

MINUTES OF THE SPECIAL CITY COUNCIL MEETING  
TUESDAY- -APRIL 2, 2019- -5:00 P.M.

Mayor Ezzy Ashcraft convened the meeting at 5:04 p.m. Vice Mayor Knox White led the Pledge of Allegiance.

ROLL CALL - Present: Councilmembers Daysog, Knox White, Oddie, Vella, and Mayor Ezzy Ashcraft – 5.

Absent: None.

AGENDA ITEM

(19-184) Recommendation to Provide Direction to Staff Regarding Various Amendments to the City's Rent Review, Rent Stabilization, and Limitations on Evictions Ordinance (No. 3148) Which May Include Amending Various Sections of Article XV of Chapter VI Concerning Review of Rent Increases, Limitations on Evictions, Eliminating the Sunset Clause, and Making Clarifying Amendments; and

(19-184A) Public Hearing to Consider an "Ellis Act" Policy and Resolution No. 15517 "Adopting a Policy Concerning the Requirements, Procedures, Restrictions and Mitigations Concerning the Withdrawal of Residential Rental Units from Rent or Lease (Ellis Act Policy)." Adopted.

The Base Reuse and Community Development Director gave a Power Point presentation.

Councilmember Daysog inquired whether staff has met with landlord stakeholders in the weeks leading up to the meeting

The Base Reuse and Community Development Director responded in the negative; stated based on Council's decision on the item, staff will reach out to stakeholders.

Councilmember Oddie inquired how Accessory Dwelling Units (ADU's) will be treated.

The Base Reuse and Community Development Director responded ADU's can be an independent unit on a property or within the primary home; stated a permitted ADU is treated as a single family home if the homeowner lives in the main house; if the ADU is not permitted, it is treated as two units to encourage legalization of the ADU; discussed the single family home classification.

In response to Councilmember Oddie's inquiry, the Base Reuse and Community Development Director stated all rental units are subject to the City's termination limitations and are required to pay relocation benefits.

Councilmember Oddie inquired what protections are available for residents of Cardinal

Point.

The Base Reuse and Community Development Director responded assisted living projects in Alameda are not covered by the rent stabilization ordinance.

Councilmember Oddie inquired what authority Council has to control rents at Independence Plaza.

The Base Reuse and Community Development Director responded Independence Plaza is a senior affordable housing project owned by the Housing Authority; outlined Ordinance 3148 exemptions; stated the Housing Authority has committed to adopt regulatory agreements on its projects.

In response to Councilmember Oddie's inquiry, the Base Reuse and Community Development Director responded the specific ordinance is related to the duties and purpose of the Rent Review Advisory Committee (RRAC); stated Council may provide direction on amendments to be made and the role of RRAC may change; the language can be updated if requested.

In response to Mayor Ezzy Ashcraft, Base Reuse and Community Development Director outlined the buyout agreement process.

The Interim City Attorney stated a buyout typically occurs when a landlord and tenant reach an agreement where the tenant vacates the property for consideration.

Councilmember Vella inquired about the Ellis Act move-out protections for short-term rentals such as AirBNB.

The Base Reuse and Community Development Director responded when Council is presented with the AirBNB ordinance, it considers the number of days someone can rent a unit.

Councilmember Vella inquired when Council will be presented with the AirBNB ordinance with Transient Occupancy Tax (TOT).

The Base Reuse and Community Development Director responded the items are part of staff's workplan; stated the AirBNB ordinance can move simultaneously with rent ordinance amendments to give continuity.

Mayor Ezzy Ashcraft stated the new City Attorney arrives next month and has experience with these matters; it would be beneficial to have his input on the ordinances.

Mayor Ezzy Ashcraft requested the City Clerk provide locations for meeting overflow; to which the City Clerk stated there is space in room 360 as well as the Elk's lodge.

Stated renters needs just cause and a cap lower than 5%; needs of seniors and disabled should be considered: Jan Santos, Alameda Renters Coalition (ARC).

Stated rent increase will create more homelessness and cause families split up; her rent has doubled during the last 10 years: Patty Nash, Renter.

Discussed her experience as a renter; expressed concern over the Rent Review Advisory Committee process: Tristen Schmidt, The Village.

Urged adoption of a cap on rents and just cause: Katya Schiesser, ARC.

Discussed her rental situation: Diana Cabcabin, Filipino Advocates for Justice (FAJ).

Discussed rent and income statistics: Alyssa Morisado, FAJ.

Expressed support for a rent cap and just cause, and concern over students having to leave Alameda: PJ Tigas, FAJ/BY6.

Stated her landlord does not do repairs because he wants her family to leave: Pauline Roxas, FAJ.

Expressed concern over the 5% rent increase: Sabrina Igat, FAJ.

Discussed the need for just cause and a rent cap: Frida Schiesser, ARC.

Stated that she has become the union representative for the National Association of HUD Tenants (NAHT) Urged Council to contact her if people need help: Bunny Duncan, NAHT.

Urged changes be made to the ordinance to assist renters: Lester Dixon, FAJ.

Expressed support for everyone coming out to support renters: Doyle Saylor, Renewed Hope.

Stated renter protection is needed: Wes Swedlow, Alameda.

Urged Council to support rent control and just cause: Austin Tam, Buena Vista United Methodist Church.

Stated stronger rent control is needed to prevent the displacement crisis; 5% is too high: Zac Bowling, Alameda.

Stated her landlord would only increase rents when tenants left prior to the ordinance and now increases rents by 5% every year: Cheri Johansen, Alameda Progressives.

Stated just cause eviction is needed and 5% does not work; suggested the cap be

2.5%: Rob Hayes, Alameda.

Expressed support for rent stabilization; discussed his rental situation and wages: Keegan Tatum, Alameda.

