

MINUTES OF THE CONTINUED APRIL 4, 2017
REGULAR CITY COUNCIL MEETING
FRIDAY- -APRIL 7, 2017- -5:30 P.M.

Mayor Spencer convened the meeting at 5:30 p.m. and led the Pledge of Allegiance.

ROLL CALL - Present: Councilmembers Ezzy Ashcraft, Matarrese, Oddie, Vella and Mayor Spencer – 5.

Absent: None.

CONTINUED REGULAR AGENDA ITEM

(17- 227 Continued) Recommendation to Accept the Annual Report for the Rent Program, Direct Staff to Prepare Certain Amendments to the Rent Review, Rent Stabilization, and Limitations on Evictions Ordinance, Consider Revisions to Ordinance No. 3132 Governing the Rent Review Advisory Committee, and Authorize Staff to Prepare an Updated Fee Study to Pay for Implementing the Ordinance.

Fixed Term Leases

Vice Mayor Vella requested to reopen fixed-term leases; stated that she has additional questions.

In response to Mayor Spencer inquiry, the Council agreed to reopen the issue.

Vice Mayor Vella stated temporary tenancies can be offered to a tenant one time and can also be offered to a new tenant; inquired whether changing tenants under temporary tenancies would be subject to the 5% cap.

The Community Development Director responded termination for no cause is the only scenario which has a 5% cap for the subsequent tenant; stated staff is not proposing the cap be expanded to other scenarios.

Vice Mayor Vella stated there has been a complaint that fixed term leases are somewhat of a loophole; provided an example of having a 5% increase after multiple tenants with three month fixed term leases, which would total above a 5% increase in one year.

Mayor Spencer stated Council received an email suggesting having a limit of one 5% increase per year, which she would support.

The Community Development Director stated staff could add a provision if supported by Council.

Vice Mayor Vella stated that she would like to give said direction.

The Assistant City Attorney noted the provision would only be legally defensible for multifamily units built before 1995; however, the provision would be a problem for single-family homes and multifamily units built after 1995 because of Costa Hawkins.

Mayor Spencer and Councilmember Oddie agreed to add the provision.

Councilmember Matarrese inquired whether this type of increase has been happening.

The Community Development Director responded there have been inquiries asking about short fixed term leases with the same tenant, which would be a loophole to get around relocation benefits; stated a framework for temporary tenancy is being created, which would include a cap on the rent increase for the next tenant.

In response to Councilmember Matarrese's inquiry, the Community Development Director stated staff would come back to Council with provisions on fixed term leases and temporary tenancies.

Councilmember Matarrese inquired whether there have been inquiries or complaints, to which the Housing Authority Housing and Community Development Director (HAHCD Director) responded there have been inquiries from landlords regarding multiple fixed term leases.

Councilmember Ezzy Ashcraft stated the City is trying to make the ordinance more understandable; given the inquiries, the suggestion seems reasonable.

Mayor Spencer stated there is support from five Councilmembers.

Notices to Vacate Due to a Governmental Order

The Community Development Director stated the feedback on Tuesday was Council wants staff to come back with more standards regarding willful actions by a tenant; the Council was not interested in a carve out for anything other than willful acts by a tenant; staff will return with criteria.

Councilmember Ezzy Ashcraft stated the need to vacate a property because of a natural disaster should be addressed; the City should find a way to support tenants displaced due to a natural disaster; the real estate community has discussed a trust fund for assistance with relocation fees; the faith community has also expressed good will; there should be a way to help tenants facing said situation.

Mayor Spencer questioned whether the trust fund was sufficiently noticed to be discussed tonight.

The City Attorney stated the matter is covered under the agenda as changes to the rent stabilization ordinance; Council can come up with suggestions; the matter would come

back to Council.

Mayor Spencer suggested the trust fund be discussed after the items on the list.

Councilmember Matarrese stated that he would like to make comments on the trust fund as part of the fee discussion.

Councilmember Ezzy Ashcraft stated the Council direction is that the landlord would not pay relocation fees; her suggestion is to not forget about the tenant.

Vice Mayor Vella stated there is not a provision in the current ordinance; the Council direction is not to add anything since there has not been an issue; all funding issues should be discussed together.

Councilmember Oddie stated that he does not think anything needs to be added; there is recourse if a tenant trashes an apartment; if a court decides a tenant is responsible for damages, relocation fees could be waived; adding provisions does not seem necessary; the process is not clear.

The Community Development Director stated the Council direction from Tuesday was not to add language in the ordinance, but Council was willing to look at additional information regarding the willful act of a tenant; if Council does not want additional information, tenants would receive relocation benefits and have a right to return to the unit regardless of the circumstances that lead to the governmental order to vacate.

Mayor Spencer stated that she would like information provided when the matter returns; Council can decide how to proceed at said time.

The Community Development Director outlined clarifying language regarding no termination notice.

Councilmember Ezzy Ashcraft inquired when relocation benefits would be paid, to which the Community Development Director responded in three business days.

Mayor Spencer stated when landlords give notice, they should be prepared to pay half of the relocation benefits; that she is concerned three business days would not give the landlord sufficient time.

Councilmember Ezzy Ashcraft stated there should also be concern for the tenant who would need to find new housing.

Mayor Spencer suggested the payment within three business days be one-quarter of the total relocation benefit.

