

EL CERRITO CITY COUNCIL

MINUTES

REGULAR CITY COUNCIL MEETING
Tuesday, November 21, 2017 – 7:00 p.m.
City Council Chambers

Meeting Location
El Cerrito City Hall
10890 San Pablo Avenue, El Cerrito

Janet Abelson – Mayor

Mayor Pro Tem Gabriel Quinto
Councilmember Greg Lyman

Councilmember Paul Fadelli
Councilmember Rochelle Pardue-Okimoto

ROLL CALL

Councilmembers Fadelli, Lyman, Pardue-Okimoto, Quinto and Mayor Abelson all present.

7:00 p.m.

CONVENE REGULAR CITY COUNCIL MEETING

Mayor Abelson convened the regular City Council meeting at 7:04 p.m.

1. PLEDGE OF ALLEGIANCE TO THE FLAG OR OBSERVATION OF MOMENT OF SILENCE was led by Mayor Abelson.

2. COUNCIL / STAFF COMMUNICATIONS

Mayor Pro Tem Quinto stated that he attended the West Contra Costa Mayors Conference. Those present received a presentation from Public Defender Ali Saidi regarding the Contra Costa Rapid Response Program. Mr. Saidi has been invited to make a presentation to the City Council so El Cerrito residents can learn more about the program. Mayor Pro Tem Quinto reminded all that December 12th is the last time for people to return their centennial passports to City Hall as prizes will be awarded in December.

Councilmember Lyman announced that the City is looking for applications for boards, commissions and committees. He noted that there are many opportunities to participate in local government and encouraged residents to apply. Councilmember Lyman also noted that a Charter Review Committee will be formed and described the process for reviewing applications and appointment. The deadline for submitting an application is December 18, 2017.

Councilmember Fadelli reported that he attended a Parks and Recreation workshop on future park facilities. He also announced that December 9 is the annual Christmas Holiday Breakfast at the Community Center and reminded all that El Cerrito has its own safe exchange zone at the Police Department for Craigslist. Councilmember Fadelli has been appointed to the League of California Cities Transportation, Communication, and Public Works Policy Committee and also reported that in his

capacity as Marin Clean Energy Board Alternate, announced that El Cerrito received two awards. The City, along with fourteen other cities, received recognition for achieving 100 percent renewable energy for municipalities. El Cerrito also received the Charles F. McGlashen Award for outstanding environmental leadership by a community. The Environmental Quality Committee (EQC) won the award for their hard work on its 100 for 100 initiatives project. Their goal is to increase the “deep green” 100 percent renewable customers in the City. EQC members Howdy Goudey, Mark Miner, and Rebecca Milliken were present and acknowledged for their hard work.

3. ORAL COMMUNICATIONS FROM THE PUBLIC

Cordell Hindler, Richmond, invited all to attend local events and noted the importance of listening to youth comments when considering city items. Mr. Hindler thanked the City Council for the workplace bullying proclamation approved at the last meeting and noted the importance of keeping Alta Bates Hospital in the community.

Ronnie Polansky, El Cerrito, urged the City Council to protect tenants in El Cerrito and affordable housing units.

Sherry Drobner, El Cerrito, expressed concerns about housing and homelessness and urged the Council to be part of the Core program.

Nick Galloro, El Cerrito, stated that the City needs to protect tenants and prevent them from becoming homeless by enacting tenant protections. The greatest concentration of renters in El Cerrito is in the flatlands along the San Pablo corridor. Renters make up approximately 64% of households in the flatlands. Mr. Galloro urged the Council to follow other cities and pass rent stabilization and just cause eviction ordinance.

Norman LaForce, El Cerrito, thanked the Council for being proactive on maintaining the pool and reiterated the benefits of swimming.

Howdy Goudey, El Cerrito, expressed concerns that it has been three months since affordable housing strategy was passed and noted that there are actions to be completed within the next year. He encouraged the Council to keep implementation of affordable housing strategies a top priority this year and hoped the Council will receive a six month progress report in February during a Council meeting to make sure it is on track. Mr. Goudey asked the Council to recommend that staff look at affordable requirements for both rental and for sale projects after the passage of AB1505. He emphasized that the San Pablo Specific Plan needs to have affordable housing programs in place before there is an expansion of more units.