Stated the Council gave unions 9% raises over four years; outlined the School District salary increases; stated in four years, rent could increase 20%: Al Wright, Alameda.

Compared her rent increases to her Social Security increases: Toni Grimm, Alameda.

Stated that he is not opposed to rent control; suggested a process allow Ordinance 3148 to sun set and create new regulations: Jay Garfinkle, Landlord.

Expressed concern over the 5% rent cap: Steve Scheisser, Alameda.

Stated that she supports just cause eviction in the CASA Compact; a rent cap below 5% is needed; a rate of return for landlords should not be guaranteed: Laura Thomas, Renewed Hope.

Discussed his friend being priced out of Alameda: Bill Rowen, Alameda.

Discussed her rental situation: Irma Garcia-Sinclair, ARC.

Stated a lower rent cap is needed; expressed concern over the years included in the Ellis Act: Catherine Pauling, ARC.

Stated that she has been a landlord for 30 years; she would prefer to sit down together and work things out; large corporations are usually the problem: Karen Bey, Alameda.

Discussed the rent cap and landlord expenses: Tony Charvet.

Discussed Ordinance 3148 and 5% not being enough for landlords: Malcom Lee.

Stated existing renters need to be protected from large rent increases and evictions without cause: Sophia DeWitt, East Bay Housing Organization.

Discussed Section 8, which should be continued; stated some landlords need to raise rents: Leslie Carter, Alameda.

Discussed fairness: Richard Neveln.

Expressed support for rent control and concern over how she will pay her rent increase: Abeba Moldemuriam, Alameda.

Discussed his rental situation; urged adoption of just cause; stated 5% is too high: Rasheed Shabazz, Alameda.

Councilmember Oddie stated housing is a basic human right; due process is needed, including just cause; the time for a hard rent cap is now; staff should return to Council with analysis of a proper rent cap; Costa Hawkins exemptions should be in place to allow for relocation benefits; he would like to see the changes in Ordinance 3180 come back; proof of payment should be required when passing on 50% or more of pass-through fees; the Ellis Act year limits should be five and ten year increments for penalties; there should be a cap on the number of days a short term rental such as AirBNB can be rented; relocation benefits should go through HUD; additional relocation benefits should be awarded to seniors and those with disabilities; progress is being made on the rent registry; discussed the rent cap and RRAC process; stated carve-outs would not provide benefits for those in commercial rental units; ADU's allow for carve-outs; requested families with school-aged children have evictions delayed until the end of the school year.

Vice Mayor Knox White concurred with Councilmember Oddie's statements; stated the hearing is due; just cause should return to Council as soon as possible; staff should reach out to landlords to discuss items not included in the current list of allowable reasons for cause; rent caps become an issue for those who wish to increase rent higher than the allowable cap; CPI should not be used and staff should find a way to ensure people are not receiving unaffordable rent increases; there should be a process for fair rate of return on rental property for landlords.

Councilmember Daysog outlined the history of rent increases for the City; showed slides with data provided by a local blog; stated the City should continue with Ordinance 3148; outlined average rent data from the US Census and American Community Survey (ACS) Census Bureau.

Mayor Ezzy Ashcraft requested the City Clerk provide details for the remaining meeting agenda, to which the City Clerk outlined the process.

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Mayor Ezzy Ashcraft called a recess at 7:01 p.m. and reconvened the meeting at 8:18 p.m.

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Councilmember Daysog stated that he would like staff to work with a technical working group consisting of landlord and renters to deal with various exhibits, to gain stakeholder input, and have the input relayed to Council.

Vice Mayor Knox White stated the data presented by Councilmember Daysog based on the blog post is incorrect; outlined incorrect no cause eviction data; stated it is important to understand that no cause evictions have increased; many speakers stated they cannot afford their rent increases; he would like to know how many people are receiving increases that are unaffordable causing them to leave town.

Councilmember Vella stated no cause evictions have increased; recommendations should not be based off blog posts and should be based off data and actual analysis; there are a number of big issues that staff has been tasked with looking into; 58% of people in Alameda have experienced a rent increase; requested the number of people who have been displaced as a result of rent increases; stated the ordinance has had unintended consequences; just cause should return to Council sooner rather than later, with an AirBNB regulation and review; AirBNB is taking rental units off the market; 90 days for AirBNB is not enough of a regulation; expressed support for a 30 or 45 day cap on AirBNBs; requested the budget costs be included in the report back; expressed support for having staff return with a rent cap; expressed concern with the RRAC and its processes; stated a registry should happen, but the data should be properly comprised; expressed support for Costa Hawkins exempt properties with a constructive eviction requiring relocation benefits; stated a subcommittee would be a biased and selective way to do analysis; requested staff speak with different people; stated a housing policy does not exist Country-wide, a system for property ownership exists; decisions should be made based on community, compassion, and empathy for those who have experienced housing insecurity; more housing units are needed; expressed support for Councilmember Oddie and Vice Mayor Knox White's proposals.

Mayor Ezzy Ashcraft outlined data provided at League of Women Voters meeting; stated every city must do its part to aid the housing crisis; the RRAC program as developed in the 1970's, under a different mindset and outlook; expressed support for a rent cap; discussed her approval of the original rent cap; stated CPI should be looked at as it provides hard data; expressed support for Ellis Act and the 5-year limit; stated relocation benefits should follow the HUD model; stated money would be better spent toward hearing officers versus the RRAC program; expressed concern with the personal nature of information that is provided by tenants; expressed support for removing no cause evictions; expressed concern over requests for repairs going unexpressed due to fear of retaliation by landlords; expressed support of buyouts and constructive evictions; stated landlords should develop a contributable fund where smaller landlords can petition to use the funding for potentially unaffordable costs such as relocation benefits; more affordable housing must be built; splitting fees should not be counted toward the cost of rent.