The Community Development Director stated the proposal requires the landlord pay the full amount because the tenant would have to vacate immediately and would not have

an option to remain in the unit for 30 or 60 days.

Mayor Spencer expressed concern over the landlord not being able to pay the total amount within three business days.

Vice Mayor Vella inquired whether the various groups that provided feedback raised or addressed the matter.

The Assistant City Attorney responded a tenant inquired when relocation benefits would be received after there was governmental order to vacate; stated the ordinance did not apply very well, so staff is proposing a specific amount of time; the provision could be changed to specify half or one-third would be paid by a specific date and the remaining amount would be paid two weeks later.

Councilmember Matarrese inquired what happened with the case, to which the Assistant City Attorney stated staff was able to convince the landlord to pay the relocation benefit within a very short time.

In response to Councilmember Ezzy Ashcraft's inquiry regarding discussing the issue with the landlords and property managers, the Community Development Director stated the broad issue was on the list that was discussed with both the landlords and tenants, but without the specificity of the three business days.

Councilmember Ezzy Ashcraft stated that she would like input from the renter and landlord groups, with Council addressing the matter when it returns.

Mayor Spencer and Vice Mayor Vella concurred with said suggestion.

Councilmember Matarrese inquired whether the unit is back to being rented in the real case, to which the Community Development Director responded the unit is not back on the market yet.

Councilmember Oddie inquired whether the Council has resolved what the rental rate would be if the tenant moves back in, to which the Community Development Director responded the tenant could return to the unit similar to other types of vacations; stated if the damages end up as a Capital Improvement Plan (CIP), the CIP formula could cause the rent to be different.

Councilmember Oddie suggested language be added to clarify the rent would remain the same notwithstanding a CIP application or the landlord could file a petition to the RRAC for an increase above 5%; stated the provision should specify it is subject to other provisions of the ordinance.

Mayor Spencer stated that she recalls Council was assuming the units would go through the CIP process, which would have significant costs.

The Assistant City Attorney stated the discussions with the stakeholder groups can address landlords covering costs, such as hotel, pet and laundry rates, instead of paying relocation benefits.

Mayor Spencer stated a majority of Council supports said proposal.

In response to Mayor Spencer's inquiry, Councilmember Oddie stated the tenant should get the same rent subject to the CIP or RRAC process.

The Community Development Director stated the Council direction is to have the tenant have the right to return to the unit.

Councilmember Oddie stated a tenant might want to have temporary costs covered rather than accepting relocation benefits; the matter needs to be flushed out.

The Community Development Director stated the CIP provisions address the issue.

Mayor Spencer stated a majority of Council agrees.

The Community Development Director outlined the last clarification about the tenant receiving whichever relocation fee is higher.

The Council expressed support for the provision.

No Cause

Councilmember Oddie stated that he would like to make personal comments and a motion on no cause evictions; apologized for and briefly discussed reading an email in violation of the Sunshine Ordinance on Tuesday night; discussed the 24 eviction cases; requested staff to provide additional information on the cases; discussed his background as a landlord-tenant attorney, including providing examples of specific cases protecting tenants; briefly discussed the election; stated it is time to review just cause evictions; requested an examination of other comparable, Bay Area cities' provisions on just cause evictions; stated his motion would be to reconsider the direction on Item B [Tenancy Terminations for No Cause] and in addition to the technical change made, direct staff to come back with what just cause eviction could look like in Alameda, preferably at the May 2nd meeting; the process does not need to be long; the Council should have close supervision; the City should address: 1) the interplay with relocation fees, 2) closing loopholes that exist in other cities, 3) disincentives to the Ellis Act on single family rentals and turning multifamily rentals into condominiums, 4) Council's discussion of fixed term leases, 5) anti-harassment provisions, similar to Union City, and 6) the relation of maintenance requests to evictions; the list is not all-inclusive; Councilmembers and the public should offer additional ideas.

Mayor Spencer inquired whether Councilmember Oddie is requesting additional

analysis of all of the evictions or only those after the election, to which Councilmember Oddie responded all cases should be reviewed.

Mayor Spencer stated that she agrees all of the cases should be included.

Councilmember Ezzy Ashcraft stated that she would like the information to include the ages of the tenants.

The City Manager expressed concern over the timing of bringing back the analysis.

The Community Development Director noted staff was anticipating bringing the ordinance revisions to Council at the May 16th meeting.

Mayor Spencer stated a majority of Council agrees with the date; a motion for reconsideration is not needed since direction is just being given to staff.

Vice Mayor Vella stated that she supports looking into the issue; the Union City ordinance, which was passed on Tuesday, should be reviewed; the City should analyze loopholes, such as the Ellis Act.

Mayor Spencer suggested the two issues be separated and Council address no cause first.

Vice Mayor Vella stated that she would like an analysis of just cause.

Councilmember Matarrese stated that he welcomes the analysis; however, he does not think the Council will get meaningful information before May 16th; the issue is difficult; the administrative updates should be done in a timely manner and should not be held up.

Vice Mayor Vella encouraged staff to return with the analysis on May 16th; stated the Council could determine if there are additional questions at said time.

The Community Development Director stated there are two types of analysis being requested: 1) analysis of the existing 24 cases, and 2) a broader analysis of just cause evictions; staff will endeavor to analyze both.

