



AGENDA

CITY COUNCIL MEETING
Tuesday, October 15, 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

ROLL CALL

7:00 p.m. CONVENE CITY COUNCIL MEETING

1. PLEDGE OF ALLEGIANCE TO THE FLAG OR OBSERVATION OF MOMENT OF SILENCE – Mayor Pro Tem Abelson.

2. COUNCIL / STAFF COMMUNICATIONS (*Reports of Closed Session, commission appointments and informational reports on matters of general interest which are announced by the City Council & City Staff.*)

3. ORAL COMMUNICATIONS FROM THE PUBLIC

All persons wishing to speak should sign up with the City Clerk. Remarks are typically limited to 3 minutes per person. The Mayor may reduce the time limit per speaker depending upon the number of speakers. Kindly state your name and city of residence for the record. Comments regarding non-agenda, presentation and consent calendar items will be heard first. Comments related to items appearing on the Public Hearing or Policy Matter portions of the Agenda are taken up at the time the City Council deliberates each action item. Individuals wishing to comment on any closed session scheduled after the regular meeting may do so during this public comment period or after formal announcement of the closed session.

4. PRESENTATIONS

Contra Costa Civic Theatre – Presentation by Kimberly Mayer, Contra Costa Civic Theatre Board President and Marilyn Langbehn, Artistic Director.

Introduction to the Contra Costa Civic Theatre's mission, season, shows and programs.

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

Consent Calendar items are considered to be routine by the City Council and will be enacted by one motion unless a request for removal for discussion or explanation is received prior to the time Council votes on the motion to adopt the Consent Calendar.

A. Minutes for Approval

Approve the October 1, 2013, Special City Council and Regular City Council meeting minutes.

B. Shelter in Place Day Proclamation

Approve a proclamation declaring November 6, 2013 as “Shelter-in-Place Education Day” and recognizing the importance of preparing for emergencies and encouraging participation in the Contra Costa Community Awareness Emergency Response Group’s (CAER) public education efforts and supporting the parents, teachers, students and staff that will be participating with hundreds of other school and childcare centers in the Shelter-in-Place Drill.

C. Regional Federal Emergency Management Agency Grant for the Purchase of Self Contained Breathing Apparatus from Allstar Fire Equipment, Inc.

Staff requests that the City Council adopt a resolution taking the following actions:

- 1) Authorize the participation of the Fire Department in a County-wide Regional Federal Emergency Management Agency (FEMA) grant with the Contra Costa County Fire Protection District (CCCYPD) for the purchase of 36 Self Contained Breathing Apparatus (SCBA) devices;
- 2) Approve the use of \$46,685 in matching funds, of which \$15,561 will be received from a contribution from the Kensington Fire Protection District (KFPD) and the remaining \$31,124 in matching funds from the Vehicle/Equipment Replacement Fund; and
- 3) Authorize payment of \$46,685 to CCCYPD for the required match to purchase thirty-six SCBAs from Allstar Fire Equipment, Inc.

D. City Manager Performance Evaluation Subcommittee

Appoint Mayor Lyman and Mayor Pro Tem Abelson to a City Council Subcommittee to meet with the City Manager regarding his performance evaluation and review of his contract.

6. PUBLIC HEARINGS – None

7. POLICY MATTERS

A. Proposed Sixth Amendment to the Franchise Agreement between East Bay Sanitary Company, Inc. and the City of El Cerrito

Adopt a resolution approving the proposed Sixth amendment to the Franchise Agreement (Agreement) between the City of El Cerrito (City) and East Bay Sanitary Company, Inc. for Fleet Management and Maintenance Services (Fleet Services), effective October 16, 2013 through December 31, 2014.

B. Building Code and Fire Code Ordinance Update

Staff requests that the City Council take the following actions this evening:

- 1) Adopt a Resolution which makes findings justifying changes or modifications due to local climatic, geologic and topographic conditions in the 2013 California Building Standards Code, which includes the California Green Code, Building Code, Fire Code, Residential Code and related Construction Codes; and
- 2) Introduce by title, waive any further reading, and approve an ordinance which adopts the 2013 California Green Code, Administrative, Building, Fire, Plumbing, Mechanical, Electrical, Energy, Residential Code and related Construction Codes as applicable to all construction within the City of El Cerrito, with local modifications as outlined in the Ordinance.