Councilmember Daysog stated hard data shows Ordinance 3148 is working; Council should work within the ordinance; the ordinance can be modified with renters working with mom and pop landlords; the ordinance should not be replaced altogether; the data shows the ordinance should be kept and modified as needed, if necessary.

Councilmember Oddie stated the intention of the 5% rent cap was to be a cap, not the floor; the formula to help buildings from having mass evictions was not successful.

The Base Reuse and Community Development Director recounted Council's direction.

Mayor Ezzy Ashcraft stated that she supports reaching out to the community, but a subcommittee is not necessary.

Councilmember Oddie stated that he is happy to hear from the public, but it should not hinder the process.

The Base Reuse and Community Development Director stated it is possible to come back at the second meeting in May with changes; the maximum allowable rent increase may have to come back in June; the goal is to bring just cause back at the second meeting in May for Council action.

Vice Mayor Knox White requested a broader approach to the outreach on rent caps.

The Base Reuse and Community Development Director stated staff will look at the time-frame to come back to Council for the AirBNB ordinance; inquired if there is a desire from Council to have AirBNB come back with just cause, in which there may be a delay with just cause coming back for consideration.

Councilmember Vella inquired when the Ellis Act portion is coming back for Council consideration to which the Base Reuse and Community Development Director responded the action is currently being discussed.

Councilmember Vella stated the AirBNB portion may return in July.

Mayor Ezzy Ashcraft stated just cause should take priority.

The Base Reuse and Community Development Director stated just cause will return at the second meeting in May; staff will return with recommendations to the maximum allowable rent increase, rent increase banking, the role of RRAC versus hearing officers, maximum rent caps and the impact on the budget; the item will come back as a standalone ordinance; outlined the amendments provided for consideration; stated staff will discuss the proposed amendments with members of the community.

Councilmember Vella inquired which items Councilmember Daysog specifically requested be looked at; expressed concern about one Councilmember providing direction to staff versus Council as a body providing direction.

Vice Mayor Knox White inquired if requests for modifications from Councilmember Daysog are being considered.

Councilmember Daysog stated that his goal is to obtain stakeholder input for people to gain landlord perspective.

The Base Reuse and Community Development Director responded the proposed amendments have been vetted since the spring of 2017 when the ordinance was adopted; stated if the Council desires a review of the items within the community, staff will facilitate the discussion.

Mayor Ezzy Ashcraft stated the items listed by Councilmember Daysog relate to Exhibit 2 of the staff report; expressed support for leaving the items as-is and moving forward; stated there is not a pressing need to go back.

Councilmember Oddie stated passing on 50% of the rental fee should be reviewed.

The Base Reuse and Community Development Director stated staff's recommendation is to have the portion of the rent fee passed onto the tenant not be part of the rent cap; inquired if staff may review the items listed in Exhibit 2 to determine which might be moot based on the current discussion.

Councilmember Vella stated the direction from the majority of Council is to have the staff analysis done, but it should not hold up just cause or the rent cap conversation and should be standalone ordinances.

The Base Reuse and Community Development Director stated Council should take action on just cause eviction protections and on the maximum allowable rent increase so staff may know what the ordinances should require.

Vie Mayor Knox White stated that he spoke with many landlord groups while campaigning; outlined responses from landlords related to just cause and Measure K; stated the issue should return to Council as timely and soon as possible.

The Base Reuse and Community Development Director stated the new ordinances should be checked against policy to ensure consistency and relevant changes are made.

Councilmember Oddie stated that he will not support changes, but staff should be prepared to answer questions should they arise.

The Base Reuse and Community Development Director inquired whether Council wants to proceed with changes to relocation benefit formulas.

Mayor Ezzy Ashcraft responded the annual report for the rent program is coming in September, and that would be the right time to consider changes.

The Base Reuse and Community Development Director stated the changes will be incorporated into the discussion in September; staff is requesting Council to adopt the Ellis Act policy tonight.

Vice Mayor Knox White inquired who will be tracking properties affected by Ellis Act policy; expressed support of the 2-year provision if proper tracking is executed.

The Base Reuse and Community Development Director responded there will be a requirement to record that an Ellis Act termination has occurred against the title of a property, along with providing the contact information of the in-place tenant; stated the



current operation is complaint based; Ellis Act terminations will provide certainty with the provision recorded on the title of the property.

The Interim City Attorney stated a number of forms have been created to provide to both landlords and tenants to track the policy.

Councilmember Oddie expressed support for the 5 and 10 year provision under Ellis Act terminations; inquired if changes need to be made.

The Base Reuse and Community Development Director responded that changes are not needed, the penalty is independent of the maximum allowable rent increase; stated a rent only 5% higher than the in-place tenant can be charged if the unit is rented within 5 years.

Councilmember Vella expressed support for adopting the Ellis Act policy; stated if changes need to be made in the future after just cause, the issue can be agendized.

Councilmember Vella moved adoption of the resolution, with direction to have it agendized with just cause to allow amendment.

Councilmember Oddie seconded the motion, which carried by unanimous voice vote – 5.

### ADJOURNMENT

There being no further business, Mayor Ezzy Ashcraft adjourned the meeting at 8:59 p.m.

Respectfully submitted,

Lara Weisiger  
City Clerk

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

MINUTES OF THE REGULAR CITY COUNCIL MEETING  
TUESDAY- -APRIL 2, 2019- -7:00 P.M.

Mayor Ezzy Ashcraft convened the meeting at 7:07 p.m.

ROLL CALL - Present: Councilmembers Daysog, Knox White, Oddie, Vella,  
and Mayor Ezzy Ashcraft – 5.

Absent: None.

AGENDA CHANGES

Vice Mayor Knox White inquired about moving the cannabis matter [paragraph no. 19-200].