4. ADOPTION OF THE CONSENT CALENDAR – Item No. 4(A) through 4(G)

Moved, seconded (Lyman/Pardue-Okimoto) and carried unanimously to approve Consent Calendar Item Nos. 4(A) and 4(B) and 4(E) through 4(G) as indicated below. Item No. 4(C) was removed from the Consent Calendar by Mayor Abelson and Item No. 4(D) was removed from the Consent Calendar at the request of Councilmember Fadelli.

A. Approval of Minutes

Approve the November 7, 2017 Regular City Council meeting minutes.

Action: Approved minutes.

B. Repeal of Local Campaign Literature Disclosure Ordinance to Achieve Consistency with State Law

Adopt Ordinance No. 2017-06 repealing El Cerrito Municipal Code Chapter 2.32 – Campaign Literature Disclosure for Local Candidacies and Measures (Ordinance No. 92-2) to achieve consistency with State Law. *Introduced and approved by unanimous vote on November 7, 2017.*

Action: Adopted Ordinance No. 2017-06. *Effective December 21, 2017.*

C. Homeless Awareness Month Proclamation

Approve a proclamation declaring November as Homeless Awareness Month in the City of El Cerrito.

Presenter: Sara Marsh, Director of Support Services at Contra Costa Interfaith Housing.

Action: Removed from the Consent Calendar at the request of Mayor Abelson for the purposes of presenting the proclamation. Moved, seconded (Pardue-Okimoto/Quinto) and carried unanimously to approve the proclamation.

D. El Cerrito Swim Center Locker Rooms / Pool Equipment Room Upgrades and Renovations

Adopt a resolution taking the following actions: 1) Approving plans and specifications for the El Cerrito Swim Center Locker Rooms / Pool Equipment Room Upgrades and Renovations, City Project No. C3050.4 (Project); 2) Rejecting the sole bid submitted by Mar Con Builders, Inc. for the Project as non-responsive; 3) Amending the Fiscal Year 2017-18 Adopted Budget and Capital Improvement Program to appropriate an additional \$220,000 in the Measure A Swim Center Fund (Fund 206) for the Project; and 4) Authorizing the City Manager to award and execute a contract, contingent on successful negotiations with Mar Con Builders, Inc. for a deductive change order including but not limited to revisions to the project scope, for a total amount not to exceed \$560,000 and approving change orders in an amount not to exceed \$60,000 for construction of the Project. *Exempt from CEQA.*

Action: Removed from the Consent Calendar at the request of Councilmember Fadelli for the purpose of clarifying information regarding funding and locker room improvements. Moved, seconded (Fadelli/Pardue-Okimoto) and carried unanimously to adopt Resolution No. 2017-75.

E. Ohlone Greenway BART Station Area Access, Safety and Placemaking Improvements Project

Adopt a resolution taking the following actions: 1) Approving plans and specifications for the Ohlone Greenway BART Station Area Access, Safety and Placemaking Improvements Project, City Project No. C3076A, Federal Project No. CML 5239(025) (Project); 2) Rejecting the bid submitted by Bay Construction as non-responsive and accepting the other three submitted bids for the Project; and 3) Authorizing the City Manager to execute a contract in the amount of \$3,287,480.95 with FBD Vanguard Construction, Inc. and approving change orders in an amount not to exceed \$328,750 for the construction of the Project. *NEPA Categorical Exclusion and CEQA Negative Declaration.*

Action: Adopted Resolution No. 2017-76.

F. I-80/Central Interchange Improvement Project, Phase 1

Adopt a resolution authorizing the City Manager to execute Amendment No. 3 to Cooperative Agreement No. 07W.02 between the Contra Costa Transportation Authority (CCTA), the City of El Cerrito, and the City of Richmond for final design services of I-80/Central Avenue Interchange Improvement Project, Phase 1

(Operational Improvements). *Exempt from CEQA.*

Action: Adopted Resolution No. 2017-77.

G. Cash and Investments Report for Quarter Ending September 30, 2017

Receive and file the City's Quarterly Investment Report for the quarter ending September 30, 2017.

Action: Received and filed.

5. PRESENTATION

A. Proclamation Honoring Brett Guest

Approve a proclamation commending Brett Guest for his admirable actions toward protecting his neighbors and aiding in the capture of a dangerous suspect. The City Council extends its appreciation to Mr. Guest in recognition of his quick thinking and selfless actions.

Presenter: Paul Keith, Police Chief.

