



# AGENDA REPORT

**TO:** Sabrina B. Landreth  
City Administrator

**FROM:** Claudia Cappio  
Assistant City Administrator

**SUBJECT:** Review and Consideration of Follow  
Up Actions to the Ghost Ship Fire

**DATE:** January 20, 2017

City Administrator Approval

Date:

1/19/17

## RECOMMENDATION

**Staff Recommends That The City Council:**

1. **Review, Consider and Adopt a Resolution Declaring December 2<sup>nd</sup> as Ghost Ship Remembrance Day [from Councilmembers Kaplan and Gallo and a Member of the Public].**
2. **Review, Consider and Adopt as**
  - a. **An Ordinance to Amend the Code Enforcement Relocation Plan, O.M.C. Chapter 15.60, to 1) Increase Relocation Payments for Tenants Displaced for Code Compliance Repairs; 2) Redefine Tenant Eligibility for Relocation Payments to Expand Eligibility for Such Payments; and 3) Enhance Penalty Provisions and Remedies for Violations of O.M.C. Chapter 15.60.**
  - b. **An Emergency Ordinance to Amend the Code Enforcement Relocation Plan, O.M.C. Chapter 15.60, to 1) Increase Relocation Payments for Tenants Displaced for Code Compliance Repairs; 2) Redefine Tenant Eligibility for Relocation Payments to Expand Eligibility for Such Payments; and 3) Enhance Penalty Provisions and Remedies for Violations of O.M.C. Chapter 15.60.**
3. **Discuss the Mayor's Executive Order 2017-1: Improving Safety of Non-Permitted Spaces While Avoiding Displacement**
4. **Review and Discuss the Proposed Citizen Sponsored Interim Emergency Ordinance to Temporarily: 1) Place a Moratorium on Evictions of Residents of Commercially Zoned Properties; 2) Place a Moratorium on Red-Tagging for Non-Life Threatening Violations; 3) Reinforce Existing Tenant Protections to Eliminate Loopholes; 4) Provide Reasonable Notice to Tenants of Upcoming Inspections; 5) Provide Amnesty for Landlords Leasing Commercially Zoned Properties as**

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**Residential and 6) Open Avenues to Long-term Solutions for Oakland's Housing Crisis. (No Action Recommended).**

**EXECUTIVE SUMMARY AND BACKGROUND**

The City Council scheduled this special meeting to review and consider four items related to the Ghost Ship fire. Two of the items are recommended for action and two are included for information and discussion. First, the Oakland Warehouse Coalition has submitted a request to consider a resolution that would declare December 2<sup>nd</sup> Ghost Ship Remembrance Day. That resolution is included as **Attachment A** to this staff report and staff recommends that the Council review, consider and adopt it.

Second, Councilmember Kaplan has put forth a series of amendments to the Code Enforcement Relocation Program (OMC Chapter 15.60.). The amendments would result in: 1) increased relocation payments for tenants who are displaced for code compliance repairs; 2) a revised definition of tenant eligibility for relocation payments to expand eligibility for such payments and 3) enhanced penalty provisions and remedies for violations of OMC Chapter 15.60. This proposed ordinance amendment was originally scheduled for the Community and Economic Development Committee (CED) on January 10, 2017 but was pulled in order to consider it as an urgency measure at a future Council meeting. An additional ordinance has been prepared for the City Council's consideration containing urgency findings and is included as **Attachment C**. **Attachment B** is the full January 10, 2017 CED Committee staff report and Ordinance for the Council's reference. Staff recommends that the City Council review and adopt both of these ordinances so that increased relocation benefits can be effective immediately along with clarity in eligibility and stronger enforcement remedies.

Third, the Mayor's recent Executive Order 2017-1: Improving Safety of Non-Permitted Spaces While Avoiding Displacement is included for the Council's review. The provisions contained in the Executive Order address many of the concerns and comments that have been raised during the aftermath of the Ghost Ship fire concerning how the City is responding to other similar non-permitted occupancies in warehouses, avoiding displacement of current tenants if life safety can be maintained and criteria for inspections. This item is provided for information and discussion and is included as **Attachment D**.

Finally, the Oakland Warehouse Coalition has submitted an interim emergency ordinance that would place a moratorium on both evictions of residents of commercially zoned properties and red tagging of commercial buildings for non-life threatening violations. In addition, the ordinance seeks to eliminate tenant protection loopholes, provide increased notice to tenants of upcoming inspections, provide amnesty to landlords leasing commercially zoned buildings as an incentive to correcting violations and seek to apply eminent domain powers to certain properties in order to create low income live-work cooperatives. This ordinance is included for the Council's review and consideration but is not recommended for adoption. It is included as **Attachment E**.

