

MINUTES OF THE SPECIAL CITY COUNCIL MEETING  
TUESDAY- -APRIL 28, 2022- -7:00 P.M.

Mayor Ezzy Ashcraft convened the meeting at 5:06 p.m. Councilmember Herrera Spencer led the Pledge of Allegiance.

ROLL CALL - Present: Councilmembers Daysog, Herrera Spencer, Knox White, and Mayor Ezzy Ashcraft – 4. [Note: Vice Mayor Vella arrived at 6:33 p.m. and the meeting was conducted via Zoom.]

Absent: None.

REGULAR AGENDA ITEM

(22-282) Adoption of Uncodified Urgency Ordinance to Take Effect Immediately Upon Its Adoption Concerning Rent Control and Limitations on Evictions Applicable to Maritime Residential Tenancies including Floating Homes. [Requires four affirmative votes]; and

(22-282 A) Introduction of Uncodified Ordinance Concerning Rent Control and Limitations on Evictions Applicable to Maritime Residential Tenancies including Floating Homes.

Special Counsel gave a brief presentation.

Councilmember Herrera Spencer inquired whether approval of the ordinances includes the Capital Improvement Plan (CIP); stated there have been reference to fee and rent increases for tenants; inquired whether approval of the matter would allow staff to review whether or not related expenses can be passed through.

The City Attorney stated the ordinance as provided exempts two current provisions of the rent control ordinance: temporary relocation and CIPs if Council believes provisions should also apply, Council can direct staff to amend the language.

Councilmember Herrera Spencer inquired whether Council would like to discuss the reason behind excluding the two provisions.

Mayor Ezzy Ashcraft responded Council can discuss the matter or hear public comment; requested the City Attorney provide clarification.

The City Attorney stated the reason for excluding the provisions is due to being less applicable for marine tenancies; the temporary relocation provision usually applies to a situation where a bathroom is taken out of commission at a regular apartment and repairs need to be made where the tenant cannot stay in the apartment; floating home tenants actually have control over the fixtures and the rent is different from typical tenants in an apartment; Council may provide staff different direction if it so desires.

Mayor Ezzy Ashcraft stated that she would like to hear the difference between a maritime tenancy and a typical apartment tenancy; inquired whether the difference is due to maritime tenants actually owning the structure.

The City Attorney responded in the affirmative; stated the scenario is akin to mobile homes; the resident owns the structure and has control over electrical and plumbing; however, the land is

rented; apartment tenancies are different; everything, including fixtures and utilities, are rented and not within a tenant's control; the difference is the reason staff proposed excluding the two provisions.

Councilmember Daysog inquired whether Council could include the CIP policies if a property owner desires to perform substantial rehabilitation to a seawall or boat slip.

Special Counsel responded the difficulty in enlarging the CIP program with respect to the entire marina would be figuring out what falls under the CIP as defined in the current policy; Council could amend what would be included in the policy and allow for a recovery or amortized cost recovery for the owner; currently, the CIP does not encompass said type of reconstruction.

The City Attorney stated the City's rent program currently has a process where owners can recover investments into their property in order to make a constitutional right of return; the process could be available to the marina owners, the same as any other landlord.

Councilmember Knox White stated Council has already given direction to come back with a CIP update; Council can adopt the emergency ordinance as written and provide direction to return with any recommendations.

Special Counsel stated staff will bring back the CIP policy sometime in June; Council may wish to include the related types of improvements.

Mayor Ezzy Ashcraft requested clarification that Councilmember Knox White wishes to have the CIP policy return to Council.

Councilmember Knox White stated Council should discuss the matter under Council discussion.

Discussed the rent increases; expressed concern about the ordinance effective date; requested the date be changed: Leila Minnis, Alameda.

Stated the proposed rent increases will result in displacement of homeowners; urged the rent protections and ordinance be adopted: Beth Remenap, Alameda Floating Home Association.

Expressed support for the urgency ordinance and the residents living at Barnhill Marina; stated the same protections are needed for people renting on land and water; Council has the power to remedy the issue and bring relief: Andrey Shmakov, Alameda.

Expressed support for enacting rent stabilization at Barnhill Marina; stated that she is appalled at the rent increases proposed by the new owner; the increases will result in financial hardship for many senior residents; urged Council to extend rent protections: Carolyn Foster, Alameda.