Speaker: Cordell Hindler, Richmond, expressed his gratitude to Mr. Guest.

Action: Moved, seconded (Lyman/Quinto) and carried unanimously to approve the proclamation.

B. Arts and Culture Commission Workplan

Receive and discuss the Arts and Culture Commission's presentation regarding the Commission's accomplishments, activities, goals and workplan. The City Council may provide feedback as desired.

Presenter: Christopher Sterba, Chair, Arts and Culture Commission. Mr. Sterba introduced Sandy Drobny, the City's first Artist in Residency at the Recycling Center.

Speaker: Cordell Hindler, Richmond, expressed his appreciation for El Cerrito's arts program.

Al Miller, El Cerrito, expressed his appreciation for El Cerrito's One City/One Book program.

Action: Received presentation.

6. PUBLIC HEARINGS

A. Commercial Cannabis Ordinance

Conduct a public hearing and upon conclusion, introduce by title and waive any further reading and approve an ordinance repealing and replacing Chapter 6.80 of the El Cerrito Municipal Code which would allow dispensaries in El Cerrito.

Presenters: Sean Moss, Senior Planner. Paul Keith, Chief of Police, also provided the City Council with information regarding surveillance.

Mayor Abelson opened the public hearing.

Speakers: Sherry Drobner, El Cerrito, expressed concerns about surveillance provisions described in the ordinance, particularly remote live feed of surveillance video.

Delfina Fung, El Cerrito, urged the Council not to allow any commercial marijuana activity in the city and asked that indoor marijuana cultivation be regulated.

Nick Krause, El Cerrito, advocated for delivery operations by vendors outside El Cerrito. Deliveries associated with storefront operations are less safe. Mr. Krause

asked the Council to consider separating dispensaries from deliveries.

Vivian Cheung, expressed concerns about marijuana addiction, the effects of marijuana on the brain and the use of marijuana in the community.

Reverend Royan Yuen, Life Church, El Cerrito, spoke about opium addiction in China and expressed concerns about legalizing marijuana use and the potential for addiction in the United States.

Obadian Liou stated that he has researched marijuana and that it is addictive due to THC, described its effects on dopamine and stated that there is more crime associated with marijuana use.

Cheung Wan stated that El Cerrito is a nice city to live in and that she is afraid that if the City allows marijuana to be sold that the city will decline. Ms. Wan said that marijuana is very bad for children and that the city should not just look at tax revenue. Ms. Wan said that America is a country of God's people and she prays that God will not allow marijuana into the city.

Olivia Liou, said that there is more crime associated with marijuana use and sales, spoke about marijuana use and crime in Colorado and expressed concerns about potential liability and lawsuits. Ms. Liou urged the Council to wait until next year before making a decision.

Chris Jasinski, Oakland, expressed concerns about the video surveillance live feed language in the ordinance, particularly with Northern California Regional Intelligence Center (NCRIC) who shares data with many other agencies. Mr. Jasinski said crimes associated with marijuana decrease with regulated retail businesses.

Chris Gray, Fremont, complimented city staff for their thoughtful process and a well-crafted ordinance. Dispensaries will provide medicine to patients who need it and revenue to the city. Mr. Gray stated that 73% of voters in El Cerrito voted for the Proposition 64, noted the additional revenue which would be generated, and urged the Council to pass the ordinance.

Howdy Goudey, El Cerrito, stated that having cannabis regulated is better for public health management and that it would be nice to have a mechanism for broader public notification.

Cordell Hindler, Richmond, commented on the proposed hours of operation and said opening at 8:00 a.m. is too early.

Rick Bonde, El Cerrito, expressed his support for approval of the ordinance.

Courtney Chu, El Cerrito, clarified recent state law regarding limits on delivery inventory. She also stated that the cash and delivery payment method is difficult because El Cerrito's proposed regulations will require patients who are immobilized by medical conditions to make cash payments in person.

Moved, seconded (Lyman/Quinto) and carried unanimously to close the public hearing.

