

EL CERRITO CITY COUNCIL

MINUTES

REGULAR CITY COUNCIL MEETING

Tuesday, May 19, 2015 – 7:00 p.m.

City Council Chambers

Meeting Location

El Cerrito City Hall

10890 San Pablo Avenue, El Cerrito

Mark Friedman – Mayor

Mayor Pro Tem Greg Lyman
Councilmember Jan Bridges

Councilmember Janet Abelson
Councilmember Gabriel Quinto

ROLL CALL

Councilmembers Abelson, Bridges, Lyman, Quinto and Mayor Friedman all present.

7:00 p.m.

CONVENE REGULAR CITY COUNCIL MEETING

Mayor Friedman convened the regular City Council meeting at 7:00 p.m.

1. **PLEDGE OF ALLEGIANCE TO THE FLAG OR OBSERVATION OF MOMENT OF SILENCE** was led by Mayor Pro Tem Lyman.

2. COUNCIL / STAFF COMMUNICATIONS

Mayor Pro Tem Lyman reported that he, Mayor Friedman and Councilmember Quinto attended the Association of Bay Area Governments (ABAG) General Assembly on April 23 and received a presentation on water issues, the future of water and diversification of the water supply. The conference also included a breakout session for the upcoming Plan Bay Area process which may also be presented to the City Council at some point in the future. The East Bay Municipal Utility District (EBMUD) recently informed the City that water supplies are at a critical low and that there are new use restrictions in force. Landscape watering is limited to two days or less per week for Landscape and EBMUD encourages the use of hose shut-off valves, a broom or air blower to clean hardscape such as driveways and sidewalks rather than water and to turn off any fountain or decorative feature that uses potable water unless it is recirculated. Customers within the EBMUD district are expected to cut use by 20 percent.

Councilmember Abelson reported that she attended a Local Government Commission Policy Makers event in Oakland on May 14 regarding the drought and water issues. Speakers from the State Division of Regional Water Management and the City of San Jose's Environmental Quality Department made presentations. It was interesting to understand the perspective of San Jose, one of the top ten largest cities in the Nation, regarding its aggressive approach to water management and how it plans to cut potable water use by 30 percent.

Mayor Friedman stated that a former Mayor of El Cerrito, Sandi Potter, was on the panel at the ABAG Assembly he attended with Mayor Pro Tem Lyman and Councilmember Quinto. Ms. Potter noted several El Cerrito projects and initiatives during the discussion. Mayor Friedman also attended a separate ABAG Assembly meeting via teleconference with delegates of 36 other cities. Taste of Ethiopia, a new restaurant in El Cerrito near Del Norte BART station, held its grand opening recently. Mayor Friedman noted that he attended this event with Councilmember Abelson, reported that the food is good and encouraged all who may be interested in Ethiopian food to try the restaurant.

3. **ORAL COMMUNICATIONS FROM THE PUBLIC**

Cordel Hindler, Richmond, expressed concerns regarding the presence of El Cerrito Police cars driving through his neighborhood. Mr. Hindler also asked if there is a Youth Council in El Cerrito and noted that the City of Richmond has one.

Susan Schwartz, Friends of Five Creeks, expressed appreciation for Dave Weinstein's work on the Hillside Festival over the weekend. Ms. Schwarz updated the City Council with the volunteer group's progress controlling fire-prone scotch broom in the Hillside Natural Area. Ms. Schwartz said that El Cerrito needs to budget realistically to maintain its Hillside Areas. The City is blessed to have so many dedicated volunteers but volunteers cannot be directed like staff. Despite Environmental Programs Manager, Stephen Pree's heroic efforts volunteers are not able to control the plantings. A paid staff coordinator is recommended. Budgeting for maintenance of Cerrito Creek is also needed. Yearly mowing in the Hillside area is not going to stop the growth of pampas grass, fennel or other fire prone invasive plants. Natural areas require maintenance that is different from the greenway and fields. Ms. Schwartz concluded by saying that El Cerrito has a wonderful environmental record and that she hopes the City will do what is needed to keep the natural areas as the City's "jewel in the crown."