The Council did not move the item.

Mayor Ezzy Ashcraft noted the 434 Central Avenue rent case [paragraph no. 19-199] was withdrawn.

PROCLAMATIONS, SPECIAL ORDERS OF THE DAY AND ANNOUNCEMENTS

(19-185) Mayor Ezzy Ashcraft did a reading on the Season for Non-Violence word of the day on the Golden Rule.

(19-186) Proclamation Declaring April 2019 as Parkinson's Awareness Month.

Mayor Ezzy Ashcraft read the proclamation and presented it to Nancy Husari, PD Active.

Ms. Husari made brief comments.

(19-187) Proclamation Declaring April 8 through April 12, 2019 at National Boys and Girls Club Week.

Mayor Ezzy Ashcraft read the proclamation and presented it to Alameda Boys & Girls Club representatives and students.

Representatives of the Boys & Girls Club made brief comments.

ORAL COMMUNICATIONS, NON-AGENDA

(19-188) Caroline Featherstone and Grace Huxley, Political and Proud, made an announcement regarding their annual event.

(19-189) Joanna Lau, International Chi Institute, discussed services for students,

including tutoring; expressed concern over City staff not meeting with existing businesses; stated tutoring is occurring within the 600 foot cannabis buffer.

(19-190) Rosalinda Fortuna, Alameda, expressed concern over businesses not being informed of the Webster Street dispensary; read a petition opposed to the dispensary.

### CONSENT CALENDAR

Mayor Ezzy Ashcraft announced the ordinance for a lease with Nautilus [paragraph no. 19-196] and the continued hotel appeal hearing [paragraph no. 19-197] were removed from the consent calendar for discussion.

Vice Mayor Knox White moved approval of the remainder of the Consent Calendar.

Councilmember Oddie seconded the motion, which carried by unanimous voice vote – 5. [Items so enacted or adopted are indicated by an asterisk preceding the paragraph number.]

(\*19-191) Minutes of the Special City Council Meetings Held on March 5, 2019. Approved.

(\*19-192) Ratified bills in the amount of \$1,108,171.40.

(\*19-193) Recommendation to Authorize the Interim City Manager to Accept the Work of TriPointe Homes, for Tract 8131, Alameda Landing Phases I, II, and III. Accepted.

(\*19-194) Recommendation to Authorize the Interim City Manager to Award a One-Year Contract in the Amount Not to Exceed \$128,230, including Contingency, to Ninyo & Moore for the Cross Alameda Trail/Ralph Appezzato Memorial Parkway Improvements, No. P.W. 03-18-11. Accepted.

(\*19-195) Resolution No. 15515, “Amending the City of Alameda Emergency Operations Plan (EOP).” Adopted.

(19-196) Introduction of Ordinance Authorizing the Interim City Manager to Execute a Fifteen-Year Lease with Two Five-Year Options to Extend, Substantially in the Form of the Attached, with Nautilus Data Technologies, Inc., a Delaware Corporation, for Building 530, an 82,251-Square Foot Building Located at 120 West Oriskany Avenue, and the Adjacent Building 529, a 3,200-Square Foot Building, and Building 600, a 343-Square Foot Building, at Alameda Point. Introduced.

The Assistant Community Development Director gave a brief presentation.

Gave a Power Point presentation: Jim Connaughton and Byron Taylor, Nautilus; Katie Chamberlin, Anchor QEA, LLC; Jim Harvey, Moss Landing Marine Laboratories; and Keith Dines, NVIDIA.

Stated the new proposal having the warm water farther from the seals is an improvement; expressed concern about implementation: Mark Klein, Alameda Point Harbor Seal Monitor.

Discussed the general vision for Site B; expressed opposition to the project and its proposed location: Richard Bangert, Alameda.

Expressed support for the project; stated the developer has committed to using union labor: Andreas Cluver, Alameda County Building Trades.

Expressed support for Nautilus; outlined Natel's business needs that can be provided by Nautilus: Ben Ward, Natel Energy.

Councilmember Vella expressed concern about East Bay Regional Parks District (EBRPD) not being included in the list of reviewing entities; stated EBRPD should provide input; expressed concern about Council consistency; stated a climate emergency was declared at the previous Council meeting; stated rising sea levels and warming waters are a noted issue; approving a project that warms the water is inconsistent with the climate emergency; outlined Nautilus' Chief Executive Officer's (CEO) involvement with Clear Path; stated good construction jobs are needed; expressed concern about the size of the facility and the number of jobs being created; stated the space is very large with a small number of good jobs; small changes can be harmful to the delicate ecosystem.

Councilmember Oddie stated every item coming to Council for review is shows environmental impacts; expressed concern about potential effects of warming water; discussed the Water Emergency Transportation Authority (WETA) facility project impacts related to harbor seals; stated Site B development should not be blinded by the lure of profits for Alameda Municipal Power (AMP) if the project does not fit the desired outcome for Site B.

Vice Mayor Knox White stated the project would be in line with the climate emergency declaration; discussed data center energy usage; stated the outcome would help move away from negative impacts; discussed the pipe design related to warming water and a discussion with a member of the Water Control Board; stated the project is not incongruent and will come back to Council for final approval; expressed support for the project.

Councilmember Daysog stated the project falls within the process outlined for Site B; discussed the process for different areas of Alameda Point; stated staff has fully evaluated the project; the project layers of approval and development will go through many entities; Council can consider any negative impacts; the project should be supported by Council; expressed support for the project.

Mayor Ezzy Ashcraft expressed support for the project; stated new businesses coming to Alameda create jobs; the project supports other businesses, such as Natel; there is a short window for project approval; the project is ready to cross the first threshold of approval.