Councilmember Ezzy Ashcraft stated that she supports doing the review; staff can inform Council if the analysis cannot be completed by May 16th.

Mayor Spencer stated that she disagrees with the Council majority; doing a good job on the analysis will take more time; the number of no cause evictions has been the same before and after the election; she is concerned Council would be taking action to nullify the election results; referenced a 1904 court case; discussed election materials addressing just cause evictions.

Councilmember Matarrese stated that he is not inclined to add just cause eviction provisions at this time; however, there could come a time when a case's circumstance shows a person has been treated unfairly and does not have protection under the law.

Councilmember Ezzy Ashcraft expressed concern about the Mayor's statement that the Council would be taking action to nullify the election; read Section 4 of Measure L1, which allows Council to amend the ordinance without a vote of the people if there are changing conditions or concerns; stated that she has great faith in the records being collected by the Housing Authority.

Mayor Spencer stated there have been comments that the Council has done nothing to limit no cause evictions, which is not true; outlined the provisions on no cause evictions; stated that she does not believe conditions have changed; people voted two-thirds against Measure M1.

Vice Mayor Vella stated data should include any cases to date; new cases should be included.

Relocation Fees

The Community Development Director made brief comments regarding the proposed provisions.

Councilmember Ezzy Ashcraft inquired whether there is a standardized rent form.

The Community Development Director outlined information outreach efforts; stated riders with information are attached to leases.

Councilmember Ezzy Ashcraft inquired whether a standardized rental agreement could be done.

Councilmember Matarrese suggested finishing the discussion of the ordinance before addressing said issue.

In response to Vice Mayor Vella's inquiry about what language Councilmember Ezzy Ashcraft would like included, Councilmember Ezzy Ashcraft stated all of the provisions on relocation fees.

Vice Mayor Vella suggested staff provide language that could be included in a contract.

Councilmember Ezzy Ashcraft concurred with the suggestion.

Councilmember Oddie stated that he discussed a model lease from the beginning; the idea is worth pursuing and could minimize disputes.

Vice Mayor Vella stated the matter could be discussed after the remaining items;

however, the current request is for staff to draft language regarding the relocation provisions that could be included in a model lease; further stated questions have been raised about not using Fair Market Rate (FMR); concerns have been raised that relocation fees disproportionately disadvantage renters paying under market; 470 Central Avenue tenants would not have received enough to cover first and last months' rent in the current market.

Mayor Spencer inquired whether Vice Mayor Vella is discussing changing the formula.

Vice Mayor Vella responded that she has heard suggestions to use a standard amount.

Mayor Spencer inquired whether Vice Mayor Vella agrees with changing the relocation fee as proposed, to which Vice Mayor Vella responded in the affirmative.

Councilmember Ezzy Ashcraft clarified the proposed provision addresses moving fees; suggested staff change the wording; stated that she is also concerned about renters paying under market; discussed FMR; stated people should be made whole; there should be discussion about changing the formula to the equivalent of first and last months' rent.

Mayor Spencer inquired whether the majority of Council is fine with increasing the moving expenses using the Consumer Price Index (CPI).

The Council responded in the affirmative.

Councilmember Oddie discussed 470 Central Avenue; stated there should be a predictable number; a floor could be set using a percentage of FMR and a similar cap could be included if the market drops.

Mayor Spencer inquired whether the majority of Council would like to review the relocation fee formula.

Councilmembers Ezzy Ashcraft, Oddie and Vice Mayor Vella responded in the affirmative.

Councilmember Matarrese stated that he believes addressing the matter at the May 16th meeting is unrealistic; a study should be done correctly; known problems should be fixed and not held up; he is interested in getting information.

Councilmember Ezzy Ashcraft inquired how long staff thinks the work will take.

The Community Development Director stated there could be a two-step process; the ordinance could be amended more quickly for the straightforward, administrative items; staff could work on the more complex issues and the ordinance could be amended a second time.

Mayor Spencer stated the majority of Council supports the recommendation; that she would not support the relocation fees being set at the entire FMR; using a percentage could be reviewed; basing the formula on the amount the tenant is paying is the cleanest and fairest method.

The Community Development Director stated there is a difference between FMR and the payment standard in Alameda; the Housing Authority currently has the payment standard as 110% of FMR.

Mayor Spencer stated the City has limited increasing rent; a number of landlords charge under market; expressed concern over the amount the landlord could owe basing relocation fees on FMR.

Councilmember Oddie stated that he did not suggest setting the amount at the full FMR; however, he believes there should be a floor; staff can return to Council with a suggestion.

The Community Development Director outlined the next provision requiring the notice to be in writing.

Mayor Spencer inquired whether the majority of Council agrees.

The Council responded in the affirmative.

Councilmember Ezzy Ashcraft noted the issue is the basis of her desire to have a standardized lease.

The Community Development Director outlined the next provision regarding the second payment being three business days after the tenant leaves the unit.

Mayor Spencer inquired whether everyone is agreeable, to which the Council responded in the affirmative.

The Community Development Director outlined the provision that requires the landlord to notify the tenant in writing about being able to remain in the unit.

Mayor Spencer outlined the specific timeline which should be included; inquired whether Council agrees with the provision.