Karl Mulligan, El Cerrito, thanked the City Council for the work it is doing and noted that El Cerrito is a nice place to live. Mr. Mulligan expressed concerns about the City's contract with County Animal Services and the work the County is doing and stated that the services are far less than exemplary. Mr. Mulligan stated that his dog was seized without a lawful order and confined in a 4'x10' cage for fourteen days without exercise. Mr. Mulligan encouraged all to review the contract, have a public meeting and consider how the contract affects members of the community.

Ralph Boniello, El Cerrito and Board Member of Friends of Five Creeks, thanked all who participated in and organized the Hillside Festival this year. Mr. Boniello said he seconds the points made by Ms. Schwartz regarding the Hillside Natural Area and the need for additional money for maintenance. He also expressed concerns regarding trees in the Hillside Natural Area, particularly those that are fire prone. Mr. Boniello said he would like to see dedicated money allocated to maintenance in the Hillside Natural Area that addresses fire fuel on a long term rather than emergency basis.

Tom Gehling, El Cerrito and El Cerrito Trail Trekkers, stated that he supported the Priority Conservation Area (PCA) designations on the agenda this evening and asked that the Fairview Open Space also be designated.

Howdy Goudey, El Cerrito, stated that he would like to see the PCA applications expanded to include more properties. The PCA designation does not change the development rights of properties but may bring additional funding and grant opportunities. The PCA designation should not be seen as imposing something negative on a private property but rather as bringing resources to a private property owner who has special amenities on a site such as

creeks. Mr. Goudey stated that he hopes the City Council will discuss the possibility of including Fairview Open Space and other private parcels around the Hillside Natural Area in the application.

4. PRESENTATIONS

A. Economic Development Committee Workplan – *Presentation by Tess Taylor, Chair and Wendy H. Brawer, Vice Chair.*

Receive a presentation regarding the Economic Development Committee's accomplishments, goals and workplan.

Action: Received presentation.

B. Smart Corridor Interstate 80 Integrated Corridor Mobility Project – *Presentation by Caltrans/Circlepoint Consultants.*

Presenters: Ivy Morrison and Hisham Noeimi, Circlepoint Consultants.

Action: Received presentation.

5. ADOPTION OF THE CONSENT CALENDAR – Item Nos. 5A through 5O

Moved, seconded (Lyman/Bridges) and carried unanimously to approve Consent Calendar Item Nos. 5(A) through 5(F) and 5(H) through 5(J) and 5(L) through 5(O) in one motion as indicated below. Consent Calendar Item Nos. 5(G) and 5(K) were removed from the Consent Calendar at the request of Mayor Pro Tem Lyman and voted on separately as indicated below.

A. Minutes for Approval

Approve the March 28, 2015 Special City Council Worksession and April 21, 2015 Regular City Council meeting minutes.

Action: Approved minutes.

B. National Public Works Week Proclamation

Approve a proclamation recognizing May 17 through May 23, 2015 as "National Public Works Week" in the City of El Cerrito and encouraging all residents and civic organizations to acquaint themselves with the issues involved in providing public works services and recognizing the contributions public works personnel make every day to the City's health, safety, comfort and quality of life.

Action: Approved proclamation.

C. Bike to Work Month Proclamation

Approve a proclamation declaring May 2015 as Bike to Work Month in the City of El Cerrito and recognizing the value of increased bicycle use and encouraging participation in bicycling activities throughout the month of May.

Action: Approved proclamation.

D. CalFresh Awareness Month Proclamation

At the request of Mayor Friedman, approve a proclamation declaring May 2015 as CalFresh Awareness Month in the City of El Cerrito.

Action: Approved proclamation.

E. Asian American and Pacific Islander Heritage Month Proclamation

At the request of the Human Relations Commission, approve a proclamation declaring the

Month of May 2015 Asian American and Pacific Islander Heritage Month in the City of El Cerrito and inviting everyone to reflect on the notable accomplishments and outstanding services provided by Asian Americans and Pacific Islanders to the Nation, California and the City of El Cerrito.

Action: Approved proclamation.

F. Jewish American Heritage Month Proclamation

At the request of the Human Relations Commission, approve a proclamation declaring May 2015 as Jewish American Heritage Month in the City of El Cerrito and calling upon all residents to celebrate Jewish Americans who have helped weave the fabric of not only American history, culture and society but also the City of El Cerrito, to visit www.JewishHeritageMonth.gov to learn more about the heritage and contributions of Jewish Americans, and to observe this month with solemn remembrance, appropriate programs, activities and ceremonies.

