

EL CERRITO CITY COUNCIL

MINUTES

SPECIAL CITY COUNCIL MEETING

Monday, June 2, 2014 – 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 Rebecca Benassini
Councilmember Jan Bridges

Councilmember Mark Friedman
Councilmember Greg Lyman

ROLL CALL

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

7:00 p.m.

CONVENE SPECIAL CITY COUNCIL MEETING

Mayor Abelson convened the Special City Council Meeting at 7:01 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 Benassini reported that she and Councilmember Friedman attended the Ohlone Greenway Fun Run/Walk/Bike Event on May 31, 2014. It was a great first event.

Mayor Abelson reported that she wheeled the entire distance of the Ohlone Greenway event and enjoyed it very much. She also attended a luncheon for the 70th graduation of El Cerrito High School on May 21 at Spengers. On May 28, Mayor Abelson attended the Exchange Club Officer of the Year ceremony and dinner in which El Cerrito Officer Thepkaysone was honored. On May 30, Mayor Abelson attended the East Bay Municipal Utility District's State of the Drought luncheon and on June 2nd, attended a volunteer appreciation lunch for the West Contra Costa County School District's adult education program. Five adult education senior programs were represented. All of the performances were by seniors and included dancing and singing.

3. ORAL COMMUNICATIONS FROM THE PUBLIC

Al Miller, El Cerrito, expressed his support for Consent Calendar Item Nos. 5B (Opposition to AB 2145) and 5D (Proclamation recognizing June as lesbian, gay, bisexual, transgender Pride (LGBT) Month) and encouraged all to vote in the June 3, 2014 statewide primary. Mr. Miller stressed the importance of local school bond measures that are on the June 3 ballot. Mr. Miller also expressed support for the Bike to Bridges event fundraiser for Special Olympics and noted the involvement of the Police Department in the event.

Tom Panas, El Cerrito, thanked staff for their work on the Ohlone Greenway Fun Day Event.

Gabe Quinto, El Cerrito, spoke in support of Consent Calendar Item No. 5B (Opposition to AB 2145) and urged all to oppose it.

4. PRESENTATION – None

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

Moved, seconded (Bridges/Benassini) and carried unanimously to approve Consent Calendar Item Nos. 5(A) through 5(C), and 5(E) in one motion as indicated below. Item No. 5(D) was removed from the Consent Calendar at the request of Mayor Abelson for the purpose of presenting the proclamation. Mayor Abelson noted for the record that there was an error on the agenda which transposed numbers in the title of Consent Calendar Item No. 5(B).

A. Minutes for Approval

Approve the May 20, 2014 Special City Council and Regular City Council meeting minutes.

Action: Approved minutes.

B. Oppose Assembly Bill 2145 – Electricity: Community Choice Aggregation

Authorize the Mayor to send letters to the author and other appropriate legislators and legislative bodies in opposition to Assembly Bill (AB) 2145 (Bradford) Electricity: Community Choice Aggregation reversing the opt-out provisions of the original Community Choice Aggregation law (AB 117).

Action: Approved recommendation.

C. Designate Primary and Alternate Boardmembers to the Municipal Pooling Authority of Northern California

Adopt a resolution designating the Assistant City Manager as Primary Board Member and the Finance Director as Alternate Board Member to the Municipal Pooling Authority of Northern California.

Action: Adopted Resolution No. 2014–20.

D. Proclamation Recognizing June as Lesbian, Gay, Bisexual, Transgender Pride (LGBT) Month

Approve a proclamation declaring the month of June as LGBT Pride month in the City of El Cerrito, and inviting everyone to reflect on ways we all can live and work together with a commitment to mutual respect and understanding, and further, recognizing Pride Month by flying the rainbow flag at City Hall during the month of June.

Action: Approved proclamation. Moved, seconded (Bridges/Friedman) and carried unanimously to approve the proclamation. Proclamation presented to Gabe Quinto, Chair, Human Relations Commission.

E. Crime Prevention Committee Appointment

Approve a Crime Prevention Committee recommendation to appoint Bruce Yow to the Crime Prevention Committee, effective June 2, 2014.

Action: Approved recommendation.

6. PUBLIC HEARINGS

Project at 1715 Elm Street – Planned Development and Appeal

Staff recommends that the City Council hold a single, consolidated public hearing to consider both the approval of a General Plan Amendment, Planned Development rezoning, and development agreement for the Project, as well as an appeal of the Planning Commission's approval of a Planned Development Use Permit for the Project. The Project includes 14 multi-family residential units in a 42-foot tall structure, preservation and partial

restoration of a historic residence, 15 on-site parking spaces tucked under the multi-family structure, planting of creek-related vegetation, and the creation of private open space.