The Council responded in the affirmative.

The Community Development Director outlined the provision which requires the tenant to continue to pay rent if they remain in the unit.

The Council agreed with including the provision.

Councilmember Oddie stated the provision seems obvious.

Other/Housekeeping

The Community Development Director outlined revisions to definitions.

Mayor Spencer inquired whether Council agrees, to which the Council responded in the affirmative.

The Community Development Director outlined the provision clarifying units which are excluded.

Mayor Spencer inquired whether the Council agrees, to which the Council responded in the affirmative.

Vice Mayor Vella inquired whether boardinghouses would be excluded, to which the Assistant City Attorney responded boardinghouses are already excluded and are treated like hotels.

The Community Development Director outlined the provision clarifying a tenant could agree to receive an electronic document.

Mayor Spencer stated the Council unanimously concurs with said provision.

The Community Development Director outlined the provision allowing the Program Administrator to request additional information during mediation of rent increases.

Vice Mayor Vella stated the City needs to be cautious and explicit about additional documents not being subject to a record request, such as medical and financial records.

The HAHCD Director stated financial documents are optional for both sides; additional documents could be a copy of the lease or the first page of the deed to show ownership.

Vice Mayor Vella inquired whether a list of types of documents could be provided; whether the ordinance could state which documents are optional and which documents could not be requested; stated people should understand their rights.

Councilmember Ezzy Ashcraft concurred with the suggestion; stated additional documents is too broad.

The Community Development Director noted the provision is specifically about documents the landlord would provide; stated staff could come back with more specificity; outlined the next provision that offers of a one year lease must be in writing.

In response to Mayor Spencer's inquiry, the Council expressed support.

The Community Development Director outlined the provision requiring offers of a one year lease be on the table for five calendar days.

Mayor Spencer stated that she was given ten days to respond when her landlord offered a one year lease when her rent was increased; the offer should be on the table until the first payment of the increased rent, which is usually 30 days; the tenant should have more time to make a decision.

Councilmember Ezzy Ashcraft stated that she would like to hear from the stakeholders on both sides.

In response to Vice Mayor Vella's inquiry, Mayor Spencer stated the one year lease is waived if the tenant does not respond.

Councilmember Oddie noted that he was given more than five days; stated that he does not know the right number, but more than five days should be given.

The Community Development Director stated staff would proposed the question to the stakeholders; outlined the provision regarding bundling services.

The Council expressed support for doing so.

The Community Development Director outlined the provision that unbundling applies to month-to-month leases.

Mayor Spencer stated the Council unanimously supports the provision.

The Community Development Director outlined the provision making the CIP policy notice consistent.

Mayor Spencer stated the Council unanimously supports the provision.

The Community Development Director outlined the provision requiring the notice of the RRAC hearing to be done in the same time and manner as the rent increase notice.

In response to Mayor Spencer's inquiry if the Council is in agreement, the Council responded in the affirmative.

The Community Development Director outlined the provision changing "text" to "content," changing the number of days to petition an RRAC decision to a Hearing Officer from seven days to fifteen days, and adding information about translation.

The Council expressed support for the revisions.

The Community Development Director outlined the provision requiring notice to be given to the Program Administrator if the landlord and tenant reach an agreement

before the RRAC hearing.

Councilmember Oddie stated the staff report indicates the landlord has the burden of proof regarding the increase; market rate should not be a factor in the RRAC deliberations; the tenant should not have to prove they cannot afford the increase.

Mayor Spencer stated both sides share information at RRAC hearings; she would not want to limit the conversation.

Councilmember Oddie stated that he brought up burden of proof at the wrong time; the matter is addressed in a later provision; however, market rate is not addressed; market rate cannot be addressed by a Hearing Officer and should not be addressed at RRAC hearings.

Mayor Spencer stated the RRAC should be able to look at different things in order to reach a settlement.

Vice Mayor Vella stated decisions which are appealable should have the same standards; one side has the burden of proof.

Mayor Spencer stated that she is okay with the burden of proof, but would not want to stop a landlord from discussing market rate.

Councilmember Ezzy Ashcraft stated when the RRAC is discussed, she is going to make an argument to end the RRAC process; sophisticated concepts of burden of proof should not be under the RRAC.

Vice Mayor Vella expressed concern over using FMR since units might not be comparable.

Councilmember Matarrese stated Council should not tell either side what they can discuss; the RRAC has a set of rules and standards to guide decisions; the ordinance is clear that the burden of proof is on the property owner.

Councilmember Oddie stated the judging standard should be the same for the Hearing Officer and the RRAC.

Councilmember Matarrese stated that he agrees.

The Community Development Director stated the majority of Council wishes to align the criteria used by the Hearing Officer and the RRAC; returned to the provision requiring notification to the Program Administrator.

In response to Mayor Spencer's inquiry, the Community Development Director stated not providing notice is considered a failure to appear.

Mayor Spencer inquired whether the agreement reached would be null and void, to which the Community Development Director responded in the affirmative; suggested specifying that the landlord be required to provide notice.

Councilmember Ezzy Ashcraft stated the provision seems harsh; the intent is to get the parties to resolution; inquired what problem is being solved.

The Community Development Director responded the Program Administrator needs to be notified so that the item is not calendared on the RRAC agenda.