Action: Approved proclamation.

G. Ordinance Establishing the Measure A Swim Center Parcel Tax Rates for Fiscal Year 2015-15.

Introduce by title, waive any further reading and approve an ordinance establishing the Measure A Swim Center Parcel Tax rates for Fiscal Year 2015-16, equal to the approved Fiscal Year rates of \$38.61 per single-family residential unit, \$29.73 per multi-family residential unit and \$270.66 per acre of non-residential property.

Action: Removed from the Consent Calendar at the request of Mayor Pro Tem Lyman for the purposes of discussing an increase in the assessment rate. Referred to the Parks and Recreation Commission for further discussion and analysis.

H. Landscape and Lighting Assessment District No. 1988-1.

Accept the Engineer's Report specifying assessments for the Landscape and Lighting Assessment District and adopt a Resolution of Intention to Order Improvements pursuant to the Landscape and Lighting Act of 1972, and setting the time, date, and place of the public hearing as June 2, 2015 at 7:00 p.m.

Action: Adopted Resolution No. 2015-34.

I. Stop Signs at Various Locations

Adopt two separate resolutions authorizing the Public Works Director/City Engineer to install stop signs on: 1) Mono Avenue at Conlon Avenue; and 2) Brewster Drive at Buckingham Drive. *Exempt from CEQA.*

Actions: Adopted Resolution Nos. 2015-35 and 2015-36.

J. Castro Park Field Renovation, City Project No. C-5032

Adopt a resolution taking the following actions: 1) Approve plans for the Castro Park Field Renovation; 2) Amend the Capital Improvement Program and the Fiscal Year 2014-15 Adopted Budget to appropriate \$200,000 in the Capital Improvements Fund (Fund 301) for the Castro Park Field Renovation, City Project No. C-5032; and 3) Authorize the City Manager to award a contract, contingent on successful negotiations with Bauman Landscape and Construction, Inc. (the lowest responsible bidder for the project), for a deductive change order after undergoing a value engineering process which is not inconsistent with the budget for the Castro Park Field Renovation, City Project No. C-5032. *Exempt from CEQA.*

Action: Adopted Resolution No. 2015-37.

K. Priority Conservation Areas Designation

Adopt a resolution supporting the designation of the Hillside Natural Area, Lower Cerrito Creek, and the Ohlone Greenway as Association of Bay Area Governments Priority Conservation Areas. *Exempt from CEQA.*

Speakers: Howdy Goudey, El Cerrito, expanded on statements made during the general comment period by requesting additional explanation regarding legal issues affecting PCA designation for some private properties.

Pamela Austin, El Cerrito, thanked staff for its work on the PCA designation and stated that she strongly hopes that the list will be submitted within the deadline. PCA designation is important for the City. Ms. Austin stated that she would not want the application held up for the Fairview property. The request to include the Fairview property with the other properties proposed for designation is consistent with the Wells Fargo property listed in the application. Fairview is a natural extension of the Hillside Area with a number of natural resource assets that would be of benefit to residents.

Action: Removed from the Consent Calendar at the request of Councilmember Lyman to acknowledge comments received from the public on this item. Moved, seconded (Lyman/Abelson) and carried unanimously to adopt Resolution No. 2015-38.

L. Declare El Cerrito a Honey Bee Haven

At the request of the Environmental Quality Committee, adopt a resolution declaring the City of El Cerrito to be a Honey Bee Haven and authorizing the City of El Cerrito to be added to the honeybeehaven.org map.

Action: Adopted Resolution No. 2015-39.

M. Economic Development Committee Appointment

Approve an Economic Development Committee recommendation to appoint Tom Petersen to the Economic Development Committee effective May 20, 2015.

Action: Approved recommendation.

N. Committee on Aging Appointment

Approve a Committee on Aging recommendation to appoint Kenneth Epley to the Committee on Aging, effective May 19, 2015.

Action: Approved recommendation.

O. Annual Progress Report on the General Plan 2014

Receive and file the General Plan Annual Progress Report.