Outlined conditions and average fair rent at other floating homes in the area; stated the data shows average rent at other marinas being \$570 per month with docks in better condition; discussed rent increase percentages; urged Council pass the ordinance: Mayumi Stroy, Alameda.

Stated that she is concerned about the issues being brought up; discussed her rent increase of over 100%; stated that she is in support of the matter: Alice Gore, Alameda.

Expressed concern about any misinformation and negotiation team tactics; stated the comments should be heard through the context of a community that is terrified and cannot find legal representation; urged Council hear everything from all speakers: Liz Williams, Alameda.

Stated approximately half of the residents are seniors and on a fixed income; expressed concern about displacement of the most vulnerable; stated the urgency ordinance protects at-risk neighbors: Rosemary Reilly, Alameda.

Outlined the purchase and sale of Barnhill Marina; provided information on the landlord; stated the increase leaves her facing eviction; urged Council to pass the urgency ordinance: Ashley Mullins, Alameda.

Outlined the purchase and sale process for floating homes; stated there is only one lender for floating homes; the lender has expressed concern over the introduction of unregulated and excessive rent increases and new lease terms; discussed the lease's force majeure clause; stated the vulnerability is breathtaking and there are multiple paths to displacement; urged Council pass the ordinance: Steve Cardenas, Alameda.

Stated floating home values have been lower than comparable land homes; floating homes have been naturally occurring affordable housing; discussed a ban on new floating home marinas; stated there is no place to move: James Morgenroth, Alameda.

Discussed the history of Barnhill Marina; stated rents have increased and the docks have improved over the years; the proposed ordinances give residents a chance to be relieved from vulnerability; urged Council to protect the residents and pass the ordinance: John Crossley, Alameda.

Stated residents of Barnhill Marina are a part of the community and woven into the City; residents rent berths; residents' vulnerability allows landlords to easily take advantage; residents are asking to be treated like all other renters in Alameda: Lisa Cannelora, Alameda.

Outlined rent negotiations the past few weeks; urged adoption of the urgency ordinance: Robert Houlihan, Alameda.

Stated floating home owners own their property and pay to maintenance and insurance; the berths are rented from the marina owner; floating home residency law states tenants must be protected from constructive or actual eviction; the lease terms are designed to create rolling displacement; urged Council pass the ordinance: Lynn Houlihan, Alameda.

Stated that she had no idea the ordinance was being proposed until a reporter contacted her on Monday; she is deeply invested in a sustainable future for the marina and floating homes; urged Council to consider a much broader set of data before making a decision; discussed running a sustainable operation; expressed concern over the future of floating home marinas in Alameda; stated the matter is a one-sided presentation of facts: Drishti Narang, Barnhill Marina.

Stated that she is in support of the residents at Barnhill Marina; urged Council to come together to vote to ensure the community is protected; discussed Council granting rent relief and protections for Alameda residents; stated residents of Barnhill Marina should be granted the same protections: Meredith Hoskin, Alameda.

Urged Council further consider the catastrophe that would follow if floating homes are not included in rent stabilization; stated that she and her neighbors will be displaced and homes will be lost; residents are facing a mortgage default crisis that few can afford: Tara Flanagan, Alameda.

Stated there is a question of how to address the ordinances; the owners of Barnhill Marina take the community concerns seriously; in order to fashion an appropriate solution addressing the concerns, Council must be adequately informed of many more issues and facts; there has not been an opportunity to gather facts; expressed concern about the ordinances not tailoring language and the long-term viability of Barnhill Marina: Galin Luk, Attorney, Barnhill Marina.

Urged Council to protect the distinct neighborhood; stated floating homes are a naturally occurring form of affordable housing and need protection; the values of the Barnhill Marina community reflect the values of the City; expressed support for the creation of more affordable housing; expressed concern over rent increases: Laura Thomas, Alameda.

Expressed concern over losing his home; urged Council to do what is right and protect residents by passing the ordinance: Dominick Drisdon, Alameda.

Stated that he owns a sailboat that lies within one of the few live-aboard slips at Barnhill Marina; discussed his learning of possible threats of eviction and strong arm tactics tripling rents; urged Council to pass the ordinance: Brian Linke, Alameda.