Councilmember Matarrese stated if both parties do not show up at a meeting, the item could be added to the next meeting; then, if they do not show again, the matter would be dropped; people should not be punished for coming to an agreement.

The HAHCD Director stated the intent is to require something in writing, not to have a consequence.

Councilmember Ezzy Ashcraft stated the issue could be that education is needed; noted the Housing Authority has done an awesome job educating everyone about the ordinance.

The Community Development Director suggested requiring notice in writing without including a consequence for not doing so.

Councilmember Matarrese stated that he would prefer no shows to be re-calendared one more time and closed if no one shows.

The Assistant City Attorney stated the ordinance currently nullifies the agreement if the Program Administrator is not notified; the language can be revised.

Mayor Spencer stated the majority of Council wants to support the settlement.

Vice Mayor Vella stated that she would want confirmation from both parties that a settlement was reached.

Councilmember Ezzy Ashcraft inquired whether an email would count as in writing, to which the Community Development Director responded in the affirmative.

In response to Vice Mayor Vella's inquiry regarding the data collected, the Community Development Director stated the form, which is signed by both parties, is attached to the staff report.

Councilmember Oddie stated the form is needed; however, there should only be a carrot, not a stick.

Vice Mayor Vella stated the form should include the actual rent increase rather than a range.

The Community Development Director stated since the form is public, landlords requested a range to keep flexibility when working with other tenants.

Vice Mayor Vella stated the ranges are too broad and do not help collect data; outlined information not included on the form.

The Community Development Director noted the rent increases would most likely be above 5%.

Councilmember Ezzy Ashcraft stated as much data as possible should be collected, including the number of tenants and lease start date.

The HAHCD Director stated all of the data being discussed is collected when the case starts.

Councilmember Ezzy Ashcraft suggested the form include 5% increments.

Councilmember Oddie stated that he would like to see the actual percentage.

Vice Mayor Vella stated increases over 5% have to go to the RRAC, which is public; having the information is better for both sides because not disclosing the percent causes speculation.

Councilmember Matarrese stated the percentage should be disclosed.

Mayor Spencer stated a majority of Council would like the specific percentage disclosed; further stated the Council direction is to require notice in writing without including the penalty; suggested the language be similar to: "Please notify the Administrator so that the item is not carried over and data is collected."

The HAHCD Director stated data will not be collected if the form is not required.

Vice Mayor Vella stated written notification can be required; settlements should not be discouraged.

Councilmember Matarrese inquired how many times staff has not been notified, to which the HAHCD Director stated staff has been notified; however, the form needs to be required to collect the data.

Vice Mayor Vella suggested the parties be required to provide notification that they are in settlement talks prior to the RRAC hearing and upon reaching a settlement, they are required to submit the form.

The Community Development Director noted the only change to the form would be to require the specific percentage since the other information is collected prior to the RRAC hearing; outlined the provision encouraging the parties to reach a voluntary agreement and changing the form to read “acknowledgement” rather than “agreement.”

In response to Mayor Spencer’s inquiry, the Assistant City Attorney stated the form already says “acknowledgement” and the ordinance is being changed to reflect what is on the form.

The Council agreed with the provision.

The Community Development Director outlined the provision regarding the City Attorney determining ownership interest.

Councilmember Ezzy Ashcraft noted an attorney or property manager could have authority.

In response to Mayor Spencer’s inquiry, the Assistant City Attorney stated the previous Council direction was to have someone with ownership interest present; if an entity owns the property, documentation is needed to determine who has rights to bind the entity, such as a President or Vice President.

Mayor Spencer stated before the ordinance was adopted, the landlord could send someone without any authority to the RRAC hearing, which was not productive; the hearings are more productive now.

Councilmember Oddie stated that he does not want to weaken the requirement.

The Assistant City Attorney stated the provision is not being weakened; it will state that the City Attorney’s office will review documentation to make a determination about who can represent an entity at the RRAC hearing.

Councilmember Ezzy Ashcraft stated the requirement to have someone with an ownership interest could mean someone from out of state has to be present; the City wants someone with the legal authority to bind present; the hearing will not be prolonged; suggested the language read: “legal authority to bind.”

Mayor Spencer stated that she does not agree with said suggestion; landlords out of state who do not want to come to town can keep rent increases under 5%.

Councilmember Matarrese stated that he likes the language someone legally authorized; gave an example of a property owner with a medical issue.

Mayor Spencer stated that she agrees with the example; however, when the ordinance was adopted, she suggested requiring owners to attend because office managers were showing up to RRAC hearings.

Vice Mayor Vella stated a form could be created for owners with exigent circumstances and someone who has predesignated power of attorney; gave an example of an owner in the military not being able to attend.

In response to Councilmember Ezzy Ashcraft's inquiry, the HAHCD Director stated the ordinance already states someone with legal authority, which covers the military example.

The Community Development Director stated the only change is that the City Attorney would make the determination instead of the Program Administrator.

Vice Mayor Vella gave an example of a property manager not having authority to fix a window; stated the scenario has come up before; that she is concerned about someone without authority delaying outcomes.

The Community Development Director stated the ordinance does not allow a property management company to appear before the RRAC.

Mayor Spencer stated that she also wants to address someone with binding authority appearing for the tenant; that she would prefer to have the tenant present unless there are extenuating circumstances.

