

EL CERRITO CITY COUNCIL

MINUTES

SPECIAL CITY COUNCIL MEETING – CLOSED SESSION

Tuesday, November 19, 2013 – 6:00 p.m.

Hillside Conference Room

CITY COUNCIL MEETING

Tuesday, November 19, 2013 – 7:00 p.m.

City Council Chambers

Meeting Location

El Cerrito City Hall

10890 San Pablo Avenue, El Cerrito

Greg Lyman – Mayor

Mayor Pro Tem Janet Abelson
Councilmember Jan Bridges

Councilmember Rebecca Benassini
Councilmember Mark Friedman

6:00 p.m.

ROLL CALL

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

CONVENE SPECIAL CITY COUNCIL MEETING – CLOSED SESSION

Mayor Lyman convened the Special City Council Meeting – Closed Session at 6:12 p.m.

ANNOUNCEMENT OF CLOSED SESSION

A. PUBLIC EMPLOYEE PERFORMANCE EVALUATION – *Pursuant to Government Code Section 54957*

Title: City Manager

B. CONFERENCE WITH LABOR NEGOTIATORS – *Pursuant to Government Code Section 54957.6*

Agency Designated Representatives: City Council Subcommittee on City Manager Performance

Designated Employee: City Manager

ORAL COMMUNICATIONS FROM THE PUBLIC – No speakers.

RECESSED INTO CLOSED SESSION at 6:13 p.m.

ADJOURNED SPECIAL CITY COUNCIL – CLOSED SESSION at 7:00 p.m.

ROLL CALL

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

7:00 p.m.

CONVENE CITY COUNCIL MEETING

Mayor Lyman convened the Special City Council Meeting – Closed Session at 7:06 p.m.

1. PLEDGE OF ALLEGIANCE TO THE FLAG OR OBSERVATION OF MOMENT OF SILENCE was led by Councilmember Rebecca Benassini.

2. COUNCIL / STAFF COMMUNICATIONS

Mayor Lyman reported that the City Council had met in closed session prior to the this evening's regular City Council meeting to continue the City Manager's performance evaluation.

Mayor Pro Tem Abelson reported, that as Chair of the Contra Costa Transportation Authority, she participated in the grand opening of the fourth bore of the Caldicott Tunnel which is the second largest transportation tunnel in the United States. The event was extremely well attended.

Mayor Lyman announced that Assemblymember Nancy Skinner and Supervisor John Gioia and the NAACP are hosting a Town Hall meeting in El Cerrito on November 24 to talk about healthcare reform and *Covered California* at the St. Peters Christian Methodist Episcopal Church. On November 21, the West Contra Costa County Mayors and Supervisors Association (WCMA) will receive presentations on the pros and cons of Proposition 13 Reform. On December 19 Assemblymember Skinner will be talking to WCMA about issues associated with the dissolution of redevelopment. Both meetings will take place at El Cerrito City Hall.

3. ORAL COMMUNICATIONS FROM THE PUBLIC

Al Miller, El Cerrito, noted that there was an inaccuracy in the staff report for agenda item number 5(B) by pointing out that the City does not operate the stormwater system. Mr. Miller also informed the Council and public that the West County Wastewaters District (WCWD) recently passed a resolution censuring Director Battaglia, removing him from all standing and ad hoc committees and demanding his immediate resignation from the Board after he made unacceptable, mean spirited and racist remarks. Mr. Miller urged the Council to take action on agenda item number 5(B) by making it clear that the action is based on the professionalism of the WCWD staff who will be performing the work previously done by EBMUD, and in no way condones the remarks of Mr. Battaglia.

Liz Block, El Cerrito, spoke in support of Summit Schools and submitted a statement of *All of our Kids*, and called on the City Council to welcome Summit Schools into the community. Ms. Block noted that while the West Contra Costa Unified School District (WCCUSD) had denied Summit School's application, the County Board of Education approved it. Ms. Block stated that every child in the community deserves a quality education.

Jacqueline Majors, WCCUSD, distributed flyers for the El Cerrito High School update. Construction will begin in December. The anticipated completion date is Summer 2015.

4. PRESENTATIONS

A. KIDS for the BAY – *Presentation by Mandi Billinge, Executive Director/Founder, regarding the organization's Watershed Action Program and their work in El Cerrito schools which is co-sponsored by the City's Clean Water Program.*

Action: Received presentation.

B. Prosecution and Prevention of Crime in Contra Costa County – *Presentation by Mark Peterson, Contra Costa County District Attorney.*

Action: Received presentation.

