closing testimony prior to rebuttal.

> **ACTION: MOTION BY COMMISSIONER MECHAM, SECOND BY CHAIRPERSON HOLBROOK, CARRIED 4-0 TO APPROVE 5 MINUTES FOR ALL PARTIES PRIOR TO REBUTTAL.**

John Neet was cross-examined and questioned by Valley View Residents' Attorney Bruce E. Stanton.

Michael McCarthy was cross-examined and questioned by Valley View Residents' Attorney Bruce E. Stanton.

Suzanne Taylor was cross-examined and questioned by Valley View Residents' Attorney Bruce E. Stanton.

The Mobilehome Rent Review Commission Meeting recessed for 5 minutes.

Michael McCarthy was cross-examined and questioned by Staff Attorney Don Lincoln.

John Neet was cross-examined and questioned by Staff Attorney Don Lincoln.

Suzanne Taylor, John Neet, and Mark Alpert were cross-examined by members of the Mobilehome Rent Review Commission and Commission Attorney Amy Greyson.

Resident Opposition Testimony

Bruce E. Stanton, Law Offices of Bruce E. Stanton, 6940 Santa Teresa Blvd., Suite 3, San Jose, CA 95119, Attorney for Valley View Residents, presented argument on behalf of the residents of Valley View Mobilehome Park.

Deane Sargent, specialist in resident mobilehome park acquisitions and finance, presented testimony on behalf of the residents of Valley View Mobilehome Park.

Shelley Wallace, resident of Valley View Mobilehome Park, presented testimony on behalf of the residents of Valley View Mobilehome Park.

Deane Sargent was cross-examined and questioned by Applicant Attorney Mark Alpert.

Shelley Wallace was cross-examined and questioned by Applicant Attorney Mark Alpert.

Dean Sargent was cross-examined and questioned by Staff Attorney Don Lincoln.

Bruce Stanton, Deane Sargent, and Suzanne Taylor were cross-examined by members of the Mobilehome Rent Review Commission and Commission Attorney Amy Greyson.

The Mobilehome Rent Review Commission Meeting recessed for 5 minutes.

Public Comment

Penny Yusten, Valley View Mobilehome Park resident, stated her opposition to the Park's Application for a substantial rent increase. Ms. Yusten stated that the documentation provided to residents at park meetings did not reflect that the park was operating at a loss.

John Davis, President of Haven Management Services, Inc., stated that he attended all park meeting between the year 2000 and 2014 and prepared the statements at those meetings and commented on expenses that were capitalized.

Staff Testimony

James Brabant, MAI, presented testimony on behalf of the City.

Doug Anderson, Director of Urban Futures, presented testimony on behalf of the City.

Kenneth Baar, Ph. D, presented testimony on behalf of the City.

James Brabant was cross-examined and questioned by Applicant Attorney Mark Alpert.

Doug Anderson was cross-examined and questioned by Applicant Attorney Mark Alpert.

Kenneth Baar, Ph. D, was cross-examined and questioned by Applicant Attorney Mark Alpert.

Doug Anderson and Kenneth Baar were cross-examined and questioned by Commission Attorney Amy Greyson.

Rebuttal

John Neet presented rebuttal on behalf of the Applicant

Suzanne Taylor presented rebuttal on behalf of the Applicant.

Closing Arguments

City Staff Attorney Don Lincoln presented staff closing argument.

Valley View Residents' Attorney Bruce Stanton presented Opposition closing argument.

Applicant Attorney Mark Alpert presented Applicant's closing argument.

Public Hearing Closed

Chairperson Holbrook closed the Public Hearing. Chairperson Holbrook opened Commission discussion and deliberation.