Action: Moved, seconded (Pardue-Okimoto/Quinto; Ayes – Councilmembers Fadelli, Pardue-Okimoto, Quinto and Mayor Abelson; Noes – Councilmember Lyman; Abstain – None; Absent – None) and carried to approve by title and waive any further reading Ordinance No. 2017-07, an ordinance repealing and replacing Chapter 6.80 of the El Cerrito Municipal Code which would allow commercial cannabis dispensaries in El Cerrito with the following technical changes to the

ordinance as proposed by Councilmember Lyman and a change in hours of operation as proposed by Councilmember Fadelli:

"Cannabis storefront business" was numbered as subsection 6.80.020(E) resulting in renumbering of the remaining subsections within Section 6.80.020. (Lyman)

6.80.020 Definitions

6.80.020(D) "Cannabis retail" or "cannabis retail business" means a cannabis business that distributes, dispenses, stores, exchanges, processes, packages, re-packages, labels, sells, makes available, transmits, or gives away cannabis or cannabis products for either medical or recreational use and is operated in accordance with state and local laws and regulations. Cannabis retail includes, but is not limited to, selling and/or delivering cannabis or cannabis products as part of a sale, pursuant to a Type 10 cannabis license, or a cannabis license subsequently established. *(Lyman)*

6.80.020(H) "Commercial cannabis use" means any commercial cannabis activity licensed pursuant to the Medicinal and Adult-Use Cannabis Regulation and Safety Act, including but not limited to cultivation, possession, distribution, transportation, laboratory testing, labeling, retail, delivery, sale, processing, storing, packaging or manufacturing of cannabis or cannabis products for medical or recreational use. Commercial cannabis use includes cannabis retail.

6.80.030 Applicability

Commercial cannabis uses shall be permitted only in compliance with the requirements of this chapter, state law and all applicable requirements of the El Cerrito Municipal Code and an operating permit issued pursuant to this chapter. Except for hospitals and research facilities that obtain written permission for cannabis cultivation under federal law, it is unlawful to commercially cultivate, distribute, process, manufacture, sell, deliver, or test cannabis, in amounts that exceed personal use allowances under California law, within the City without a valid permit issued pursuant to the provisions of this chapter. Cultivation of cannabis for noncommercial use shall only be permitted inside a private residence or inside an enclosed structure upon the grounds of a private residence, and pursuant to the provisions of the MAUCRSA. Possession of other types of State or City permits or licenses does not exempt an operator from the requirement of obtaining a permit under this chapter. *(Lyman)*

6.80.050 Operating Permits

6.80.050(H) Disclosure of litigation and legal proceedings. A description of any litigation in which the applicant(s) has been involved within the five ten years immediately preceding the date of the application and a statement of whether any business currently operated by the applicant(s) or operated by the applicant(s) within the ten years immediately preceding the date of the application has been investigated or the permit or license authorizing the operation of such business has been revoked or suspended within the ten years immediately preceding the date of the application. *(Lyman)*

6.80.070 Performance Standards

6.080.070(A) Hours of operation. Cannabis businesses shall not be open to the public and shall not conduct retail sales or deliveries before 8:00 a.m. or after ~~8:00 p.m.~~ 10:00 p.m. on any day of the week. (*Fadelli*)

6.080.070(C)(2) Cameras shall also be placed at each location where weighing, packaging, transport preparation, processing, manufacturing or labeling activities occur. Cameras shall be positioned to record all weighing, packaging, transport preparation, processing, manufacturing or labeling activities. (*Lyman*)

6.80.070(L) ~~Retail business~~ Commercial Cannabis use conducted within buildings. No ~~production~~, processing, manufacturing, distribution, storage, advertising, or display of cannabis or cannabis products shall be visible from the exterior of a building where a cannabis business is located. (*Lyman*)

6.80.080 Location Requirements – Cannabis Storefront Retail Businesses
Cannabis storefront retail businesses shall only be permitted in the San Pablo Avenue Specific Plan Area and only on the San Pablo Avenue Commercial and San Pablo Avenue Community street types.... (*Lyman*)

Second reading scheduled for December 19, 2017.

B. Proposed Integrated Waste Management Fees and East Bay Sanitary Garbage and Green Waste Collection and Process Rates

Staff requests that the City Council take the following actions: 1) Conduct a public hearing and upon conclusion adopt a resolution setting Integrated Waste Management (IWM) fees, effective January 1, 2018; and 2) Conduct a public hearing and upon conclusion adopt a resolution setting maximum allowable East Bay Sanitary (EBS) garbage and green waste collection and disposal and processing rates, effective January 1, 2018.

Presenters: Maria Sanders, Operations + Environmental Services Manager.