Stated that he has lived at Barnhill Marina for 40 years and is on a low, fixed income; he and other marina residents are at risk of losing life savings and being evicted; his rent increase is 178%; many only have the option of eviction or homelessness on May 1<sup>st</sup>; urged Council to pass the ordinance: Walter Knox, Alameda.

Stated that he would like the ordinance to be effective April 1, 2022, not April 14, 2022: Rick Minnis, Alameda.

Discussed things that make the Barnhill Marina community special; stated many neighbors have provided help when needed; urged Council to help keep the community: Robert Knop, Alameda.

Mayor Ezzy Ashcraft expressed support for the public comments; stated speakers have been articulate and eloquent; she has heard both heartbreaking and heartwarming remarks; she is certain calling a special meeting was the right thing to do; expressed support for passing the emergency ordinance and introducing the other ordinance; stated that she has heard many alarming accounts from residents of Barnhill Marina; part of preventing homelessness is not allowing homelessness to happen; the Bay Area's largest growing segment of the homeless population includes seniors 55 years and older; for people living on the street, 55 is similar to 75 due to rapid aging; the owner's background does not excuse the kind of behavior experienced by the residents of Barnhill Marina; there has been communication between Council, the City, the District Attorney's office and tenants to work out resolutions; the communications have been one-sided and the opportunity for sharing information has been present all along; the information Council has is egregious; more than one resident has alluded to payment plans that amounted to the owner taking a lien out on the property or a reverse mortgage; expressed support for the District Attorney's office being made aware of the practice; stated the State of California is strict on who is able to offer said financial instruments; floating homes are naturally occurring affordable housing; Alameda's rent ordinance recognizes that landlords need to make

a reasonable return on their property; the marina property is unique; expressed concern about constructive evictions; stated that she is looking forward to doing the right thing by the residents of Barnhill Marina; inquired whether the ordinance effective date can be modified to April 1<sup>st</sup>.

The City Attorney responded staff considered which date to choose for the ordinance; stated typically ordinances are effective upon adoption when urgent or 30 days after second reading for regular ordinances; retroactive dates back to the date of publication was the option that has a reasonable risk-benefit calculation; public speakers have requested a further reach back that potentially creates more protection; however, it also creates additional risk due to the date reaching back prior to publication; Council may choose to reach back further and staff can make any modifications directed by Council.

Mayor Ezzy Ashcraft stated that she is seeking an approach which is legally defensible; she expects the owners of Barnhill Marina to challenge the ordinance in court; inquired the safest course of action, to which the City Attorney responded it is safer not to retroactively date an ordinance beyond the publication date of the staff report.

Councilmember Knox White stated it is clear that people who live in Barnhill Marina are residents, similar to all other residents of Alameda; he does not understand why the City would have separate rules for people depending on where they live.

Councilmember Knox White moved approval of adoption of the urgency ordinance with direction for staff to look at the CIP issues and address issues of shared infrastructure in the same way the City is addressing the matter for multi-family buildings with common areas.

Councilmember Herrera Spencer requested clarification on the appropriateness of the motion including direction regarding the CIP.

Mayor Ezzy Ashcraft expressed support for attaining a second for the motion to allow for Council discussion.

Councilmember Herrera Spencer stated based on information provided by the City Attorney, the CIP language currently included in the City's rent ordinance can be included; the CIP language could be included in the current ordinance and fine-tuned at a later date; expressed support for receiving clarification from the City Attorney.

Mayor Ezzy Ashcraft stated the motion on the floor needs a second in order for Council discussion to follow; inquired whether Councilmember Herrera Spencer is making an amendment to the motion, to which Councilmember Herrera Spencer stated that she would like to hear from the City Attorney.

In response to Mayor Ezzy Ashcraft, Councilmember Herrera Spencer stated that she would like to make a friendly amendment to the motion and have the CIP language put into the ordinance similar to the existing rent control ordinance if possible.

Mayor Ezzy Ashcraft stated that she would not support the friendly amendment.

Councilmember Knox White stated the current CIP language relates to rental units; adding the language to the urgency ordinance would not have a strong, material impact for Barnhill Marina; if Council looks at shared infrastructure, the approach would have to be unique due to rental

differences.

Mayor Ezzy Ashcraft stated that she is concerned about pass through costs being sought from the landlord; renters of Barnhill Marina already pay property taxes, which is not paid by other renters.