Action: Received and filed as revised to include a modification to page ten of the progress report as noted by Mayor Pro Tem Lyman to recognize the historic stone lined channel on the 1715 Elm Street property.

6. PUBLIC HEARINGS

A. Appeal of the Planning Commission's Approval of a Design Review

Application for the Project Proposed for 1715 Elm Street

Staff recommends that the City Council review the information in the record, conduct a public hearing to consider testimony from the public and upon conclusion of the public hearing adopt a resolution making findings upholding the decision of the Planning Commission to approve the design review application for the project at 1715 Elm Street. *The City completed environmental review of the project when the City Council adopted the initial study/mitigated negative declaration on August 19, 2014. Staff has reviewed the project and the evidence in the record and determined that no substantial evidence exists that would support findings required for subsequent or supplemental environmental review.*

STAFF PRESENTATION:

Margaret Kavanaugh-Lynch, Development Services Manager, delivered the staff presentation. City Attorney Woodruff further explained the scope and purview of the City Council's consideration this evening.

PUBLIC HEARING:

Mayor Friedman opened the public hearing.

APPELLANT PRESENTATION: Howdy Goudey, and Robin Mitchell, El Cerrito, made the appellant presentation.

APPLICANT REBUTTAL: Carl Campos, Project Architect, LCA Architects.

PUBLIC TESTIMONY. Seven speakers.

Tom Panas, El Cerrito, queried whether the handling of stormwater on the site needs to be reconsidered for the site. Mr. Panas noted that between the additional water being added to the creek during a storm and the turbulence that will be created in the creek channel it appears that there may be a possibility that creek overflow may undermine the stone walls of the creek. A much better solution would be a stormwater retention system as recommended by the State Water Resources Control Board instead of the system as proposed.

Arlin Robins, El Cerrito, stated the City is willing to encroach upon an existing ordinance and mandate that protects the creek for the sake of a developer who is trying to make the highest possible profit. There is a lot that could be done with the property to protect the existing creek by fifteen feet on either side. It is the responsibility of the Council and staff to look at the whole project and its impacts not only on the Elm Street property but also on the environment and people. Ms. Robins urged the City to take one more look and see if there is a way to reduce the size of the project and number of units and increase the distance between the building and the creek.

BJ Thorsnes, El Cerrito, stated that everyone is concerned about the creek, particularly the fact that buildings will be four feet from the creek. Ms. Thorsnes stated that the community does not agree with what the City is doing on many things and said that the community needs a better dialogue about development.

Ralph Boniello, El Cerrito, spoke in support of the creek and stated that the creek ordinance protects the aesthetic quality of creeks and noted that creeks are a rare natural resource in El Cerrito. As a resident who serves on a city committee and works on city policy, Mr. Boniello stated that is very disappointed that the City is not following the creeks ordinance and that resident comments have been ignored. Mr. Boniello asked the City Council to revisit the issue and reconsider the creek, what the Council is telling residents and its decision.

Franklin Leong, El Cerrito, cited El Cerrito Municipal Code Section 19.12.040 and noted that

state agency permits have not been obtained. Mr. Leong stated that he spoke with a representative of the Desert Research Institute and was told that placing a building so close to the creek is very dangerous.

Henia Pines, El Cerrito, stated that El Niño is predicted next year which will be a big disaster for all involved and asked who will be responsible [for any damage resulting from a storm]. Ms. Pines stated that no one agrees with the City Council and asked the Council to reconsider the project.

Howdy Goudey, El Cerrito, stated that the City should demand more from its development partners to create a positive outcome for the community. Mr. Goudey expressed concerns regarding stormwater management, impacts resulting from a ten-year rainfall event and stated that the City is opening itself up to potential liability over this issue.

Moved, seconded (Bridges/Abelson) and carried unanimously to close the public hearing.

Action: Moved, seconded (Bridges/Abelson; Ayes – Councilmembers Abelson, Bridges and Mayor Friedman; Noes – Mayor Pro Tem Lyman and Councilmember Quinto; Abstain – None) and carried to adopt Resolution No. 2015–40 making findings, denying the appeal and upholding the Planning Commission’s approval of the design review application for 1715 Elm Street as amended by Councilmember Bridges to include the following three conditions: 1) Decrease the amount of hardscape adjacent to the stone lined channel; 2) Consider a fence that sits along the creek on the side of the historic structure that is in keeping with the look of the historic structure itself; and 3) Add riparian plantings along the rock lined channel.