Councilmember Vella expressed concern about being a guinea pig for new ideas; stated some of the technology is new and unproven; inquired why there is a rush for approval prior to the Enterprise District tour.

The Assistant Community Development Director responded the lease has been shortened based on typical leases for the area; stated the option to purchase has not been offered; the lease will not hinder Site B; the Site B process can still move forward due to the length of time development will take.

James Connaughton, Nautilus, stated Nautilus is happy to work with the City, but resources are finite and cannot be held for an extended period of time; another location must be found if Alameda does not approve the project; the preferred location is Alameda; discussed the purpose of the company and the technology making a dramatic dent in the climate change problem.

Councilmember Vella stated that she is not currently in support of the item; she would like to wait until after the Enterprise District tour on April 22<sup>nd</sup>; inquired if approval must occur or if it can happen at a future Council meeting.

Mr. Connaughton responded Nautilus is amenable to waiting a few more weeks; stated the project is in alignment with the plan for Site B; Nautilus is looking forward to deploying its technology within Alameda.

Councilmember Oddie suggested a motion be made to table the item until May 7<sup>th</sup> or 21<sup>st</sup>.

Mayor Ezzy Ashcraft stated questioned whether a tour of Site B will answer questions about the climate emergency and concerns about CEO's involvement with Clear Path; stated if the concerns can be addressed at the time of the tour, approval should be delay; however, if the plan is to delay and still vote no, the decision should be made sooner rather than later.

Vice Mayor Knox White inquired if the item could be addressed at the April 22<sup>nd</sup> meeting.

The Assistant Community Development Director stated the item cannot be approved at a special meeting; the soonest the item can return for Council consideration is May 7<sup>th</sup>.

Vice Mayor Knox White moved the item be continued to May 7<sup>th</sup>.

Councilmember Vella seconded the motion.

Under discussion, Councilmember Daysog inquired whether the item requires four votes due to it being a lease or if it is due to sale of property.

The Interim City Attorney responded the City Charter requires four votes for a long-term lease of City property.

On the call for the question, the motion carried by unanimous voice vote - 5.

(19-197) Continued Public Hearing of Item 6-E on the March 19, 2019 City Council Agenda to Consider Resolution No. 15516, "Denying the Appeal and Remanding the Design Review for a 96-Room Hotel with 62 Parking Spaces at 1825 Park Street (PLN17-0538) for Further Consideration by the Planning Board (for Reasons Independently Considered by the City Council that Were Not Raised in the Appeal)." Adopted.

Councilmember Vella moved adoption of the resolution.

Councilmember Oddie seconded the motion, which carried by the following voice vote: Ayes: Councilmembers Oddie, Vella and Mayor Ezzy Ashcraft – 3. Noes: Councilmembers Daysog and Knox White – 2.

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Mayor Ezzy Ashcraft called a recess at 8:18 p.m. and reconvened the meeting at 8:59 p.m.

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## REGULAR AGENDA ITEMS

(19-198) Introduction of Ordinance Amending the Alameda Municipal Code by Eliminating the Sunset Clause (December 31, 2019) from Ordinance No. 3148 (City of Alameda Rent Review, Rent Stabilization, and Limitations on Evictions Ordinance). Introduced.

Stated that he is not in favor of eliminating the sunset clause; urged Council to review the issue and come up with different solutions: Lester Cabral, Alameda.

Stated that she is in favor of eliminating the sunset clause; the housing crisis has worsened; homelessness has increased over the years: Catherine Pauling, Alameda Renters Coalition.

Councilmember Vella moved approval of removing of the sunset clause.

Mayor Ezzy Ashcraft inquired whether the motion is to introduce the ordinance, to which Councilmember Vella responded in the affirmative.

Vice Mayor Knox White seconded the motion.

Under discussion, Councilmember Daysog expressed support for removing the sunset clause; stated rental stock will decrease in the future; restrictions are too harsh and will force small landlords out of Alameda.

On the call for the question, the motion carried by unanimous voice vote – 5.

(19-199) Recommendation to Review the Rent Review Advisory Committee (RRAC) Case regarding the Rent Increase at 434 Central Avenue, Apartment 111, and Issue a Non-Binding Decision. Withdrawn.

(19-200) SUMMARY: Consider Four Cannabis Related Ordinances (as directed by the City Council on February 19, 2019) and Provide Direction on Phasing Cannabis Permits as Follows: Two Ordinances (A and B) to Repeal the Existing Cannabis Regulations; following a Public Hearing, Two Ordinances (C and D) to Adopt the Same or Similar Regulations; and Consider Phasing the Number of Dispensary/Delivery Permits through the Request for Proposals Process

Recommendation to Consider Introduction of Ordinance (A) to Repeal in Its Entirety Ordinance No. 3227 Concerning Cannabis Regulations in Alameda Municipal Code Article XVI (Cannabis Businesses) of Chapter VI (Businesses, Occupations and Industries) that, Among Other Things, Establishes the Number of Retail Cannabis Dispensaries to be Open to the Public (including Delivery), Disperses Their Operations, Creates a Buffer Zone from Sensitive Uses, and Permits the Sale of Non-Medicinal Cannabis;

(19-200A) Introduction of Ordinance (B) to Repeal in Its Entirety Ordinance No. 3228 Concerning Land Use Requirements in the Zoning Ordinance of Alameda Municipal Code Section 30-10 (Cannabis) that, Among Other Things, Permits Retail Cannabis Dispensaries in Certain Zoning Districts Subject to a Conditional Use Permit and Permits the Sale of Non-Medicinal Cannabis in Certain Zoning Districts;

(19-200B) Public Hearing to Consider Introduction of Ordinance (C) Concerning Cannabis Regulations in Alameda Municipal Code Article XVI (Cannabis Businesses) of Chapter VI (Businesses, Occupations and Industries) that, Among Other Things, Establishes the Number of Retail Cannabis Dispensaries to be Open to the Public (including Delivery), Disperses Their Operations, Creates a Buffer Zone from Sensitive Uses, and Permits the Sale of Non-Medicinal Cannabis;

(19-200C) Introduction of Ordinance (D) Concerning Land Use Requirements in the Zoning Ordinance of Alameda Municipal Code Section 30-10 (Cannabis) that, Among Other Things, Permits Retail Cannabis Dispensaries in Certain Zoning Districts Subject to a Conditional Use Permit and Permits the Sale of Non-Medicinal Cannabis in Certain Zoning Districts; and

(19-200D) Consider Phasing the Number of Dispensary/Delivery Permits through the Request for Proposals Process.