Additionally, staff recommends that, at the conclusion of the consolidated public hearing, the City Council take the following actions:

- 1) Adopt a resolution approving the Initial Study/Mitigated Negative Declaration for the Project;
- 2) Adopt a resolution approving a General Plan Amendment;
- 3) Introduce by title and waive any further reading of an ordinance approving the rezoning of 1715 Elm Street to a Planned Development Zoning District and amending the Zoning Map accordingly;
- 4) Adopt a resolution denying an appeal of the Planning Commission's approval of a Planned Development Use Permit for the Project; and
- 5) Introduce by title and waive any further reading of an ordinance approving a Development Agreement between the City of El Cerrito and the Edward and Loretta Biggs revocable trust for 1715 Elm Street. Application 6133.

COUNCIL DISCLOSURES:

Mayor Pro Tem Benassini disclosed that she is a parent of a child at Keystone Montessori School which is adjacent to 1715 Elm Street. Mayor Pro Tem Benassini stated that she checked with the City Attorney regarding whether there is a conflict of interest and was advised that since she does not have a financial interest in the project she is able to participate in the decision-making process this evening. Mayor Pro Tem Benassini also disclosed that she discussed the project and TOD ratios with her friend, Jake Wegemann on May 29 and also discussed typical practices involved in construction processes with former Mayor Bill Jones. She also listened to the proceedings that occurred at the Planning Commission.

Councilmember Lyman disclosed that he listened to public testimony provided to the Planning Commission on April 16 and May 21, 2014.

Mayor Abelson disclosed that she had brief conversations with Dave Weinstein and Steve Price.

STAFF PRESENTATION:

Margaret Kavanaugh-Lynch, Development Services Manager, delivered the staff presentation.

PUBLIC HEARING:

Mayor Abelson opened the public hearing.

APPLICANT PRESENTATION:

Applicant presentation: Carlos Campos, Principal of LCA Architects and Michael Wood, Wood Biological Consulting, Inc.

APPELLANT PRESENTATION:

Appellant presentation: Julia Lucia presented on behalf of appellants Julia Lucia, Howdy Goudey, Robin Mitchell, Jason Hasley, Keystone Montessori School / Linda Shehabi, and Dan and Henia Pines.

PUBLIC TESTIMONY. 19 speakers.

Tom Panas, El Cerrito, stated that the proposal has come a long way. Mr. Panas stated that he was particularly pleased to learn that the applicant will be restoring the building in accordance with the Secretary of Interior's Standards for the Treatment of Historic Properties and will do everything he can to support the restoration. Last year's Historic Resources

evaluation found the site to be eligible for listing on the California Register of Historic Resources. Mr. Panas thanked the applicant for his willingness to provide a one-time payment to fund interpretive materials for the proposed plaza and also stated that he is assured that the applicant will comply with all processes and rules promulgated by state agencies in regards to the creek. Mr. Panas requested that the council discuss the duration of the development agreement as ten years is a long time and also requested that the owner or any successor owner support designation of the historic structure on a local, state or national register.

Cynthia Hilton, El Cerrito, stated her continuing opposition to the proposed project and noted that comments submitted to the Planning Commission on May 21 were not included in the City Council packet. Ms. Hilton asked whether other comments and documents opposing the project had been left out of the Council packet. Ms. Hilton said the lack of response by the City Council and staff was stunning and that comments were ignored, brushed aside or made irrelevant by staff. The project as currently designed will have irrevocable, negative and long-lasting effects on the immediately surrounding neighborhood. Rather than a pre-written resolution, there should be room for adjustment, compromise, hearing and responding to the concerns of 100 people versus the wishes of one person.

Dan Pines, El Cerrito, stated that he and his wife own a one-story duplex a little north of the proposed project and noted that most buildings on Elm Street are one-story high and no more than two stories. Mr. Pines stated that building such a big project on a small footprint will block light and air, cause noise and pollution and will also impact the privacy of the duplex he and his wife own. Additionally, the density of living space will greatly exceed the norm, will have a six foot set back from the creek where thirty feet is the norm and will impact parking. Mr. Pines asked the City Council to vote against the project.

Dave Weinstein, El Cerrito, clarified that he was speaking on his own behalf and stated that the City has done a good job working with the developer to preserve the historic house and to some extent preserve the creek. However, there needs to be more natural space around the creek to allow for restoration. The historic stone masonry lining the creek is very important but perhaps more space could be opened up for natural habitat.

Jason Hasley, El Cerrito, stated that he shares concerns raised by other community members that oppose the project. The scope and size of the project is inappropriate for the site. The project will fundamentally alter the neighborhood. Mr. Hasley asked why staff is still pushing for approval of the project when the Planning Commission determined that the project is not appropriate for the site? Mr. Hasley also expressed concerns that the developer is now offering to put time and money into the historic site and give it away.