The City Attorney stated the current CIP policy is out-of-date; Council has given direction to update the CIP; Council may direct staff to include the CIP language; however, the language would be difficult to apply; few landlords have applied for CIP; staff is working on bringing an amendment to Council for consideration.

Councilmember Herrera Spencer inquired the process when an owner has repairs and is trying to pass through fees and costs.

The City Attorney responded Council can offer protection in a couple ways; stated the way for an owner to apply pass through is to apply for a fair return petition; in the petition, an independent hearing officer would compare the owner-submitted capital plans to expenditures in order to make a constitutional right of return and adjust rents, if necessary, under guidance of federal and State law; staff can bring back a CIP policy that provides more options on how to broadly apply it to both regular land tenancies and marine tenancies in the coming months.

Councilmember Herrera Spencer inquired whether there are other things which could be added to the emergency or non-emergency ordinance for protection.

The City Attorney responded applying the existing rent control to marine tenancies is administratively the most expedient path forward; stated rent staff are already trained to administer the ordinance.

Councilmember Herrera Spencer inquired whether the date will be retroactive to April 14<sup>th</sup>, to which Councilmember Knox White responded in the affirmative.

Councilmember Herrera Spencer seconded the motion.

Under discussion, Councilmember Daysog stated the shabby treatment of Barnhill Marina residents must not continue; it is vital for Council to extend the rent control provisions to the residents along and on the water; he supports the matter moving forward; the residents, children and seniors especially have very limited options and Council must take a stand.

Councilmember Herrera Spencer outlined the City's history of supporting rent stabilization; stated there have been times where Council has been asked to step-up; the matter goes beyond Barnhill Marina and is unfortunate; the emotional drain on someone subjected to rent increases is difficult; the stress has to end; she is confident that the ordinances will pass.

Councilmember Daysog stated it is possible the current matter is not the end; he will continue to support the residents that are being treated badly.

Vice Mayor Vella stated that she is disappointed that the situation got this far; staff had been trying to reach out to the owners of Barnhill Marina to see if a solution could be reached; she has supported tenant rights and protections for the duration of her time on Council; this matter is no different; it is unfortunate that Council is having to take the emergency ordinance action and

that better behavior with more consideration was not provided to the residents of Barnhill Marina.

Councilmember Knox White inquired whether language needs to be added to the current ordinance in order to clarify the instructions for the tenants who have already paid their rent with the increase due to the date being April 14<sup>th</sup>.

The City Attorney responded the argument could be made with the existing language; stated the existing language allows a potential resident to argue that the rent in effect is not what was announced; if there be desire to make the language clearer, another sentence can be added on page 4, Section 2 of the urgency ordinance stating: "rent being paid as of April 14<sup>th</sup> is defined as rent being paid, not rent that was announced to be paid in the future."

Councilmember Knox White amended the motion to include the proposed language.

Councilmember Herrera Spencer seconded the amended motion, which carried by the following roll call vote: Councilmembers Daysog: Aye; Herrera Spencer: Ayes; Knox White: Aye; Vella: Aye; and Mayor Ezzy Ashcraft: Aye. Ayes: 5.

Councilmember Knox White moved approval of introduction of the ordinance.

Councilmember Herrera Spencer inquired whether the language of the ordinance needs to include the language proposed for the urgency ordinance.

The City Attorney responded in the affirmative; stated that he recommends Council insert the exact same language from the urgency ordinance into Section 2-E.

Councilmember Knox White amended his motion to include the language from the urgency ordinance.

Councilmember Herrera Spencer seconded the motion, which carried by the following roll call vote: Councilmembers Daysog: Aye; Herrera Spencer: Ayes; Knox White: Aye; Vella: Aye; and Mayor Ezzy Ashcraft: Aye. Ayes: 5.

#### ORAL COMMUNICATIONS, NON-AGENDA

(22-283) Mayor Ezzy Ashcraft made brief comments thanking the City Manager.

(22-284) The City Manager thanked current and former City Councilmembers; stated that he has appreciated the opportunity to work with everyone; Council has always stepped up and worked for the community; expressed support for City staff.

#### ADJOURNMENT

There being no further business, Mayor Ezzy Ashcraft adjourned the meeting at 6:49 p.m.

Respectfully submitted,

Lara Weisiger  
City Clerk

The agenda for this meeting was posted in accordance with the Sunshine Ordinance.