Councilmember Daysog recused himself and left the dais.

The Interim City Attorney gave a brief presentation.

Expressed concern over cannabis consumption near the proposed dispensary on Webster Street; inquired how the no smoking ordinance will be enforced: Anita Ng.

Questioned the regulations; stated there is a 600-foot buffer zone for children centers; questioned what the City has done to fulfill the good neighbor policy requirement; further questioned the credibility Alameda needing 2 to 4 retail stores; inquired if there is a budget for regulation, enforcement and administration; urged transparency: Joanna Lau, International Chi Institute.

Outlined cannabis regulation options; stated The City could follow the State regulations: Phil Redd, Alameda.

Urged Council to discard the item and start over; expressed support of medicinal-only cannabis; stated dispensaries need to be in the right locations: Don Sherratt, Alameda.

Discussed his online cannabis interest group, Alameda Cannabis Times and the signature gathering process for the Adult Use Cannabis Act; outlined missed revenue and employment opportunities: Rich Moskowitz, Alameda.

Outlined concerns raised by the Los Angeles County Health Officer and her experience with working in the health industry; stated City staff needs to improve communications: Serena Chen, Alameda.

Stated there have been many meetings where people could express concerns over the last two years; urged the ordinance be kept as is: Ryan Agabao, Alameda.

The Interim City Attorney outlined the ordinances and options.

Councilmember Oddie inquired if all items can be acted upon in one motion.

The Interim City Attorney responded the items should be considered separately; stated Council has the discretion to combine approval, but it is not recommended.

Councilmember Vella inquired whether one motion could repeal and replace Ordinance 3227 and another motion could repeal and replace Ordinance 3228.

The Interim City Attorney responded four motions are ideal; suggested if Council desires, a motion be made to repeal both, and a separate motion reintroduce both or a motion could repeal and reintroduce Ordinance 3227 and a separate motion could repeal and introduce Ordinance 3228.



Vice Mayor Knox White inquired whether anything states Council must perform four separate motions; stated that he understands the reason to separate the motions.

The Interim City Attorney responded after Council takes action, the City Clerk will assign separate numbers to each ordinance regardless of the route Council takes.

Vice Mayor Knox White stated the Open Government Commission (OGC) previously found one of the ordinances had been mistitled on the agenda leading to the current discussion; stated the discrepancy was small and he does not wish to undo the work completed to-date; expressed support of repealing and replacing the ordinances without changes and moving forward with a third and fourth permit; stated there is a proposal to delay issuing the fourth permit 6-months after the first cannabis dispensary opens; proposed repealing and replacing the ordinances as-written, and directing staff to delay opening the fourth dispensary 6-months after the first opens or July 1, 2020, whichever occurs first.

Councilmember Vella stated concerns would appear more genuine if they were not about on-site consumption; outlined reasons to include on-site consumption; stated that she does not want to approve the item and criminalize on-site consumption after the fact; outlined the process to obtain cannabis licenses; stated the data provided in relation to effects of cannabis on minors is compelling, but dispensaries will not sell to minors; she does not support any delays in dispensaries opening; inquired why the delay proposal was created and how staff would regulate the delay.

The Base Reuse and Community Development Director responded the goal is to issue the Request for Proposals (RFP) once Council completes the first and second readings of the ordinances; stated three additional permits will be issued; the third ranking proposal would not be able to open for business any sooner than 6-months after the first dispensary opens, or July 1, 2020 whichever occurs first.

Councilmember Vella inquired whether the process includes the current RFP applicant.

The Base Reuse and Community Development Director responded in the affirmative; outlined the process.

Councilmember Oddie stated expressed support for a three months delay between occupancy permits; stated that he prefers using the occupancy permit versus the RFP score to allow dispensaries to open.

The Base Reuse and Community Development Director stated the date can be no sooner than 6-months after the first business is open and an outside date of July 1, 2020; RFP applicants would be notified that a condition or right to pursue a permit would include a condition that opening for business could not occur any sooner than 6-months after the first business is open or until July 1, 2020 to ensure certainty.

Councilmember Oddie stated that his preference is use the occupancy permit, not the

RFP ranking process; outlined the benefits to utilizing occupancy permit.

The Base Reuse and Community Development Director stated the outside date prevents stagnation.

Councilmember Oddie requested clarification of Vice Mayor Knox White's proposal.

Vice Mayor Knox White stated that Councilmember Oddie's proposal of using the occupancy permit is correct; the outside date of July 1, 2020 allows the applicant to move forward.

In response to Mayor Ezzy Ashcraft's inquiry, Vice Mayor Knox White outlined the RFP applicants moving through the City and State permit process; stated the third permit may be delayed by either 6-months from when the first dispensary opens, or July 1, 2020 whichever occurs first.

Councilmember Oddie stated the current applicant may encounter an unforeseen delay.