5. ADOPTION OF THE CONSENT CALENDAR – Item Nos. 5(A) through 5(C)

Moved, seconded (Benassini/Friedman) and carried unanimously to approve Consent Calendar Item Nos. 5(A) and 5(C). Item No. 5(B) was removed from the Consent Calendar at the request of Mayor Pro Tem Abelson as indicated below.

A. Minutes for Approval

Approve the November 5, 2013 Special City Council Closed Session and Regular City Council meeting minutes.

Action: Approved minutes.

B. Stormwater Utility Area Agreement with Contra Costa Flood Control and Water Conservation District to Administer an Agreement with West County Wastewater District for El Cerrito's Inspection and Illicit Discharge Control Activities

Adopt a resolution approving the following actions: 1) Authorize the Contra Costa Flood Control and Water Conservation District to execute the Amended and Restated Contra Costa Clean Water Program Inspection Activities Agreement by and among the District, Central Contra Costa Sanitary District, Delta Diablo Sanitation District and West County Wastewater District; and 2) Authorize the City Manager to execute the Third Amendment to the Stormwater Utility Area Agreement (SUAA) and Clean Water Program Inspection Program Indemnification Agreement. *Exempt from CEQA.*

Action: Removed from the Consent Calendar by Mayor Pro Tem Abelson. Moved, seconded (Friedman/Abelson) and carried unanimously to adopt Resolution No. 2013-61.

C. Contract with West Coast Arborists for City Tree Pruning and Removal

Adopt a resolution authorizing the City Manager to amend the current City Tree Pruning and Removal Contract with West Coast Arborists (WCA) to increase the contract amount from \$25,000 to \$100,000 and time of completion from December 31, 2013 through June 30, 2014. *Exempt from CEQA.*

Action: Adopted Resolution No. 2013-62.

6. PUBLIC HEARINGS

A. Proposed Integrated Waste Management Fees and East Bay Sanitary Garbage & Green Waste Collection and Processing Rates – Effective January 1, 2014

1) Conduct a public hearing and upon conclusion adopt a resolution setting Integrated Waste Management (IWM) Fees, effective January 1, 2014; and

2) Conduct a public hearing and upon conclusion adopt a resolution setting maximum allowable East Bay Sanitary (EBS) garbage and green waste collection, disposal and processing rates, and stipulating a 15% EBS Franchise Fee, effective January 1, 2014.

Presenter: Garth Schultz, Operations and Environmental Services Manager, Public Works Department consolidated both public hearing items into one presentation.

INTEGRATED WASTE MANAGEMENT FEES

Mayor Lyman opened the public hearing. No speakers.

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

Action: Moved, seconded (Benassini/Friedman) and carried unanimously to adopt Resolution No. 2013-63.

EAST BY SANITARY GARBAGE AND GREEN WASTE COLLECTION, DISPOSAL AND PROCESSING RATES

Mayor Lyman opened the public hearing. No speakers.

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

Action: Moved, seconded (Friedman/Bridges) and carried unanimously to adopt Resolution No. 2013-64.

B. Building Code and Fire Code Ordinance Update

Conduct a public hearing and upon conclusion adopt Ordinance No. 2013-05, an ordinance of the City of El Cerrito amending Title 16 of the El Cerrito Municipal Code to adopt, with modifications to address unique local conditions, the 2013 Edition of the California Green Building Code, the 2013 Edition of the California Building Code (Based on the 2012 International Building Code), Volumes 1 and 2, including several appendices thereto, the 2013 California Fire Code (based on the 2012 International Fire Code), including all appendices thereto, the 2013 Edition of the California Administrative Code, the 2013 Edition of the California Residential Code (based on the 2012 International Residential Code) with some appendices, the 2013 California Plumbing Code (based on the 2012 Uniform Plumbing Code), the 2013 California Mechanical Code (based on the 2012 Uniform Mechanical Code), and the 2013 California Electrical Code (based on the 2011 National Electrical Code). *Exempt from CEQA. First Reading October 15, 2013. Approved by unanimous vote.*

Mayor Lyman opened the public hearing. No speakers.

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

Action: Moved, seconded (Bridges/Abelson) and carried unanimously to adopt Ordinance No. 2013-05.

C. Amend El Cerrito Municipal Code Chapter 11.64 - Bicycles

Conduct a public hearing upon conclusion, introduce by title, waive any further reading and approve an ordinance amending specified sections and repealing other sections within El Cerrito Municipal Code Chapter 11.64 – Bicycles. *Exempt from CEQA*

Presenter: Sylvia Moir, Police Chief.