C. Boards, Commissions and Committees Study Session

Discuss the current status of City of El Cerrito Boards, Commissions and Committees and provide direction to the subcommittee and/or staff regarding recommended changes and revisions.

8. COUNCIL ASSIGNMENTS/LIAISON REPORTS

A. Mayor Lyman Assignments: Commission/Committee Rules Subcommittee, Contra Costa County Mayors' Conference, Crime Prevention Committee, East Bay Green Corridor Principal, Human Relations Commission, Municipal Services Corporation Chair, Pension Trust Board Chair, Public Financing Authority Chair, San Pablo Avenue Area Specific Plan Committee, Successor Agency to the Former Redevelopment Agency Chair, Tree Committee, West Contra Costa Transportation Advisory Committee Alternate, West County Mayors' & Supervisors' Association and West County Integrated Waste Management Authority Delegate.

B. Mayor Pro Tem Abelson Assignments: Committee on Aging, Contra Costa County Mayors' Conference Alternate, Contra Costa Transportation Authority Board Chair, League of California Cities East Bay Division Delegate (also attends as the Council's Delegate to the Annual League Conference), Environmental Quality Committee, Municipal Services Corporation Vice-Chair, Pension Trust Board Vice-Chair, Successor Agency to the Former Redevelopment Agency Vice-Chair, West Contra Costa Transportation Advisory Committee Delegate and West County Mayors' & Supervisors' Association Alternate.

C. Councilmember Benassini Assignments: Association of Bay Area Governments General Assembly Delegate, Financial Advisory Board, Planning Commission, San Pablo Avenue Area Specific Plan Committee and Tom Bates Regional Sports Field Joint Powers Authority Alternate.

D. Councilmember Bridges Assignments: Tom Bates Regional Sports Field Joint Powers Authority Delegate and Design Review Board, Park and Recreation Commission.

E. Councilmember Friedman Assignments: Arts and Culture Commission, Association of Bay Area Governments General Assembly Alternate, Economic Development Board, Commission/Committee Rules Subcommittee, League of California Cities East Bay Division Alternate and West County Integrated Waste Management Authority Alternate.

9. ADJOURN REGULAR CITY COUNCIL MEETING

The next City Council meeting is Tuesday, November 5, 2013 at 7:00 p.m. in the City Council Chambers, 10890 San Pablo Avenue, El Cerrito, California.

- Council Meetings can be heard live on FM Radio, KECG – 88.1 and 97.7 FM and viewed live on Cable TV - KCRT-Channel 28 and AT&T Uverse Channel 99. The meetings are rebroadcast on Channel 28 the following Thursday and Monday at 12 noon, except on holidays. Live and On-Demand Webcast of the Council Meetings can be accessed from the City's website <http://www.el-cerrito.org/ind-ex.aspx?NID=114>. Copies of the agenda bills and other written documentation relating to items of business referred to on the agenda are on file and available for public inspection in the Office of the City Clerk, at the El Cerrito Library and posted on the City's website at www.el-cerrito.org prior to the meeting.
- In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the City Clerk, (510) 215-4305. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting. (28 CFR 35.102-35.104 ADA Title I).
- ***The Deadline for agenda items and communications*** is eight days prior to the next meeting by 12 noon, City Clerk's Office, 10890 San Pablo Avenue, El Cerrito, CA. Tel: 215-4305 Fax: 215-4379, email cmorse@ci.el-cerrito.ca.us
- IF YOU CHALLENGE A DECISION OF THE CITY COUNCIL IN COURT, YOU MAY BE LIMITED TO RAISING ONLY THOSE ISSUES YOU OR SOMEONE ELSE RAISED AT THE COUNCIL MEETING. ACTIONS CHALLENGING CITY COUNCIL DECISIONS SHALL BE SUBJECT TO THE TIME LIMITATIONS CONTAINED IN CODE OF CIVIL PROCEDURE SECTION 1094.6.

- The City Council believes that late night meetings deter public participation, can affect the Council's decision-making ability, and can be a burden to staff. City Council Meetings shall be adjourned by 10:30 p.m., unless extended to a specific time determined by a majority of the Council.