COMMISSION MOTION AND VOTE

ACTION: WITH REGARD TO STAFF RECOMMENDATION ITEM NO. 12, MOTION BY CHAIRPERSON HOLBROOK, SECOND BY VICE-CHAIRPERSON GOMEZ, CARRIED 4-0, TO AUTHORIZE THE MRRC'S LEGAL COUNSEL TO PREPARE A WRITTEN RESOLUTION MEMORIALIZING ITS FINDINGS AND DECISIONS.

After Commission discussion, the following Motions were made:

ACTION: WITH REGARD TO STAFF RECOMMENDATION ITEM NO. 1, MOTION BY COMMISSIONER MECHAM, FAILED DUE TO A LACK OF A SECOND, FINDING THAT VALLEY VIEW MOBILEHOME PARK ("APPLICANT") DID MEET ITS BURDEN OF PROOF TO SUPPORT ITS CLAIM THAT ITS 1987 SPACE RENTS SHOULD BE ADJUSTED TO $190 PER MONTH BASED ON THE ARUMENTS MADE BY APPLICANT'S APPRAISER, JOHN NEET, MAI ("NEET").

ACTION: WITH REGARD TO STAFF RECOMMENDATION ITEM NO. 1, MOTION BY COMMISSIONER JOHNS, FAILED DUE TO A LACK OF A SECOND, FINDING THAT VALLEY VIEW MOBILEHOME PARK ("APPLICANT") DID NOT MEET ITS BURDEN OF PROOF TO SUPPORT ITS CLAIM THAT ITS 1987 SPACE RENTS SHOULD BE ADJUSTED TO $190 PER MONTH, FINDING THAT THE ANALYSIS OF THE STAFF'S APPRAISAL EXPERT, JAMES BRABANT, MAI ("BRABANT'), IS MORE CREDIBLE THAN THE CLAIMS MADE BY APPLICANT'S APPRAISER, JOHN NEET, MAI ("NEET") AND FURTHER FINDING THAT THE APPLICANT'S 1987 AVERAGE MONTHLY SPACE RENTS OF $144 WHILE DISPROPORTIONATELY LOW WHEN COMPARED TO RENTS BEING CHARGED IN COMPARABLE PARKS IN YUCAIPA SHOULD INSTEAD BE ADJUSTED TO $173 PER MONTH.

ACTION: WITH REGARD TO STAFF RECOMMENDATION ITEM NO. 1, MOTION BY COMMISSIONER MECHAM, SECOND BY VICE-CHAIRPERSON GOMEZ, CARRIED 3-1 (CHAIRPERSON HOLBROOK VOTED NO), FINDING THAT VALLEY VIEW MOBILEHOME PARK ("APPLICANT") DID NOT MEET ITS BURDEN OF PROOF TO SUPPORT ITS CLAIM THAT ITS 1987 SPACE RENTS SHOULD BE ADJUSTED TO $190 PER MONTH AND FURTHER FINDING THAT THE APPLICANT'S 1987 AVERAGE MONTHLY SPACE RENTS OF $144 WHILE DISPROPORTIONATELY LOW WHEN COMPARED TO RENTS BEING CHARGED

IN COMPARABLE PARKS IN YUCAIPA SHOULD INSTEAD BE ADJUSTED TO $182.50 PER MONTH AS DETERMINED BY THE COMMISSION.

After Commission discussion, the following Motions were made:

ACTION: WITH REGARD TO STAFF RECOMMENDATION ITEM NO. 2, MOTION BY COMMISSIONER MECHAM, FAILED DUE TO A LACK OF A SECOND, FINDING THAT THE APPLICANT DID NOT MEET ITS BURDEN OF PROOF TO SUPPORT ITS CLAIM THAT IT IS ENTITLED TO A $234.53 MONTHLY SPACE RENT INCREASE USING THE YMC §15.20 MAINTENANCE OF NET OPERATING INCOME ("MNOI") APPROACH, AND FINDING THAT THE ANALYSIS OF THE STAFF'S EXPERT, KENNETH K. BAAR, PHD. ("DR. BAAR") IS MORE CREDIBLE THAN THE APPLICANT'S EXPERT, MICHAEL MCCARTHY, CPA ("MCCARTHY"), AND FURTHER FINDING THAT DR. BAAR'S CALCULATION OF THE REQUIRED MONTHLY SPACE RENT INCREASE USING THE COMMISSIONS 1987 SPACE RENT ADJUSTMENT OF $182.50 AND DR. BAAR'S ADJUSTMENTS TO THE INCOME AND EXPENSE ITEMS UNDER THE MNOI FORMULA IS CONSISTENT WITH YUCAIPA MUNICIPAL CODE ("YMC") §15.20 AND PROVIDES THE APPLICANT WITH A FAIR RETURN WHILE NOT REQUIRING THE RESIDENTS TO PAY EXCESSIVE RENT.

ACTION: WITH REGARD TO STAFF RECOMMENDATION ITEM NO. 2, MOTION BY COMMISSIONER MECHAM, SECOND BY VICE-CHAIRPERSON GOMEZ, CARRIED 4-0, FINDING THAT THE APPLICANT DID NOT MEET ITS BURDEN OF PROOF TO SUPPORT ITS CLAIM THAT IT IS ENTITLED TO A $234.53 MONTHLY SPACE RENT INCREASE USING THE YMC §15.20 MAINTENANCE OF NET OPERATING INCOME ("MNOI") APPROACH.

ACTION: WITH REGARD TO STAFF RECOMMENDATION ITEM NO. 2, MOTION BY COMMISSIONER MECHAM, SECOND BY VICE-CHAIRPERSON GOMEZ, CARRIED 3-1 (CHAIRPERSON HOLBROOK VOTED NO) FINDING THAT THE ANALYSIS OF THE STAFF'S EXPERT, KENNETH K. BAAR, PHD. ("DR. BAAR") IS MORE CREDIBLE THAN THE APPLICAN'TS EXPERT, MICHAEL MCCARTHY, CPA ("MCCARTHY"), AND FURTHER FINDING THAT DR. BAAR'S CALCULATION OF THE RQUIRED MONTHLY SPACE RENT INCREASE USING THE 1987 SPACE RENT ADJUSTMENT OF $182.50 DETERMINED BY THE COMMISSION AND DR. BAAR'S ADJUSTMENTS TO THE INCOME AND EXPENSE ITEMS UNDER THE MNOI FORMULA IS CONSISTENT WITH YUCAIPA MUNICIPAL CODE ("YMC") §15.20 AND PROVIDES THE APPLICANT WITH A FAIR RETURN WHILE NOT REQUIREING THE RESIDENTS TO PAY EXCESSIVE RENT.

After Commission discussion, the following Motion was made:

ACTION: WITH REGARD TO STAFF RECOMMENDATION ITEM NO. 3, MOTION BY COMMISSIONER MECHAM, SECOND BY COMMISSIONER JOHNS, CARRIED 3-1 (CHAIRPERSON HOLBROOK VOTED NO), FINDING THAT THE APPLICANT DID

NOT MEET ITS BURDEN OF PROOF TO SUPPORT ITS CLAIM, THAT TO BE COMPARABLE, THE VALLEY VIEW SPACE RENTS SHOULD BE $450 OR $500 PER MONTH PER SPACE, FINDING THAT THE COMPARABLE RENT APPROACH DOES NOT JUSTIFY A HIGHER RENT INCREASE THAN THE MODIFIED MNOI APPROACH.

After further Commission discussion, the following Motion was made:

ACTION: WITH REGARD TO STAFF RECOMMENDATION ITEM NO. 4, MOTION BY COMMISSIONER MECHAM, SECOND BY CHAIRPERSON HOLBROOK, CARRIED 4-0, FINDING THAT THE APPLICANT DID NOT MEET ITS BURDEN OF PROOF TO SUPPORT ITS CLAIM THAT ITS PROPOSED PERMANENT MONTHLY SPACE RENT INCREASE OF $150 IS BELOW THE AMOUNT PROPERLY ESTABLISHED BY THE USE OF THE MODIFIED MNOI METHODOLOGY AND/OR PROPERLY ESTABLISHED COMPARABLE RENTS.