Mayor Lyman opened the public hearing. No speakers.

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

Action: Moved, seconded (Friedman/Abelson) and carried unanimously to approve an ordinance amending El Cerrito Municipal Code Chapter 11.64 – Bicycles, as further amended by Councilmember Friedman to change the age of juveniles who can ride on sidewalks (except those in front of stores or businesses) from under 18 years of age to 16 in ECMC Section 11.64.040(B). Additional clarification was requested regarding the applicability of mountain biking in the open space area at Section 11.64.040(E) and, at Councilmember Benassini's request to change the word "intend" to "intended" in Section 11.64.040(C) and provide additional information regarding the age change in Section 11.64.040(B). Councilmember Friedman also asked for a report back on the Police Department's efforts in bicycle riding and safety education. *Second reading of the ordinance scheduled for December 17, 2013.*

7. POLICY MATTERS

A. City Manager Employment Agreement Amendment

Adopt a resolution approving the First Amendment to the City Manager Employment Agreement between the City of El Cerrito and Scott Hanin.

Presenter: Sky Woodruff, City Attorney

Action: Moved, seconded (Abelson/Friedman) and carried unanimously to adopt Resolution No. 2013–65.

B. Board, Commission and Committee Ordinance, Policy and Rules Revisions

Based on direction received from the City Council on October 15, 2013, the City Council Subcommittee on Commission Rules Revisions seeks additional discussion, direction and action this evening on regulations regarding quorums and the minimum number of members required to take action on the City's Boards, Commissions and Committees and proposes adoption of the following legislation:

- 1) Introduce by title, waive any further reading, and approve an ordinance amending Section 2.04.220 of the El Cerrito Municipal Code – Boards, Commissions and Committees and repealing Section 2.04.290 Economic Development Board;
- 2) Adopt a resolution establishing an Economic Development Committee;
- 3) Adopt a resolution revising the policy regarding Council and staff relations with City Commissions, Boards, Committees and Task Forces by modifying the role and reporting frequency of the Council Liaison; and
- 4) Adopt a resolution establishing a policy regarding appropriate positions to receive ethics training pursuant to Government Code Section 53235. The City Council designates each member of the Arts and Culture Commission, Design Review Board, Financial Advisory Board, Parks and Recreation Commission and the Planning Commission to complete AB 1234 Ethics Training.

Presenter: Mayor Lyman.

Speakers: Tom Panas, El Cerrito, stated that he is in favor of a simple majority of members present to establish a quorum.

Actions: 1) Moved, seconded (Friedman/Benassini) and carried unanimously to approve an ordinance amending Section 2.04.220 and repeal Section 2.04.290 of the El Cerrito Municipal Code as amended by Councilmember Friedman to include the Arts and Culture Commission in Section 2.04.220(5)(a) and as further amended on the floor to modify the language in this section to read as follows:

For boards and commissions, a quorum for the purpose of holding a meeting shall consist of a simple majority of the members then serving. A board or commission may act by an affirmative vote of a simple majority of a quorum. Notwithstanding the foregoing, a quorum for the purposes of holding a meeting of the Planning Commission, Design Review Board and the Arts and Culture Commission shall consist of simple majority of the members then serving, but not fewer than three members. Further, the Planning Commission, ~~or~~ Design Review Board, or the Arts and Culture Commission may act by an affirmative vote of a simple majority of a quorum but not less than three affirmative votes shall be required for the Planning Commission;

2) Moved, seconded (Abelson/Benassini) and carried unanimously to adopt Resolution No. 2013–66, creating a new Economic Development Committee;

3) Moved, seconded (Benassini/Abelson) and carried unanimously to adopt Resolution No. 2013–67, establishing a policy regarding the appropriate positions to receive Ethics Training pursuant to Government Code Section 53235; and

4) Moved, seconded (Benassini/Friedman; Ayes – Councilmembers Benassini, Bridges, Friedman and Mayor Lyman; Noes – Mayor Pro Tem Abelson; Abstain – None) and carried to adopt Resolution No. 2013–68, revising a policy regarding Council and staff relations with

City Commissions, Boards, Committees and Task Forces as amended at the request of Councilmember Abelson to revise language in Subsection 1(B) of the enacting clause of the resolution to state:

It is the policy of the City Council that a Liaison is ~~not~~ expected to attend the meetings of the Advisory Body to which the Liaison is assigned ~~more often than at least~~ once quarterly.