EL CERRITO CITY COUNCIL

MINUTES

SPECIAL CITY COUNCIL MEETING

Tuesday, October 1, 2013 – 6:25 p.m.

Hillside Conference Room

CITY COUNCIL MEETING

Tuesday, October 1, 2013 – 7:00 p.m.

City Council Chambers

SPECIAL CITY COUNCIL MEETING – CLOSED SESSION

Tuesday, October 1, 2013 – Immediately following the Regular City Council meeting

Hillside Conference Room

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

6:25 p.m. ROLL CALL

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

CONVENE SPECIAL CITY COUNCIL MEETING

Mayor Lyman convened the Special City Council meeting at 6:27 p.m.

ORAL COMMUNICATIONS FROM THE PUBLIC – No comments.

COMMISSION INTERVIEWS, STATUS AND APPOINTMENTS

Conduct interviews of candidates for city boards, commissions and committees. Interviews may result in an announcement of appointment at the meeting. The City Council may also discuss and determine the scheduling and structure of future interviews.

Action: Interviews conducted. Appointed Tess Taylor to the Economic Development Board for a term concluding on January 1, 2014.

ADJOURNED SPECIAL CITY COUNCIL MEETING 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 at 7:06 p.m.

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

2. COUNCIL / STAFF COMMUNICATIONS

Mayor Lyman stated that the West Contra Costa County Mayors recently received a presentation from the City of San Pablo and San Pablo Economic Development Corporation on its *Removing Barriers* tattoo removal program. The program focuses on providing assistance to individuals in the State of California who want to remove tattoos that might be a barrier to employment. The program also includes a job readiness training program and is subsidized by the San Pablo Economic Development Corporation.

Mayor Pro Tem Abelson announced that the City had received a Beacon Spotlight Award for Energy Savings from the League of California. It is a significant award. Not many cities in California received the Award. Mayor Pro Tem Abelson thanked Community Development Director Mintz for attending the award ceremony. Mayor Pro Tem Abelson also reported on her attendance at the Alberrito Street Play Fair on September 29, 2013. She was pleased to see *Off the Grid* trucks at the event and noticed the large number of little feet doing physical activity at the street fair such as riding bikes, playing ball and other sports. It was a very healthy event that was well attended by families from El Cerrito and Albany.

3. ORAL COMMUNICATIONS FROM THE PUBLIC

Al Miller, El Cerrito, spoke about a safety hazard associated with a depression in the street median that was very close to the Off the Grid event and how it was promptly fixed through the efforts of Community Outreach Specialist Suzanne Iarla and Public Works staff. Mr. Miller stated that residents are fortunate to live in a city that has a staff that listens to people and is responsive.

Liz Block, El Cerrito, stated that she is a long time resident who is happy with all the changes that have occurred in El Cerrito over the past five years, including redevelopment, the Recycling Center and *Off the Grid*. Ms. Block produced letters containing signatures of 250 parents who strongly support a middle and high school charter school option at 1800 Elm Street in El Cerrito. The parents were devastated to learn that the West Contra Costa Unified School District (WCCUSD) denied the request for a charter school in El Cerrito. Ms. Block stated that WCCUSD schools continue to fail in West Contra Costa County and that parents just want children to attend good schools where kids can be safe and learn.

Robin Mitchell, El Cerrito, informed the City Council and the public that there will be a Family Field Day at the Gill Tract on October 13, 2013 between 10:00 a.m. and 4:00 p.m. The University of California, who owns the land, has given the College of Natural Resources ten years to conduct urban agriculture and an agroecology project there. Forty community members, working in groups of four, have been given ten plots at the Gill Tract to grow food under the supervision of a professor of the University. Much of the produce grown is given to food banks and those in need of fresh vegetables. The event provides an opportunity for the public to see what is being done there and collect other ideas. The organizers are interested in having elected officials from local cities come to see the project. Ms. Mitchell stated that the soil is Class One Agricultural Soil that is very fertile and very special. Plants grow three times better. The Day includes lunch and a community forum.

Virginia Duplessis, El Cerrito, spoke in support of a Summit Charter School at the old Windrush School site from the perspective of a parent and as a home owner in El Cerrito. Ms. Duplessis stated that she is committed to living in El Cerrito and improving it. She is

excited to have a viable, vibrant option at the site and is also excited to have a new, innovative public school option in the community.