After Commission discussion, the following Motion was made:

ACTION: WITH REGARD TO STAFF RECOMMENDATION ITEM NO. 5, MOTION BY COMMISSIONER MECHAM, SECOND BY VICE-CHAIRPERSON GOMEZ, CARRIED 4-0, FINDING THAT THE APPLICANT DID NOT MEET ITS BURDEN OF PROOF TO SUPPORT ITS CLAIM THAT ITS PROPOSED $58.53 TEMPORARY SPACE RENT INCREASE TO PAY OFF ALLEGED PRIOR UNPAID MANAGEMENT FEES BECAUSE THERE IS NO RECOVERY OF THIS TYPE OF CLAIM UNLESS THERE IS A SHOWING (NOT PRESENT NOR ALLEGED HERE) THAT THIS DEFICIENCY WAS DUE TO A PRIOR "MISCALCULATION" IN SETTING THE VALLEY VIEW SPACE RENT LEVELS BY THE MRRC.

After Commission discussion, the following Motion was made:

ACTION: WITH REGARD TO STAFF RECOMMENDATIONS ITEM NO. 6, MOTION BY COMMISSIONER MECHAM, SECOND BY CHAIRPERSON HOLBROOK, CARRIED 4-0, FINDING THAT APPLICANT DID NOT MEET ITS BURDEN OF PROOF TO SUPPORT ITS CLAIM THAT IT SHOULD RECOVER PAST "BORROWER ADMINISTRATIVE FEES" BECAUSE IT HAD BEEN OPERATING AT NEGATIVE CASH FLOW FOR 2013-2018 AND INSTEAD FINDING THAT ANDERSON'S ANALYSIS SHOWED THAT EVEN AFTER PAYING NOT ONLY DEBT SERVICE BUT ALSO "BORROWERS ADMINISTRATIVE FEES" APPLICANT HAD NET REVENUES FOR FOUR OF THE SIX YEARS, AND THE ANNUAL NET REVENUE FOR ALL THE SIX YEARS TOTALED $61,388 IN NET REVENUES. APPLICANT'S CLAIM THAT IT IS ENTITLED TO RECOVER $266,773 FOR BORROWER'S ADMINISTRATIVE FEES NOT PAID FOR THAT PERIOD HAS NO BASIS IN FACT. NOTHING IN *KAVANAU V. SANTA MONICA RENT CONTROL BD.*, 16 CAL 4TH 761 (1997) AUTHORIZES APPLICANT TO RECOVER AN ALLEGED PAST UNPAID BORROWER

ADMINISTRATIVE FEES. FINALLY, APPLICANT'S CLAIM THAT THESE "UNPAID PAST BORROWER'S ADMINISTRATIVE FEES" ARE A CURRENT OBLIGATION OF THE PARK HAS NO BASIS.

After Commission discussion, the following Motion was made:

ACTION: WITH REGARD TO STAFF RECOMMENDATION ITEM NO. 1, MOTION BY COMMISSIONER MECHAM, SECOND BY CHAIRPERSON HOLBROOK, CARRIED 4-0, TO DIRECT DR. BAAR TO RECALCULATE THE MNOI METHODOLOGY USING THE ADJUSTED 1987 AVERAGE MONTHLY SPACE RENTS OF $182.50 PER MONTH (BASED ON THE COMMISSION'S PRIOR ACTION) AND WITH VICE-CHAIRPERSON GOMEZ RECUSING HERSELF FROM THE EXPENSE ITEM CONCERNING ATTORNEYS' FEES ASSOCIATED WITH AN EVICTION THAT TOOK PLACE (TERRY DOWDALL'S EXPENSE).