Pamela Austin, El Cerrito, stated that she supports the City's strategy to increase density and promote mass transit opportunities. Ms. Austin stated that she is also aware that the City needs to increase the tax base to continue high levels of service however she opposes the Elm Street development due to concerns and issues associated with set-backs, height and the creek. Ms. Austin asked the Council to reconsider the project, stated that if the project goes through it will increase resistance in other neighborhoods for future development and asked the Council if approving the project was the precedent it wants to set?

Kathleen McKinley, El Cerrito, stated that she was on the Planning Commission when the zoning ordinance was amended and the creek protection overlay ordinance was added. The proposed project is the same type of project that the creek protection overlay ordinance was enacted to prevent. Ms. McKinley stated that she does not believe the Council can make all four findings under El Cerrito Municipal Code Section 19.12.060(E) that will allow the creek setbacks proposed in the project. Approval of the project will not withstand judicial scrutiny and may result in the filing of a petition for writ of mandate.

Robin Mitchell, El Cerrito, stated that there are many reasons why the proposed project must go forward. In order for the project to go forward, the City must grant "relief" to the developer from the setback restrictions required by the City's own Creek Ordinance. Ms. Mitchell asked why the City has a creek ordinance when it will not enforce it? Ms. Mitchell stated that the creek should be enhanced and restored and noted that in a four block length, from Elm to the Ohlone Path, the creek is culverted underground in only one block, between Liberty and Lexington.

Clay Smith, El Cerrito, stated that the project will block the view of the sky where he lives. Mr. Smith also noted that airborne dust from construction will make its way into the creek, expressed concerns about traffic and parking and stressed the importance of the historic structure, creek and open space on the site.

Howdy Goudey, El Cerrito, stated that the primary issue is really about the big picture and the guidance the city wants to follow in determining how El Cerrito will develop. There are good policies to follow. No one is arguing against transit oriented development. The project needs to be examined within the context of the existing zoning structure and the resources located on this unique site. The site gives one a unique glimpse into the bucolic past of the city. The creek is a unique resource that needs to be protected.

Linda Shehabi, El Cerrito, presented a petition signed by 62 families of Keystone Montessori School who strongly oppose the project that borders the school because it is oversized, too high, endangers the creek and because it lacks monitoring of toxic emissions and poses potential health risks to children. Ms. Shehabi also asked the City to adopt a policy requiring monitoring of airborne toxics for development projects that are located next to schools.

Amy Coty, El Cerrito, stated that she agrees 100% with the appeal and urged the City Council to deny the project as proposed. Ms. Coty stated that she would like to see studies that were suggested by the appeal team completed.

Stephanie Cline, El Cerrito, stated that she lives next door to a botched development near Canyon Trail and expressed concerns that so many housing units are being placed on this and other lots in the City without much support for neighbors.

Mary Ghidella, El Cerrito, stated that she supports all the residents who have spoken against the project. The project does not support the goals of a green city.

Anna Basallase, El Cerrito, stated that she is a parent of a child at Keystone Montessori School. Ms. Basallase expressed her opposition to the project and urged the City Council to listen to the residents they represent and not approve the project.

Jennifer Moran, El Cerrito, expressed her opposition to the project, stated that it will not blend with the surrounding neighborhood and that the project will impact her privacy.

Franklin Leong, El Cerrito, expressed concerns with current traffic conditions, submitted several photos and asked that the project not go forward.

Sheri Hsu, El Cerrito, expressed her opposition to the project and stated that the creek could be a resource for children and schools who could learn and help restore it.

Naomi McPherson, El Cerrito, stated that she has always admired the Elm Street site, particularly the creek, cannot envision fourteen units in the site and noted that the creek is a very valuable asset in the City that should be preserved.

APPELLANT REBUTTAL: Howdy Goudey presented a rebuttal on behalf of the Appellants. Mr. Goudey urged the City Council to take more time to deliberate findings required for the project, deny the project, consider the relationship the city has with the developer, the development agreement and uphold the standard of restorative creek stewardship. Other places are more appropriate for higher density. Mr. Goudey emphasized that there needs to be a higher standard for how this unique property will be treated.

APPLICANT REBUTTAL: Carlos Campos presented a rebuttal on behalf of the Applicant. Mr. Campos noted that solar panels are affordable and work very well and that condominiums are by nature affordable housing. Engineering, hydrology, biological and traffic reports that were requested of the applicant, and vetted by staff, work well with the proposed design. The area is zoned for high density and the rest of the block will develop eventually. Mr. Campos stated that the developer trying to preserve and enhance the creek and stone masonry in its current state and is open to creek restoration ideas. The site is a quarter of a mile from BART. Mr. Campos stated that he thinks the project is the right mix and solution for the property. The developer would like to have fourteen units approved for sale to help pay for improving the historic home and is willing to donate the house to a non-profit entity if someone will maintain it.