The HAHCD Director stated a tenant designating an advocate to be present is approved under a reasonable accommodation request; the ordinance is not being changed.

Councilmember Oddie stated Council wants to avoid having a battle of attorneys.

Vice Mayor Vella stated that she wants to ensure private information on reasonable accommodation requests would not be subject to a record request.

The HAHCD Director stated the reasonable accommodation is kept confidential and is not included in the public record; if requested, medical information would be redacted.

Vice Mayor Vella stated that she saw emails that combined a number of items; the City should be very explicit about what is subject to the Public Records Act.

The Community Development Director outlined the next provision specifying that cases appealed to the City Council with under a 5% increase do not require a person with ownership interest to be present.

The Council agreed with the provision.

The Community Development Director outlined the provision allowing any increase, even if under 5%, to be appealed to a Hearing Officer; noted the provision was

proposed by the RRAC; stated the ordinance does not allow increases under 5% to be appealed to incentivize landlords to keep increases under 5%.

Mayor Spencer stated that she agrees Council intended to create the incentive and would like to keep the ordinance as is.

Councilmember Matarrese and Ezzy Ashcraft concurred.

The Community Development Director noted none of the RRAC decisions have been appealed; outlined the provision making the Program Administrator responsible for notifying tenants about the dispute process being initiated, instead of the landlord.

The Council agreed with the provision.

The Community Development Director stated the Council already expressed support for the next provision placing the burden of proof on the landlord.

The Council concurred.

The Community Development Director outlined the provision allowing the Hearing Officer to proceed if only one party is present.

Mayor Spencer stated the provision only applies if there is not a good reason why the party cannot be present, to which the Community Development Director responded in the affirmative; stated the hearing would be rescheduled if there is a good reason.

The Council agreed with the provision.

The Community Development Director outlined the provision changing definitions to align with State law.

The Council agreed with the provision.

The Community Development Director outlined the provision requiring overcharges to be repaid within ten days if the Program Administrator determines the landlord is overcharging a new tenant.

Mayor Spencer inquired whether there have been occurrences of landlords doing so, to which the HAHCD Director responded in the affirmative.

Councilmember Oddie inquired how the City learns about the issue occurring, to which the HAHCD Director responded staff checks in with new tenants.

Councilmember Oddie inquired whether staff is proactive in each case, to which the HAHCD Director responded in the affirmative.

Vice Mayor Vella stated the trust fund would be discussed later tonight; there should be ways to dis-incentivize anyone not complying with the ordinance; landlords overcharging or not complying with the ordinance should pay a penalty into the trust fund.

Councilmember Ezzy Ashcraft stated that she would want to ensure everyone has been sufficiently educated; suggested a warning be issued first.

The Community Development Director stated staff typically does education first since the ordinance is new.

Vice Mayor Vella stated that she wants options for someone who continues to be out of compliance.

The HAHCD Director outlined the current process; stated if there is non-compliance, the Program Administrator refers the case to the City Attorney's office; if non-compliance continues, the case moves to a citation.

The Community Development Director noted only two citations have been issued.

Councilmember Oddie inquired whether the citations include fees, to which the Community Development Director responded in the affirmative; stated the \$250 citation fee covers staff costs.

The Community Development Director inquired whether Council is okay with the provision, to which the Council responded in the affirmative.

The Community Development Director outlined the next two provisions about the definitions of family members.

Mayor Spencer inquired whether both sides have discussed the issue.

The Community Development Director stated the definitions were drafted based on State or federal law.

Mayor Spencer stated her concern is about the number of people being added being in a one bedroom unit.

The Assistant City Attorney stated the number of people per square foot cannot exceed the Uniform Housing Code.

Vice Mayor Vella inquired whether the definitions would reference that the City is trying to comply with federal and State law.

The Assistant City Attorney responded language could be added to do so.

The Council agreed with the provision with the suggested change.

Councilmember Oddie inquired whether the provision is not adding additional landlord relatives, such as uncles and cousins, to which the Community Development Director responded in the affirmative.

The Community Development Director outlined the provision that specifies the Program Administrator does not need to be notified about for cause evictions.

The Council agreed with the provision.

The Community Development Director outlined the provision making it explicit that Council has authority to adopt policies and regulations.

The Council agreed with the provision.

Mayor Spencer called a recess at 8:14 p.m. and reconvened at 8:18 p.m.

Program Fee

The Community Development Director made brief comments regarding the program fee.

Councilmember Matarrese stated staff should be authorized to complete another study; since cases are being resolved before going to the RRAC, staff should receive professional mediation training; that he would like Council and staff to consider setting up a community fund, which could be funded by a portion of the property transfer tax; there should be an acknowledgement that the fee will have to include costs of an electronic system to track information.

Councilmember Ezzy Ashcraft stated that she agrees with Councilmember Matarrese; the program fee money used to staff and train the RRAC could be allotted to a mediator and a Hearing Officer if the RRAC process ends.

Vice Mayor Vella stated inquired what systems or databases are currently used by the Housing Authority and City.

The Community Development Director responded the Housing Authority is currently using Excel for the rent program and uses Yardi, a specialized software for Housing Authorities; stated the City uses HdL for its business license database and Accela for permit tracking.