4. PRESENTATIONS

A. Girls Inc. of West Contra Costa County – Presentation by Miesha Harris, Executive Director

Girls Inc. West Contra Costa County inspires all girls to be strong, smart, and bold through life-changing programs and experiences that help girls navigate gender, economic and social barriers.

Speakers: Bree Allen, Richmond, stated that she has been involved with Girls, Inc. for three years and is college bound. Ms. Allen described how she has benefited from her association with Girls Inc. and the College Bound program, and expressed her desire to help others in her future career as an Federal Bureau of Investigation (FBI) agent.

Mia Harris, stated that she has been with Girls Inc. for three years and described the many benefits resulting through her association with Girls Inc. and the College Bound program.

Action: Received presentation.

B. Arts and Culture Commission Update on San Pablo Avenue Art Project – Presentation by Suzanne Iarla, Community Outreach Specialist, Staff Liaison, Arts & Culture Commission.

Speakers: Suzanne Iarla, Arts and Culture Commission Liaison, Nancy Donovan, Chair, Arts & Culture Commission, Jonathan Russell and Saori Ide, artists.

Action: Received presentation.

C. Arts and Humanities Month Proclamation

Approve a proclamation declaring October as National Arts and Humanities Month in the City of El Cerrito and encouraging all members of the community to celebrate and promote the arts and culture in our nation and encourage community members to participate, patronize and support the arts and humanities in El Cerrito.

Action: Moved, seconded (Friedman/Abelson) and carried unanimously to approve the proclamation. Proclamation presented to Arts and Culture Commission Chair Donovan.

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

Moved, seconded (Abelson/Bridges) and carried unanimously to approve Consent Calendar Item Nos. 5A through 5C in one motion as indicated below.

A. Minutes for Approval

Approve the September 17, 2013, Special City Council and Regular City Council meeting minutes.

Action: Approved minutes.

B. Classification Plan Amendment

Adopt a resolution amending the City's Classification Plan to revise the class specification of Permit Technician as recommended.

Action: Adopted Resolution No. 2013–55.

C. Annual Maddy Act Local Appointments List

Receive and file a listing of all current board and commission members whose terms will expire on January 1, 2014 and vacancy information for each board, commission and committee.

Action: Received and filed.

6. PUBLIC HEARINGS – None**7. POLICY MATTERS – None****8. COUNCIL ASSIGNMENTS/LIAISON REPORTS**

A. Mayor Lyman Mayor Lyman and Councilmember Friedman met as a subcommittee to discuss commission rules and are working toward bringing a study session to the City Council in October or November.

B. Mayor Pro Tem Abelson attended the League of California Cities East Bay Division meeting. Representatives of each local Chamber of Commerce attended. El Cerrito Chamber of Commerce Executive Director Mark Scott and past presidents John Stashik and Marilyn Hanson attended. This meeting provided a nice opportunity to get to know each other better and build working relationships with sister cities in the region.

The West Contra Costa County Transportation Advisory Committee (WCCTAC) is transitioning into becoming its own agency including moving CalPers under WCCTAC. Recruitment for a new executive director is underway.

It is an exciting time at the Contra Costa County Transportation Authority (CCTA). As Chair of the CCTA, Mayor Pro Tem Abelson has attended many celebratory events including the recent groundbreaking for phase one of an Intermodal Transit Center (ITC) in Hercules. This project will ultimately feature rail, ferry, bicycle paths and bus access. In East Contra Costa County the goal is to reduce traffic congestion using an interchange. Traffic congestion and delays also result in more air pollution. The Sand Creek Road Interchange Project in Brentwood was opened recently. In West County you may see signs which tell autos when it is too crowded on I-80 to be on the freeway and to get off and on depending on traffic congestion. The project will also feature an intelligent kind of ramp metering. Busses will receive priority treatment. The project is designed to move vehicles on the road in an intelligent way without building extra lanes. It is a start-of-the-art, low cost solution to traffic. Another project, the fourth bore of the Caldicott Tunnel, between Oakland and Orinda, provides the capability for two additional lanes. This project is one of the largest projects of its type in the United States and is coming in under budget. All of the projects are funded by voter approved Measure J and will come to completion in four to five years. Big projects are getting done. The *eBart* is another big project that is underway in Eastern Contra Costa County. It will extend the BART system using different technologies. There is a lot happening, and it is really exciting. A lot of people associated with transportation are doing really good work.