B. Master Fee Schedule

Conduct a public hearing and upon conclusion adopt a resolution approving the Fiscal Year 2015-16 Master Fee Schedule.

Presenter: Lisa Malek-Zadeh, Finance Director.

Mayor Friedman opened the public hearing.

Speakers: Tom Panas, El Cerrito, reminded all that he previously pointed out that most if not all volunteer organizations are grossly out of compliance with the business license regulations. Mr. Panas previously suggested a one-time amnesty and business license fee changes for volunteer organizations be considered.

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

Action: Moved, seconded (Lyman/Bridges) and carried unanimously to adopt Resolution No. 2015–41 as amended to include a revised Section 5 (Business Licenses) of Exhibit A to the resolution.

7. POLICY MATTERS – None

8. COUNCIL LOCAL AND REGIONAL LIAISON ASSIGNMENT REPORTS

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

Councilmember Bridges reported that she attended the May 11 Tree Committee meeting. Two potential new members who both have credentials in forestry, also attended. The Tree Committee is working on the urban greening plan and also looked at the City’s revised tree list.

Mayor Pro Tem Lyman reported that he attended the last West County Integrated Waste Management Authority (WCIWMA) meeting. The WCIWMA Board has interviewed candidates for executive director and provided direction to the recruiter.

7. ADJOURNED REGULAR CITY COUNCIL MEETING at 10:06 p.m.

COMMUNICATIONS (*Distributed May 14, 2015*)

Item No. 5(K) Priority Conservation Areas Designation

1. Comments regarding the proposed Planned Conservation Area Applications – *Submitted by Howdy Goudey, El Cerrito.*

SUPPLEMENTAL REPORTS AND COMMUNICATIONS (*Distributed at the May 19, 2015 City Council meeting.*)

Item No. 4(B) Smart Corridor Interstate 80 Integrated Corridor Mobility Project

2. Revised powerpoint presentation – *Submitted by Dana Koefoed, Project Coordinator/Administrator, Circlepoint Consultants.*

Item No. 5(K) Priority Conservation Areas Designation

3. Revised comments regarding the proposed Planned Conservation Area Applications – *Submitted by Howdy Goudey, El Cerrito.*

Item No. 5(O) General Plan Annual Progress Report

4. Revised page 10 of the Progress Report – *Submitted by Sean Moss, Senior Planner.*

Item No. 6(A) Appeal of the Planning Commission's Approval of a Design Review Application for the Project Proposed for 1715 Elm Street

5. Comments in support of the Elm Street Project – *Submitted by Rebecca Benassini, El Cerrito.*
6. Comments against the Elm Street Project – *Submitted by Arlin Robins, El Cerrito.*
7. Powerpoint presentation – *Submitted by Margaret Kavanaugh-Lynch, Development Services Manager.*
8. Appellant presentation materials – *Submitted by Howdy Goudey, El Cerrito.*
9. Comments regarding stormwater management on the property – *Submitted by Tom Panas, El Cerrito.*

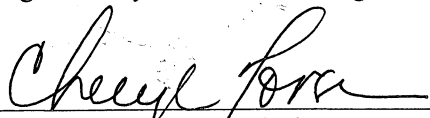
Item No. 6(B) Master Fee Schedule

10. Revised Section V (Business Licenses) of Exhibit A to the Resolution – *Submitted by Lisa Malek-Zadeh, Finance Director.*

Other:

11. Fire-prone invasive plants, Hillside Natural Area, main section – *Submitted by Susan Schwartz, Friends of Five Creeks.*

This is to certify that the foregoing is a true and correct copy of the minutes of the Regular City Council meeting of May 19, 2015 as approved by the El Cerrito City Council.

A handwritten signature in cursive script, appearing to read "Cheryl Morse", written over a horizontal line.

Cheryl Morse, City Clerk

A handwritten signature in cursive script, appearing to read "Mark Friedman", written over a horizontal line.

Mark Friedman, Mayor