The City Manager stated none of the current software is appropriate for the rent program.

The Community Development Director noted the HAHCD Director has a degree in Information Technology and has been doing extensive research on databases.

Vice Mayor Vella stated that she asked the question because members of the public expressed concern over the costs and software; she supports establishing a fee; there should be a way to have the program self-sustaining; Council has discussed different types of programs; inquired whether fee studies would be presented for each of the scenarios being discussed.

The Community Development Director responded the study would be narrowed down to the existing ordinance; until the program is known, staff would not complete a study for other scenarios, such as just cause and FMR relocation benefits.

Councilmember Oddie stated the City paid for the first year of the program as kinks were worked out; there might be changes; the fee should adequately cover the program costs; noted Union City requires a landlord to have a valid business license and properly registered rental unit; inquired about business license collection and whether the City is checking for valid business licenses for RRAC cases.

The Community Development Director responded landlords with multi-family buildings are required to pay a business license of \$20 per unit; stated single family units are exempt from paying a business license; currently, staff does not check to ensure landlords have paid their business license for RRAC cases; a list of rental units staff created was provided to the Finance Department to check against business licenses; Finance followed up with anyone identified who had not paid a business license.

Mayor Spencer stated that she would support doing the cross check when a landlord goes through the RRAC process; anyone without a business licenses should be required to get one; inquired whether the Council concurred, to which the Council responded in the affirmative.

Mayor Spencer stated Council has talked about having the fee paid by only the landlords and tenants; depending on the fee amount, she would like a portion paid by all property owners in order to keep the fee low; the rent ordinance brings stabilization for the entire community.

Councilmember Ezzy Ashcraft noted Mayor Spencer is proposing a tax.

The City Manager stated a user fee, which does not require voter authorization, is being proposed by staff.

In response to Mayor Spencer's inquiry regarding the program benefitting the entire community, the City Manager stated a benefit assessment district also requires voter approval for anyone in the district.

Mayor Spencer stated that she would be open to using General Fund money if her suggestion cannot be done.

The City Manager stated the policy could be discussed when staff brings back the fee.

Mayor Spencer stated Council also wanted to address the trust and the RRAC; inquired whether there is anything to be discussed.

Vice Mayor Vella responded the Council should also discuss a model lease and the sunset provision.

Trust

Councilmember Ezzy Ashcraft stated private realtors have discussed setting up at trust; she would like to keep the discussion open.

In response to Councilmember Oddie, Councilmember Matarrese stated that he suggested using the property transfer tax as a revenue stream to provide seed money for the trust fund, safety net services or funding a mediator; he would like to lock down a funding stream first.

In response to Mayor Spencer's inquiry, the City Manager stated the suggestion could be discussed as part of the budget; mediator costs would be included as a line item when the program fee returns and Council could decide whether to include the amount in the program fee or the budget.

Councilmember Matarrese expressed support for the City Manager's suggestion.

Councilmember Oddie stated that he likes Councilmember Matarrese's idea and would like to pursue it.

Mayor Spencer stated the Council supports the suggestion.

RRAC

Councilmember Ezzy Ashcraft stated the RRAC relies on volunteers with little training in mediation; turnover requires new members to be trained; the RRAC is tasked with making a decision regarding housing; only difficult cases end up at the RRAC since the Housing Authority staff or mediators settle the majority of the cases; suggested that the RRAC process be replaced with staff or a third-party mediator attempting to resolve the issue; stated if the attempts at resolution fail, cases that fit the criteria could go to a Hearing Officer for a binding decision, which gives the parties even more incentive to settle; the RRAC meetings cause discussions about personal matters, such as finances, to be public; tenants have even answered medical questions in the public setting; a public setting is not conducive to a productive, candid discussion; tenants are intimidated to participate in the process; the RRAC process prolongs reaching a

resolution as matters have to be placed on the agenda; eliminating the RRAC would streamline the process; money spent on staffing and training the RRAC could be directed elsewhere; the situation was simpler when the RRAC was first formed; a more sophisticated, effective response is needed.

Councilmember Matarrese stated the suggestion is something to think about; he would like an outside party to evaluate the system, especially because of the success of so many cases being resolved by mediation; mediation cannot be done at the RRAC.

Vice Mayor Vella stated that she supports Councilmember Matarrese's suggestion; mediation only works when both parties are committed to reaching a settlement; mediation needs to be voluntary; she would like to review the option of having the mediator outside of the system and not a Housing Authority employee; having outside mediators and Hearing Officers would add legitimacy and would untangle the Housing Authority and City Attorney staff.

Mayor Spencer inquired whether Vice Mayor Vella would like the mediators instead of the RRAC, to which Vice Mayor Vella responded that she would like to see the costs and understand what the proposal would look like for increases under 5%; some of the most contentious cases before the RRAC have been increases under 5%; different options should be reviewed depending on costs and the recommendation of the outside party conducting the evaluation.

Mayor Spencer inquired whether Vice Mayor Vella supports having a mediator prior to or instead of cases going to RRAC, to which Vice Mayor Vella responded that she would consider both; stated there could be three things to consider: 1) whether a mediator should be hired by the Housing Authority or contracted out, 2) whether the RRAC should be eliminated, or 3) whether certain cases should go to a Hearing Officer instead of the RRAC.