After Commission discussion, the following Motion was made:

ACTION: MOTION BY VICE-CHAIRPERSON GOMEZ, FAILED DUE TO A LACK OF A SECOND, THAT THE APPLICANT DID NOT MEET THEIR BURDON OF PROOF TO INCLUDE THE CURRENT YEAR "BORROWER ADMINISTRATIVE FEES", AUDIT FEES OR BOND INTEREST FEES AS AN ALLOWABLE COST.

After Commission discussion, the following Motion was made:

ACTION: MOTION BY COMMISSIONER MECHAM, SECOND BY VICE-CHAIRPERSON GOMEZ, CARRIED 4-0, TO SUPPORT DR. BAAR'S RECOMMENDATION THAT THE CURRENT YEAR "BORROWER ADMINISTRATIVE FEES" ($45,762) SHOULD BE EXCLUDED AS AN OPERATING EXPENSE IN THE MNOI ANALYSIS.

After Commission discussion, the following Motion was made:

ACTION: MOTION BY COMMISSIONER MECHAM, SECOND BY VICE-CHAIRPERSON GOMEZ, CARRIED 4-0, TO INCLUDE THE CURRENT AUDIT FEES ($3,406) AS AN OPERATING EXPENSE IN THE MNOI ANALYSIS TO BE CALCULATED BY DR. BAAR.

After Commission discussion, the following Motion was made:

ACTION: MOTION BY COMMISSIONER MECHAM, SECOND BY COMMISSIONER JOHNS, CARRIED 4-0, TO SUPPORT DR. BAAR'S RECOMMENDATION THAT THE BOND INTEREST FEES ($41,965) SHOULD BE EXCLUDED AS AN OPERATING EXPENSE IN THE MNOI ANALYSIS PURSUANT TO THE ADMINISTRATIVE RULES AND THE ORDINANCE.

After Commission discussion, the following Motion was made:

ACTION: MOTION BY COMMISSIONER MECHAM, FAILED DUE TO A LACK OF A SECOND, TO REOPEN THE PUBLIC HEARING FOR THE PURPOSE OF ALLOWING ADDITIONAL QUESTIONS PERTAINING TO RECOMMENDATION NO. 7.

Commission Attorney Greyson suggested that the Commission re-open the Public Hearing to allow the Applicant Attorney to explain the costs and allow the other parties to comment. After Commission discussion, the following Motion was made:

ACTION: MOTION BY COMMISSIONER MECHAM, SECOND BY VICE-CHAIRPERSON GOMEZ, CARRIED 3-1 (CHAIRPERSON HOLBROOK VOTED NO), TO REOPEN THE PUBLIC HEARING FOR THE PURPOSE OF ALLOWING ADDITIONAL QUESTIONS PERTAINING TO RECOMMENDATION NO. 7.

Applicant Attorney Alpert provided clarification on Item No. 7 and the fees associated with the Meet and Confer process in conjunction with completing the Application.

Resident Attorney Stanton stated that the *Galland* case requires that the Applicant be credited for the cost of the Application that are reasonable and necessary and argued that the residents should not be burdened to pay for the failed portions of the Application.

Staff Attorney Lincoln stated the approach of the Applicant and of Dr. Baar and read Administrative Rules Section 6.0004 (B)(10) into record.

Chairperson Holbrook closed the Public Hearing.

After Commission discussion, the following Motion was made:

ACTION: WITH REGARD TO STAFF RECOMMENDATIONS ITEM NO. 7, MOTION BY COMMISSIONER MECHAM, FAILED DUE TO A LACK OF A SECOND, TO GRANT AN ADDITIONAL TEMPORARY RENT INCREASE IN THE AMOUNT OF $20 PER MONTH PER SPACE FOR A PERIOD OF FIVE YEARS AND AT AN INTEREST RATE OF 7% PER YEAR BASED ON THE AMORTIZED COST TO VALLEY VIEW FOR PREPARING THE APPLICATION AND PARTICIPATING IN THE HEARING PROCESS CONTINGENT ON THE COMMISSION GRANTING AN MNOI RENT ADJUSTMENT.