Mayor Abelson opened the public hearing setting Integrated Waste Management fees.

Speakers: No speakers.

Moved, seconded (*Lyman/Quinto*) and carried unanimously to close the public hearing.

Action: Moved, seconded (*Lyman/Quinto*) and carried to adopt Resolution No. 2017-78 setting Integrated Waste Management fees.

Mayor Abelson opened the public hearing setting maximum allowable East Bay Sanitary garbage and green waste collection and disposal and processing rates.

Speakers: No speakers.

Moved, seconded (*Lyman/Quinto*) and carried unanimously to close the public hearing.

Action: Moved, seconded (Lyman/Quinto) and carried to adopt Resolution No. 2017-79 setting maximum allowable East Bay Sanitary garbage and green waste collection and disposal and processing rates.

7. POLICY MATTERS

A. Revisions to El Cerrito Wall of Fame Policy and Guidelines

Adopt a resolution accepting the City Council Wall of Fame Subcommittee's recommendations by amending Resolution No. 2008-77 to modify the policy, guidelines, nomination and selection process for Wall of Fame inductees and transition to a virtual Wall of Fame by publishing inductee photos and resolutions highlighting inductee community contributions and achievements on the City's website to further promote volunteerism, visibility and recognition.

Presenter: Mayor Abelson

Speaker: Cordell Hindler, Richmond, encouraged the Council to make the Wall of Fame virtual for the modern age.

Action: Moved, seconded (Fadelli/Lyman) and carried to adopt Resolution No. 2017-80.

8. CITY COUNCIL LOCAL AND REGIONAL LIAISON ASSIGNMENTS

Mayor and City Council communications regarding local and regional liaison assignments and committee reports.

Councilmember Lyman reported that the West Contra Costa Integrated Waste Management Authority Board set rates at its last meeting and received a presentation after a long discussion about the participation of city staff consulting to the executive director.

Councilmember Pardue-Okimoto reported on her attendance at the Financial Advisory Board (FAB) meeting. The FAB discussed the cash report on the Council's agenda this evening. The FAB was also very interested in the idea of El Cerrito becoming a Charter City as a way of building reserves.

Moved, seconded (Lyman/Pardue-Okimoto) and carried unanimously to extend the meeting from 10:30 p.m. to 11:30 p.m.

9. ADJOURNED REGULAR CITY COUNCIL MEETING at 10:55 p.m.

SUPPLEMENTAL REPORTS AND COMMUNICATIONS

Item No. 5(A) Proclamation Honoring Brett Guest

1. Expression of gratitude and appreciation for Mr. Guest – *Submitted by Mollie Hazen, Chair, Crime Prevention Committee.*

Item No. 6(A) Commercial Cannabis Ordinance

2. Sixty-four letters signed by residents of Richmond, El Sobrante, El Cerrito, Fremont, Hayward, Oakland, Albany, San Leandro, Walnut Creek and Hercules requesting that the ban on Marijuana be maintained – *Submitted by Olivia Liou.*

3. Report written by Ms. Liou's son – *Submitted by Olivia Liou.*

4. Letter written to No on 64 Campaign and SAM Action by Mitchell R. Morrissey,

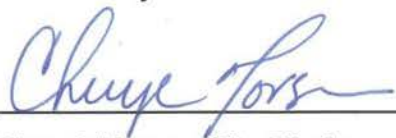
Denver District Attorney – *Submitted by Olivia Liou.*

5. Letter to Opposing Organization regarding Proposition 64 Oppose – *Submitted by Olivia Liou.*

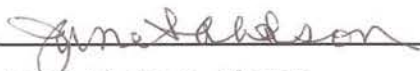
6. Comments on the draft Commercial Cannabis Ordinance – Deliveries – *Submitted by Nick Krause, El Cerrito.*

7. Letter urging the City Council to refrain from allowing marijuana businesses to be established in the City – *Submitted by Delfina Lin-Sau Fung.*

THIS IS TO CERTIFY that the foregoing is a true and correct copy of the minutes of the Regular City Council meeting of November 21, 2017 as approved by the El Cerrito City Council.

A handwritten signature in blue ink, appearing to read "Cheryl Morse", is written over a horizontal line.

Cheryl Morse, City Clerk

A handwritten signature in dark ink, appearing to read "Janet Abelson", is written over a horizontal line.

Janet Abelson, Mayor