Councilmember Oddie stated that he agrees with suggestion to have an outside evaluation; when the ordinance was adopted, he proposed to have the RRAC as the appellate board for the Hearing Officer to ensure criteria for approving a rent increase was met; he is open to suggestions on how to improve the process; the more mediation up front, the better; he is concerned about the process being so public; however, Council thought the public shaming of going to the RRAC with a large increase might be effective.

Mayor Spencer stated that she is not sure who would be able to conduct the evaluation and is concerned about the cost; she does not support the City spending money on a consultant; she thinks the program is working very well; she attends most RRAC meetings; having both parties present is critical; the first step should be having a mediator; the Housing Authority should determine whether the mediator is on staff or a professional; the Housing Authority has been very effective at training staff; the RRAC process has been part of the community since the 1970s; seeing peers from the community on the RRAC contributes to having a genuine conversation; she would be

concerned about having someone from outside the community; the RRAC members have an inherent interest in resolving the issue; paying someone might not be as effective; her goal has been for cases to reach a settlement.

Sunset Clause

Vice Mayor Vella stated Council has not discussed the sunset clause; that she would prefer to remove the sunset clause since Council can amend the ordinance at any time.

Councilmember Matarrese stated that he does not think it matters; a Council will have to address the matter when the sunset clause ends; the voters approved language allowing the Council to amend the ordinance.

Councilmember Oddie stated that he supports removing the clause.

In response to Mayor Spencer's inquiry, Councilmember Matarrese stated that he does not want to remove the clause if it will take additional time.

Councilmember Ezzy Ashcraft stated leaving the provision in for now is okay; the City just completed the first year; more information is needed.

Mayor Spencer stated that she agrees with leaving the provision in right now.

RRAC Study

The Community Development Director stated that she would like to address the RRAC study which has been requested.

Mayor Spencer inquired whether Council would consider setting a limit to the amount that can be spent on the study.

Councilmember Ezzy Ashcraft stated that she does not want to make a decision without more information.

Mayor Spencer inquired whether the matter has to return to Council if the amount is above a certain threshold, to which Councilmember Oddie responded in the affirmative.

The Community Development Director noted the amount is up to \$75,000.

Mayor Spencer inquired whether Council is authorizing staff to spend up to \$75,000, to which Councilmember Matarrese responded in the affirmative.

Councilmember Oddie stated the amount is under the City Manager's purview.

Councilmember Matarrese stated the information is worthwhile; that he does not want to make a decision based on the tradition of having the RRAC; having the matter

objectively reviewed is worth the money.

The Community Development Director inquired how the Council might want to handle single family units, such as having the Hearing Officer make a non-binding decision; stated direction on exempt versus non-exempt units might be helpful.

Mayor Spencer stated that she would be concerned about not offering relief to tenants in single family homes; she wants protection for all tenants.

Councilmember Matarrese stated rather than the Council providing feedback, the consultant should analyze the distinctions and weigh the pros and cons; said information is what he expects from the consultant.

Councilmember Ezzy Ashcraft stated although rent control cannot apply to Costa Hawkins units, there is value in having mediation for said cases.

Model Lease

Councilmember Oddie inquired whether staff is clear on the model lease, to which the Community Development Director responded in the affirmative; stated staff will look into a model lease.

Councilmember Oddie stated the process might be less expensive if there is a model lease.

The City Manager stated a number of landlords have leases particular to their property; stated rather than having a model lease, there could be model lease provisions since the intent is education; all of the details of a lease would not need to be included.

The Community Development Director concurred; stated there could be a model lease addendum similar to what was created for the City's smoking ordinance.

Vice Mayor Vella stated the City of Davis prepared a model lease, which is a good way of ensuring Council's intent is correctly interpreted; she would want to see model lease provisions because there were interpretation issues during the past year.

The Community Development Director summarized staff's objectives: 1) craft a draft ordinance dealing with administrative issues that would return to Council on May 16th; 2) research and study just cause evictions and a FMR formula for relocation benefits; 3) commission a third-party study on the RRAC process; and 4) work on model lease provisions.

Councilmember Matarrese inquired whether the model lease would be an addendum, to which the Community Development Director responded in the affirmative.

CITY MANAGER COMMUNICATIONS

(17-237) The City Manager outlined the numerous calls the City received related to the storm last night; noted the golf course is temporarily closed; stated every week there is a new federal list of sanctuary cities, so far the City is not on the federal list and the definition does not apply to Alameda; currently, the list focuses on cities and counties with jails.

Councilmember Matarrese requested the City Manager to repeat the announcement at the next regular City Council meeting.

The City Manager suggested everyone sing Happy Birthday to the Community Development Director at the end of the meeting.

ORAL COMMUNICATIONS, NON-AGENDA

None.

COUNCIL REFERRALS

None.

COUNCIL COMMUNICATIONS

(17-238) Vice Mayor Vella commended Recreation employees who saved a life on the basketball courts at Alameda Point using one of the City's Automated External Defibrillators (AED).

(17-239) Mayor Spencer stated the splash into spring egg scramble would be moved to next Saturday, April 15th, due to weather conditions.

ADJOURNMENT

There being no further business, Mayor Spencer adjourned the meeting at 9:03 p.m.

Respectfully submitted,

Lara Weisiger
City Clerk

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