After Commission discussion, the following Motion was made:

ACTION: WITH REGARD TO STAFF RECOMMENDATIONS ITEM NO. 7, MOTION BY COMMISSIONER MECHAM, FAILED DUE TO A LACK OF A SECOND, THAT THE ITEM BE DEFERRED TO ANOTHER MEETING AND THAT THE APPLICANT

SHALL SUBMIT A FIRM BREAKDOWN OF ALL EXPENSES RELATED TO THE APPLICATION.

Commission Attorney Greyson stated that the Public Hearing is closed and clarified that the agenda packet and additional materials submitted included the documentation for the Applicants expenses.

ACTION: WITH REGARD TO STAFF RECOMMENDATION ITEM NO. 7, 8, AND 9, MOTION BY VICE-CHAIRPERSON GOMEZ, SECOND BY COMMISSIONER MECHAM, CARRIED 4-0, TO CONTINUE DISCUSSION ON ITEMS NO. 7, 8, AND 9 OF STAFF RECOMMENDATION TO THE NEXT MEETING.

After Commission discussion, the following Motion was made:

ACTION: WITH REGARD TO STAFF RECOMMENDATION ITEM NO. 10, MOTION BY COMMISSIONER MECHAM, SECOND BY CHAIRPERSON HOLBROOK, CARRIED 3-1 (COMMISSIONER JOHNS VOTED NO), FINDING THAT BOTH THE JULY 1, 2012 VALLEY VIEW REGULATORY AGREEMENT BETWEEN THE INDEPENDENT CITIES FINANCE AUTHORITY AND AUGUSTA COMMUNITIES LLC AND THE OCTOBER 1, 2000 VALLEY VIEW REGULATORY AGREEMENT CONTAINED PROVISIONS REQUIRING A CERTAIN PERCENTAGE OF VALLEY VIEW SPACES BE OCCUPIED BY LOW AND VERY LOW INCOME RESIDENTS AND THAT ANY SPACE RENT INCREASES FOR VERY LOW AND LOW INCOME RESIDENTS BE LIMITED TO THE LESSER OF THE AMOUNT SPECIFIED IN THE REGULATORY AGREEMENTS AND THE AMOUNT PERMITTED BY THIS RENT DECISION.

After Commission discussion, the following Motion was made:

ACTION: WITH REGARD TO STAFF RECOMMENDATION ITEM NO. 11, MOTION BY CHAIRPERSON HOLBROOK, SECOND BY COMMISSIONER MECHAM, CARRIED 4-0, FINDING THAT WHILE APPLICANT DID MAKE SOME EXPENDITURES FOR CAPITAL IMPROVEMENTS FROM 2012 THROUGH 2015 SOME OF THOSE CAPITAL IMPROVEMENTS WHICH INVOLVED MAINTENANCE OF THE ELECTRICAL SYSTEMS WOULD BE DISALLOWED BECAUSE OF PUC PREEMPTION, SOME OTHER EXPENSES WOULD BE DISALLOWED BECAUSE THEY WERE USED TO IMPROVE PARK OWNED MOBILEHOMES AND SPACES, AND ANY REMAINING CLAIM FOR A CAPITAL IMPROVEMENT RENT INCREASE IS REJECTED BECAUSE APPLICANT DID NOT FOLLOW THE REQUIRED PROCEDURES FOR OBTAINING SUCH A RENT INCREASE.

ADJOURNMENT

The meeting adjourned.

Jim Holbrook
Chairperson

ATTEST:

Jennifer Crawford
Rent Administrator

APPROVED AT THE MEETING OF: 9-22-20