Moved, seconded (Friedman/Lyman) and carried to suspend Council rules and extend the meeting to 11:00 p.m.

Moved, seconded (Lyman/Benassini; Ayes – Councilmembers Benassini, Bridges, Lyman and Mayor Abelson; Noes – Councilmember Friedman) and carried to suspend Council rules and extend the meeting to 11:05.

Moved, seconded (Lyman/Benassini) and carried unanimously to suspend Council rules and extend the meeting to 11:20 p.m.

[Brief Recess to determine a date for continuation of Council deliberation on the item.]

Appellant and Applicant rebuttals were followed by questions from the Council.

Moved, seconded (Friedman/Lyman) and carried unanimously to suspend Council rules and extend the meeting to 11:35 p.m.

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

Moved, seconded (Lyman/Friedman) and carried unanimously to continue deliberations of this item to Monday, June 23 at 7:00 p.m.

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. *Held over to the June 9, 2014 City Council meeting.*

9. ADJOURNED SPECIAL CITY COUNCIL MEETING at 11:34 in memory of former Mayor Ernie Del Simone. Mr. Del Simone was on the City Council from 1972-80 and Mayor during the Nation's bicentennial celebration in 1976.

COMMUNICATIONS *(Posted and printed with the June 2, 2014 City Council packet)*

Agenda Item No.6: Public Hearing: Project at 1715 Elm Street - Planned Development and Appeal

1. Comments regarding the proposed project – *Submitted by Randy Calish, El Cerrito.*
2. Comments regarding the proposed project – *Submitted by Carl E. Campos, LCA Architects.*
3. Comments regarding the proposed project – *Submitted by Robin Mitchell, El Cerrito.*
4. Comments regarding the proposed project – *Submitted by Dan and Henia Pines, El Cerrito.*

5. Comments regarding the proposed project – *Submitted by Jennifer Hammer, El Cerrito.*
6. Comments regarding the proposed project – *Submitted by Mary D. Ghidella, El Cerrito.*
7. Comments regarding the proposed project – *Submitted by Anne McLellan, El Cerrito.*
8. Comments regarding the proposed project – *Submitted by Ernestine Warren, El Cerrito.*
9. Comments regarding the proposed project – *Submitted by Jim and Kathy McKissack, El Cerrito.*
10. Comments regarding the proposed project – *Submitted by Sheri Hsu, Keystone Montessori School, El Cerrito.*
11. Comments regarding the proposed project – *Submitted by Howdy Goudey, El Cerrito.*
12. Comments regarding the proposed project – *Submitted by Michael Charlton, El Cerrito.*
13. Comments regarding the proposed project – *Submitted by Lotus Go, El Cerrito.*
14. Comments regarding the proposed project – *Submitted by Howdy Goudey.*
15. Comments regarding the proposed project – *Submitted by Robert and Laverne Vallejo, El Cerrito.*

SUPPLEMENTAL COMMUNICATIONS 1 *(Received after the agenda packet went to print but prior to the June 2, 2014 City Council meeting)*

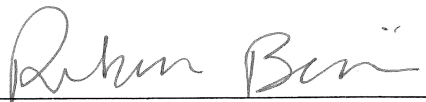
16. Comments regarding the proposed project – *Submitted by Steve Price, El Cerrito.*
17. Comments regarding the proposed project – *Submitted by Kent F. McCue, El Cerrito.*

SUPPLEMENTAL REPORTS AND COMMUNICATIONS 2 *(Received during the June 2, 2014 City Council meeting)*

18. Comments regarding the proposed project – *Submitted by Tom Panas, El Cerrito*
19. Comments regarding the proposed project – *Submitted by Cynthia Hilton, El Cerrito.*
20. Comments regarding the proposed project – *Submitted by Robin Mitchell, El Cerrito.*
21. Comments regarding the proposed project – *Submitted by Howdy Goudey, El Cerrito.*
22. Comments and several photographs regarding the proposed project – *Submitted by Franklin Leong, El Cerrito.*
23. Petition opposing the proposed project signed by 67 people representing families of Keystone Montessori School – *Submitted by Linda Shehabi, Keystone Montessori School*
24. Staff powerpoint presentation – *Submitted by Margaret Kavanaugh-Lynch, Development Services Manager*
25. Appellant powerpoint presentation – *Submitted by Julia Lucia, on behalf of appellants.*
26. Applicant powerpoint presentation – *Submitted by Carlos Campos, LCA Architects on behalf of Developer/applicant.*

This is to certify that the foregoing is a true and correct copy of the minutes of the meeting of June 2, 2014 as approved by the El Cerrito City Council.


Cheryl Morse, City Clerk


Rebecca Benassini, Vice Mayor