Mayor Ezzy Ashcraft expressed support for the delay; stated the delay allows time to administer the ordinance and new business model; expressed concern about the impact on City staff; expressed concern about the definition of sensitive use and what constitutes a youth center;; stated martial arts studios should be included in sensitive uses moving forward; finding sites for cannabis businesses is difficult; Alameda is family friendly with many places for youth; proposed a friendly amendment to include private enterprises, such as a martial arts studio, containing the requisite number of youth clients to be considered a sensitive use requiring a 600-foot buffer zone; stated the provision does not apply to the applicant on Webster Street; noted the City is allowing medicinal and adult use.

Vice Mayor Knox White moved approval of repealing Ordinance 3227, repealing Ordinance 3228, reintroducing Ordinance 3227 and reintroducing Ordinance 3228 [introduction of the four ordinances], and giving staff direction to issue the RFP for three additional permits for a total of four dispensaries with an expectation that the fourth permit will have a 4.5 month delay of opening from the first or by July 1, 2020.

Councilmember Oddie stated the term "occupancy permit" should be added.

Mayor Ezzy Ashcraft inquired if her friendly amendment proposal related to sensitive use will be included.

Vice Mayor Knox White withdrew his motion.

Mayor Ezzy Ashcraft stated if Vice Mayor Knox White is willing to support her friendly amendment, she will support his motion.

Vice Mayor Knox White stated the discussion of youth centers can occur at a future

date; adding martial arts studios will cause complications; he would like to look at youth centers significantly differently.

Mayor Ezzy Ashcraft inquired whether at one point martial arts centers were included in the definition but later removed.

The Base Reuse and Community Development Director responded the ordinance never characterized martial arts studios as youth centers.

Mayor Ezzy Ashcraft stated the ordinance did list classifications where the majority of students were of a certain age range; inquired whether the same use under an Alameda Recreation and Parks Department (ARPD) facility would be deemed a sensitive use.

The Base Reuse and Community Development Director responded in the affirmative; stated Council decided on that carve-out at a previous meeting and changes have not been made.

Mayor Ezzy Ashcraft stated a message is being sent to the community; Council should treat private enterprises that primarily serve youths the same as ARPD programs.

Councilmember Oddie stated that the item of sensitive use has not been agendaized and could cause sunshine ordinance issues if continued.

The Interim City Attorney stated the recommendation would be to re-notice the item if Mayor Ezzy Ashcraft's amendment is accepted in order to properly introduce the ordinance.

Councilmember Oddie stated if Vice Mayor Knox White is amenable to 4.5 months delay and a date of April 1, 2020, he will support the motion; the condition is related to the occupancy permit, not the RFP rank.

Vice Mayor Knox White stated the occupancy permit is incorrect; it is when the business opens its doors.

The Base Reuse and Community Development Director stated a cannabis business can operate without a Certificate of Occupancy; the best metric is when the business is open and operational.

Vice Mayor Knox White expressed concern discussing sensitive uses and youth centers based on previous Council direction.

Mayor Ezzy Ashcraft inquired if Vice Mayor Knox White would consider the discussion of sensitive use at a future date.

Vice Mayor Knox White responded that he wants the definition of youth centers to be significantly different from what exists; stated an RFP is about to be issued and the intent is not to delay the RFP; after the RFP is issued, the definition of youth center for

future dispensaries can be discussed; the item should move forward.

Mayor Ezzy Ashcraft expressed concern about utilizing where businesses want to locate and tailoring definitions to surrounding businesses; stated a more comprehensive discussion should occur; inquired when the discussion would take place and the process.

Vice Mayor Knox White expressed concern about conversations that have no end point; expressed support for moving the item forward with proper Council support; stated if Council support is not apparent, Ordinances 3227 and 3228 are null and void until Council takes action to uphold or push back on the OGC decision.

The Interim City Attorney stated Council action to repeal the ordinances is not critical; if Council does not wish to go against the OGC, it may choose to reintroduce the ordinances without repeal, which is an acceptable option; repealing the ordinances is not necessary, reintroduction will suffice.

Councilmember Vella stated youth centers has not been agendized and runs a risk of a Brown Act violation; expressed concern about continuing the discussion; expressed support for repealing and replacing the ordinances in the same motion; stated the delays and deadlines overcomplicate the issue; expressed support for Councilmember Oddie's proposed outside date of April 1, 2020; expressed concern about changing definitions at a future meeting.

Vice Mayor Knox White stated that he accepts Councilmember Vella's friendly amendment.

Vice Mayor Knox White moved approval of repealing Ordinances 3227 and 3228, replacing with 3227 as written and 3228 as written [introduction of the four ordinances], and providing direction to staff to issue three permits for a total of four with the fourth operator not being allowed to open until 4.5 months after the first operator is opened or April 1, 2020 whichever comes first.

Councilmember Oddie seconded the motion.

Under discussion, Mayor Ezzy Ashcraft stated that she does not believe the discussion is a Brown Act violation; requesting staff to consider something is within the purview of the item.

On the call for the question the motion carries by the following voice vote: Ayes: Councilmembers Oddie, Vella and Vice Mayor Knox White –3, Noes: Mayor Ezzy Ashcraft –1. [Absent: Councilmember Daysog -1.]

Councilmember Oddie requested clarification that staff has not been directed to come back with any items related to definitions, to which Mayor Ezzy Ashcraft responded in the negative.

Vice Mayor Knox White stated the item has been properly noticed that Council would be discussing the ordinances; anything could have been changed in the ordinances and the item would have been properly noticed.

The Base Reuse and Community Development Director stated based on Council direction, the RFP will be issued after the second reading; on or about April 22<sup>nd</sup>, the RFP will be released.

Mayor Ezzy Ashcraft stated that she also discussed the item with the Interim City Attorney prior to the meeting.

(19-201) Recommendation to Approve Agreement Appointing Eric J. Levitt as City Manager Effective April 10, 2019.