C. Councilmember Benassini reported that the Financial Advisory Board (FAB) had a preliminary discussion about the liquidity of the City and the temporary financing that the City has been using this year and the previous year. The FAB also discussed the reserve policy and asked whether other cities are using reserve cash. The discussion was interesting and engaging and will continue throughout the year. The Planning Commission held a study session on the Eden Housing Proposal and Draft Environmental Impact Report. The commissioners asked questions and provided many detailed comments. There were eight speakers at the meeting. Most spoke about the Mabuchi Building and the use proposed by Eden. Eden explained that there are restrictions on how funds can be used on the project related to affordable housing. The proposal is to rehabilitate the building and do things that commemorate the building and the site but ultimately it will be a building for the residents that will include a fitness room and storage area for bicycles. There was a lot of discussion about appropriate use. Eden also discussed the project's aggressive schedule. Eden has a deficit between the amount of money supplied by tenants and the costs associated with constructing the building.

D. Councilmember Bridges reported that the Parks and Recreation Commission met on September 25 and discussed the remainder of Measure WW funds. The Commission decided to wait for the Urban Greening Plan to be completed and consider priority projects at that time. The Commission also discussed the umbrella joint use agreement between WCCUSD and the City. Parks and Recreation Director Chris Jones delivered a presentation on the agreement. The Commission approved of the agreement. The City Council will be considering the joint use agreement at a future meeting. Councilmember Bridges introduced two handouts relating to user fees. The Soccer Group currently spends almost \$6,000 for eleven reservations under the use agreement for the turf field at El Cerrito High School. The fee is primarily for custodian and staff overtime costs.

The Community Center is holding its annual Halloween festivities this year, including a haunted house, costume dog parade and “trunk and treat.” The Tom Bates Sports Field Joint Powers Authority met on September 18. The turf field needs replacement. There will be a meeting on October 15 for all the users of the Bates fields. The proposed user fee increase is approximately 36%. Additionally, each member city will continue to contribute the agreed upon \$15,000 per city.

E. Councilmember Friedman reported that the Arts and Culture Commission produced a flyer that details the many arts events that are happening this month and gives one the sense of how culturally rich the community is not just during Arts Month but every month.

SUPPLEMENTAL REPORTS & COMMUNICATIONS

Item No. 2 Council/Staff Communications

1. League of California Cities Beacon Spotlight Award for Energy Savings: Gold Level 14% Agency Electricity Savings (2005–2011) September 2013 – *Submitted by Mayor Pro Tem Abelson.*

Item No. 4(A) Girls Inc. of West Contra Costa County

2. Powerpoint presentation and informational materials – *Submitted by Miesha Harris, Executive Director.*

Item No. 4(B) Arts and Culture Commission Update on San Pablo Avenue Art Project

3. Powerpoint presentation – *Submitted by Suzanne Iarla, Liaison to the Arts & Culture Commission.*
4. Video presentation – *Submitted by Artists Jonathan Russell and Saori Ide.*

Item No. 8 Council Assignments/Liaison Reports

5. WCCUSD invoice and 2013-14 Facility Use Fees – *Submitted by Councilmember Bridges.*

Other:

6. Signed letters (approximately 250) in support of the proposed Summit Public School – *Submitted by Liz Block, El Cerrito.*
7. Family Field Day and Community Forum at the Gill Tract Farm flyer – *Submitted by Robin Mitchell, El Cerrito.*
9. **ADJOURNED REGULAR CITY COUNCIL MEETING** at 8:12 p.m.
10. **CONVENE SPECIAL CITY COUNCIL MEETING – CLOSED SESSION**
Mayor Lyman convened the Special City Council Meeting – Closed Session at 8:13_ p.m.

ORAL COMMUNICATIONS FROM THE PUBLIC – No speakers.

ANNOUNCEMENT OF CLOSED SESSION

PUBLIC EMPLOYEE PERFORMANCE EVALUATION

Title: City Manager

RECESSED INTO CLOSED SESSION at 8:13 p.m.