## ANALYSIS

1. Ghost Ship Fire Remembrance Day Resolution. This resolution, if adopted, would designate December 2<sup>nd</sup> as an annual day of remembrance for victims of the Ghost Ship fire and focus on continuing efforts to provide affordable living and work spaces in Oakland.
2. Amendments to Code Enforcement Relocation Plan. The amendments submitted by Council Member Kaplan recently have taken on more importance given the heightened scrutiny of unpermitted live-work warehouse spaces and reports of building owners evicting tenants because of fear of reprisal or increased liability. As detailed in the attached CED staff report, the amendments would increase relocation payments for tenants who are evicted due to the need to correct code violations. The ordinance amendment would also clarify eligibility for tenants and provide for stronger penalties and remedies if landlords failed to comply.
3. Executive Order Improving the Safety of Non-Permitted Spaces While Avoiding Displacement. On January 11, 2017, Mayor Schaaf issued an executive order to take immediate steps to address concerns raised in the aftermath of the Ghost Ship fire. Reports of occupants living in unsanctioned live – work spaces being evicted due to heightened scrutiny of safety violations and unauthorized construction or activities have been raising anxiety for people in Oakland with few if any affordable housing options. The Mayor sought to strike a balance of maintaining safety while placing a priority on avoiding displacement if fire and life safety requirements can be met. With life safety as the first and most important priority, the Mayor built upon protocols already in practice and set forth priority criteria to assist and guide fire and building staff. Specifically, the City Administrator is directed to cause applicable departments to undertake the following actions within certain time frames:
  - In order to avoid displacement, inspections must initially focus on imminent threats to fire and life safety, such as lack of exits, improper storage or amounts of flammable material and lack of basic fire alarm or suppression systems. The land use and zoning designation, while necessary to gain compliance, is not as crucial as correcting fire and life safety issues.
  - A compliance plan will be the standard method of correcting violations within certain time frames, and the building owner/landlord will have a 60 day time period to develop the plan and timetable.
  - Notification to building occupants will generally be given 5 days ahead of the inspection date, unless an immediate threat to life safety is observed.
  - If temporary or permanent relocation is required, information will be provided about relocation assistance, return rights, and the City's just cause eviction laws. This task includes the development of a "frequently asked questions" document and other public education efforts.
  - Financial resources for housing need to be identified to assist in improving these live-work spaces and meeting the needs of Oakland's housing vulnerable communities.

- Special Event Permit procedures and administration need to be redesigned for to gain greater compliance and for efficiency.
- Ensure that the previously authorized Fire Safety Task Force completes the initial priorities of conducting a Community Risk Assessment and Risk Reduction Plan.
- Establish more consistent connections among departments so that inspection information can be shared and problems identified early.

The Order also includes periodic reporting requirements until all tasks are completed. With these outlined directives and actions, the follow up efforts to reduce risks and create more safety can be effectively implemented and coordinated.

4. Interim Emergency Ordinance. The proposed interim emergency ordinance has many similar themes as the Executive Order pertaining to avoiding displacement, assuring that City actions are in line with the severity of the identified fire and life safety violations, providing reasonable notification periods for inspections and making sure that the Oakland community is aware of current protections and housing assistance through a public outreach and education effort. The differences seem to center on how to address these concerns. A moratorium on evictions would be contrary to maintaining basic life safety requirements because the City could not in any way be assured that the building occupants would not be facing serious danger by continuing to live and work in an uninspected, non-permitted space. Limiting red tagging authority would potentially impair the ability of the Building Official and Fire Marshall to fulfill their responsibilities to address life safety hazards. Staff instead recommends that the City focus on the directives and tasks in the Mayor's Executive Order.

#### **ACTION REQUESTED OF THE CITY COUNCIL**

Staff Recommends That the City Council:

1. Review, Consider and Adopt a Resolution Declaring December 2<sup>nd</sup> as Ghost Ship Remembrance Day in Oakland and to Unite in Efforts Toward More Affordable, Safe and Permanent Living and Work Spaces.
2.
  - a. Review, Consider and Adopt as an Ordinance to Amend the Code Enforcement Relocation Plan, O.M.C. Chapter 15.60, to 1) Increase Relocation Payments for Tenants Displaced for Code Compliance Repairs; 2) Redefine Tenant Eligibility for Relocation Payments to Expand Eligibility for Such Payments; and 3) Enhance Penalty Provisions and Remedies for Violations of O.M.C. Chapter 15.60. and Adopt Urgency Findings

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- b. An Emergency Ordinance to Amend the Code Enforcement Relocation Plan, O.M.C. Chapter 15.60, to 1) Increase Relocation Payments for Tenants Displaced for Code Compliance Repairs; 2) Redefine Tenant Eligibility for Relocation Payments to Expand Eligibility for Such Payments; and 3) Enhance Penalty Provisions and Remedies for Violations of O.M.C. Chapter 15.60.
3. Discuss the Mayor's Executive Order 2017-1: Improving Safety of Non-Permitted Spaces While Avoiding Displacement
4. Review and Discuss the Proposed Citizen Sponsored Interim Emergency Ordinance to Temporarily: 1) Place a Moratorium on Evictions of Residents of Commercially Zoned Properties; 2) Place a Moratorium on Red-Tagging for Non-Life Threatening Violations; 3) Reinforce Existing Tenant Protections to Eliminate Loopholes; 4) Provide Reasonable Notice to Tenants of Upcoming Inspections; 5) Provide Amnesty for Landlords Leasing Commercially Zoned Properties as Residential and 6) Open Avenues to Long-term Solutions for Oakland's Housing Crisis. (No Action Recommended).

For questions regarding this report, please contact Claudia Cappio, Assistant City Manager at 510 238-6654.

Respectfully submitted,



Claudia Cappio, Assistant City Administrator

Attachments (5)

Attachment A: Resolution Declaring December 2<sup>nd</sup> as Ghost Ship Remembrance Day in Oakland

Attachment B: January 10, 2017 CED Committee Staff Report on Ordinance to Amend the Code Enforcement Relocation Program and Ordinance No. \_\_\_ Amending the Code Enforcement Relocation Program (OMC Chapter 15.60.)

Attachment C: Emergency Ordinance No. \_\_\_ Amending the Code Enforcement Relocation Program (OMC Chapter 15.60.)

Attachment D: Mayor of Oakland Executive Order 2017-1 – Improving Safety of Non-Permitted Spaces While Avoiding Displacement

Attachment E: Oakland Warehouse Coalition and Low Income Community Proposed Interim Emergency Ordinance

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