The City Clerk read a summary of the City Manager's salary and benefits.

Mayor Ezzy Ashcraft requested clarification of the summary.

The City Clerk stated the summary is being read out of precaution; noted the City Manager is arriving two days earlier than anticipated.

Councilmember Vella moved approval of the agreement.

Vice Mayor John Knox White seconded the motion, which carried by unanimous voice vote – 5.

#### CITY MANAGER COMMUNICATIONS

(19-202) The Interim City Manager made an announcement regarding Alameda being a staging area for an upcoming Bay Area sailing event, San Francisco Sail GP.

#### ORAL COMMUNICATIONS, NON-AGENDA

None.

#### COUNCIL REFERRALS

None.

#### COUNCIL COMMUNICATIONS

(19-203) Councilmember Vella made an announcement regarding a Lead Abatement Joint Powers Authority meeting and the League of California Cities Housing and Economic Development Policy Subcommittee meeting.

(19-204) February 2019 Topic Brief on Climate Action and Embodied Emissions. [Informational Only] (Councilmember Oddie)

Councilmember Oddie briefly discussed the topic brief.

(19-205) Vice Mayor Knox White made an announcement regarding an Alameda County Transportation Commission (ACTC) meeting that he attended discussing proposed BART changes and a new proposed agency; discussed adoption of the legislative work plan, including Assembly Bill AB1487 to form a regional housing agency.

(19-206) Mayor Ezzy Ashcraft discussed the League of California Cities Housing and Economic Development Committee meeting; stated that she met with Senator Skinner regarding the bill; announced that she attended the opening of Everett Commons and the opening of Littlejohn Park; discussed the Census 2020 Steering Committee and an upcoming CASA Compact meeting.

(19-207) Status of the Emma Hood Swim Center at Alameda High School.

Vice Mayor Knox White provided an update.

(19-208) Review and Discuss Charter Amendment Timeline and Issues Proposed by the Council Subcommittee.

Vice Mayor Knox White and Councilmember Daysog gave a brief presentation on the list of items.

In response to Mayor Ezzy Ashcraft's inquiry, Vice Mayor Knox White stated the timeline can be discussed separately or congruently with the topics; Councilmembers run for office every two years and timing can be difficult; outlined the upcoming primary election ballot costs and potential dates; stated the process is a rough draft for updating the charter.

Mayor Ezzy Ashcraft inquired if the League of Women Voters (LWV) has been notified, to which Vice Mayor Knox White responded in the affirmative.

The City Clerk noted there are prohibitions to the March 2020 election; Council pay and the Auditor and Treasurer positions are among the prohibited items, which would push to the November 2020 election.

Councilmember Vella stated Section 2-9 relates to pregnancy; if placed on bed rest, Alameda Hospital does not have the capacity for labor and delivery; therefore, a pregnant Councilmember would be forced to leave the Island causing an effective vacancy; requiring Council approval for pregnancy related items is demeaning; expressed concern in relation to the Auditor and Treasurer positions not being held to the same standards as Council; stated maternity leave for Councilmembers at 30

consecutive days requires permission, and will be required of her over the summer months; expressed concern about Section 2-14 not applying to the Auditor and Treasurer positions; outlined Section 7-3 as an item to be discussed as a community; if the positions of Auditor and Treasurer continue to exist and receive benefits, inconsistent items apply to Council and not the Auditor or Treasurer; discussed Section 8-1 regarding City Attorney hiring requirements and limitations; requested bifurcation of Charter items to be discussed with different interested parties; stated the process should be made public; the Charter has not been updated for some time, the current update process is due.

Councilmember Oddie stated some items to update can be compartmentalized and reviewed together; expressed support for the process.

Mayor Ezzy Ashcraft requested the LWV be included in the subcommittee conversations; inquired if paid signature gatherers can be reviewed.

The City Clerk responded that the City Charter does trump the Elections Code, but the issue would need to be reviewed.

Vice Mayor Knox White stated there are restrictions that can be adopted, but some methods cannot be stopped.

Mayor Ezzy Ashcraft stated it is a good time to review the City Charter; learning from other cities will be key; the City Attorney hiring requirements can be reviewed; discussed the Measure A process; expressed support of looking at removing the Auditor and Treasurer positions; stated the pregnancy provisions under the Charter need to be updated; requested more refinement to the Charter updates.

Vice Mayor Knox White outlined the items to bring back to Council for discussion.

Mayor Ezzy Ashcraft urged the LWV involvement.

Councilmember Daysog expressed support for Councilmember's Oddie and Vella breakdown to bifurcate topics or put them into "bucket lists;" suggested members of the LWV assist Council in finding which items to place with others.

Vice Mayor Knox White inquired how the Measure A item will be handled.

Mayor Ezzy Ashcraft responded that item should be placed at the top of a discussion list; discussed Measure A issues related to housing.

Vice Mayor Knox White stated that he will strike any Board and Commission updates; Council pay will stay on as a discussion item; paid signature gathering will move to another location, not the City Charter; outlined the general timeline.

Mayor Ezzy Ashcraft requested Vice Mayor Knox White check-in the LWV and set-up a meeting.

Vice Mayor Knox White stated that he has met with the LWV.

Councilmember Vella requested any meeting with the LWV be agendized so that Councilmembers who wish to attend may do so; requested a staff presentation related to paid signature gatherers and what other cities have implemented.

Councilmember Oddie stated that he too would like LWV meetings agendized so that he may attend.

#### ORAL COMMUNICATIONS, NON-AGENDA

(19-209) David Bradford, Alameda, discussed how he has changed moving from the East End to the West End.

#### ADJOURNMENT

There being no further business, Mayor Ezzy Ashcraft adjourned the meeting at 11:03 p.m.

Respectfully submitted,

Lara Weisiger  
City Clerk

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