Additionally, Subsection 1(F) of the enacting clause of the resolution was moved to a new Section 3. COMMISSIONERS as a standalone provision and renumbered as Subsection 3(A) as follows:

SECTION 3. COMMISSIONERS

- A. To avoid any possibility of the appearance of or actual conflict of interest, unfairness, bias, prejudice or influence, individuals residing at the same address cannot serve on the Council and an advisory body, the same advisory body, or advisory bodies with overlapping subject-matter jurisdiction.

8. COUNCIL ASSIGNMENTS/LIAISON REPORTS

A. Mayor Lyman stated, in reporting on his attendance at the November 7 Contra Costa County Mayors Conference, that there are four national parks in the County – the Eugene O’Neil house in Danville, the John Muir house and park in Martinez, Rosie the Riveter in Richmond, and the Port Chicago Memorial located in an active military base in Concord. Port Chicago is open to the public on July 17 or by obtaining a military clearance. The monument memorializes the death of over 200 African American sailors that perished while placing munitions on ships during World War II. The event initiated the beginning of desegregation within the armed forces. Additionally, Contra Costa County District Two Supervisor Candace Anderson reported there are changes in Fire Chiefs county-wide. A study on fire services is forthcoming. There is also a search underway for the county librarian due to retirement. Supervisor Anderson also reported on Assembly Bill 109-Jail expansion for capacity, training and treatment. The Contra Costa Mayors also received notification of MTC grants that Mayor Lyman referred to the City Manager to assess. Mayor Lyman also attended the Crime Prevention Committee and the Human Relations Commission (HRC) meeting. The HRC is moving forward with the annual Martin Luther King, Jr. celebration and parade.

B. Mayor Pro Tem Abelson reported that she has been elected First Vice President of League of California Cities East Bay Division and recently attended the statewide League Leaders Training in which she worked on priorities for the League for the year. Mayor Pro Tem Abelson also attended the unveiling of a new sign in conjunction with the renaming ceremony for the East Shore State Park which has been renamed McLaughlin State Park in honor of Sylvia McLaughlin. The El Cerrito and Richmond firefighters and police officers held a breakfast event on November 15 to kick-off holiday fundraising and toy donations for needy families. It is a massive undertaking. Mayor Pro Tem encouraged everyone to participate in the El Cerrito and Richmond Fire and Police Toy Program once the barrels are set out for toy donations.

C. Councilmember Benassini reported that the Financial Advisory Board (FAB) met on November 12 and approved the investment policy and comprehensive financial policy that will come before the Council in the near future. A key change recommended by the FAB is to add a goal into the comprehensive financial policy that will state that the City will strive to maintain a minimum cash balance equal to fifteen days of operating budget.

D. Councilmember Bridges reported that the Design Review Board met on November 6 to review a conceptual design on the project located at 1715 Elm Street.

E. Councilmember Friedman reported that the Arts and Culture Commission approved

the Arts and Culture Master Plan which will come before the City Council soon.

SUPPLEMENTAL REPORTS AND COMMUNICATIONS

Item No. 4(A) KIDS for the BAY

1. KIDS for the BAY 2012-2013 School Year Annual Report – *Submitted by Mandi Billinge, Executive Director/Founder.*

Item No. 5(B) Stormwater Utility Area Agreement with Contra Costa Flood Control and Water Conservation District to Administer an Agreement with West County Wastewater District for El Cerrito's Inspection and Illicit Discharge Control Activities

2. Comments regarding censure of WCWD Director Leonard Battaglia and notation regarding action on Item No. 5(B) – *Submitted by Al Miller, El Cerrito.*

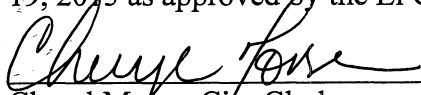
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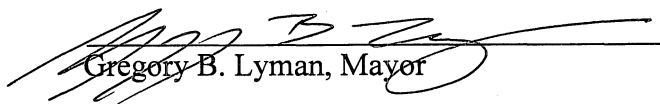
3. Summit Public Schools to Open First West County Campus: All Our Kids press release – *Submitted by Liz Block, El Cerrito.*

4. El Cerrito High School Stadium Update – *Submitted by Jacqueline Majors, WCCUSD.*

9. **ADJOURNED REGULAR CITY COUNCIL MEETING** at 9:45 p.m. in memory of the loss of life and devastation resulting from Typhoon Haiyan in the Philippines and the recent series of tornadoes in the Midwest.

This is to certify that the foregoing is a true and correct copy of the minutes of the Special City Council – Closed Session and Regular City Council meeting of November 19, 2013 as approved by the El Cerrito City Council.


Cheryl Morse, City Clerk


Gregory B. Lyman, Mayor