ADJOURNED SPECIAL CITY COUNCIL MEETING – CLOSED SESSION at 9:30 p.m.

EL CERRITO CITY COUNCIL PROCLAMATION

Proclaiming November 6, 2013 as “Shelter-in-Place Education Day” in the City of El Cerrito

WHEREAS, public and private schools and childcare centers throughout Contra Costa County will be participating in the Shelter-in-Place Drill on November 6, 2013; and

WHEREAS, Contra Costa Community Awareness Emergency Response Group (CAER) is sponsoring the Twelfth Annual Shelter-in-Place Drill and assisting schools and childcare centers with their emergency preparedness; and

WHEREAS, emergency response agencies including fire, sheriff and health officials all recommend Shelter-in-Place as the immediate action to take in case of a hazardous release; and

WHEREAS, the Shelter-in-Place Drill increases public awareness about Shelter-in-Place as a protective action and gives students and teachers practice in implementing this important procedure; and

WHEREAS, the County Office of Education has endorsed the Shelter-in-Place Drill and encouraged all sites to participate.

NOW THEREFORE, the City Council of the City of El Cerrito hereby recognizes the importance of preparing for emergencies and encourages participation in the Contra Costa CAER Group’s public education efforts. In support of the parents, teachers, students and staff that will be participating with hundreds of other schools and childcare centers in the Shelter-in-Place Drill, we hereby proclaim November 6, 2013 as “Shelter-in-Place Education Day” in the City of El Cerrito.

Dated: October 15, 2013

Gregory B. Lyman, Mayor



AGENDA BILL

Agenda Item No. 5(C)

Date: October 15, 2013
To: El Cerrito City Council
From: Lance Maples, Fire Chief
Subject: Regional Federal Emergency Management Grant for the Purchase of Self Contained Breathing Apparatus from Allstar Fire Equipment, Inc.

ACTION REQUESTED

Staff requests that the City Council adopt a resolution taking the following actions:

- 1) Authorize the participation of the Fire Department in a County-wide Regional Federal Emergency Management Agency (FEMA) grant with Contra Costa County Fire Protection District (CCCYPD) for the purchase of 36 Self Contained Breathing Apparatus (SCBA) devices;
- 2) Approve the use of \$46,685 in matching funds, of which \$15,561 will be received from a contribution from the Kensington Fire Protection District (KFPD) and the remaining \$31,124 in matching funds from the Vehicle/Equipment Replacement Fund; and
- 3) Authorize payment of \$46,685 to CCCYPD for the required match to purchase 36 SCBAs from Allstar Fire Equipment, Inc.

BACKGROUND

In 2000, the El Cerrito Fire Department upgraded their SCBAs, also referred to as air packs, from low pressure to high pressure which also included converting the air bottles to light weight carbon steel resulting in the reduction of the weight of the packs. The new air packs incorporated many new safety features that had been included in the new National Fire Protection Association (NFPA) standards. The majority of the SCBAs and air bottles are approaching the 15 year age mark which requires the bottles to be replaced. In addition, the regulators and monitoring systems built into the air packs are starting to fail from extreme use faced in a fire environment.

Over the last decade the safety standards set by NFPA for new SCBAs has required a number of new features to be included in all new designs. These include the ability to “buddy breath” where one firefighter can share his air with another, “Heads Up” displays in the mask to track air usage, high capacity air bottles for greater air reserve as well as GPS trackers to assist in finding down

firefighters. All of these new features are designed to provide the Department's personnel with the highest level of safety possible.

ANALYSIS

In October of 2012, El Cerrito participated in a County-Wide Regional Grant Request with CCCFPD for the purchase of 36 new SCBAs and spare air bottles that meet the new NFPA standards. CCCFPD as the lead agency applied to FEMA through their regional grant program to purchase 381 air packs and bottles for six different agencies within the County. Earlier this year CCCFPD received notification from FEMA that grant number EMW-2012-FR-00093 had been approved for \$1.8 million dollars.

Based on the fact that the majority of the County has been standardized on one brand of the SCBA for more than 40 years and to provide for interoperability between agencies, CCCFPD received approval to sole source the air packs from Allstar Fire Equipment, Inc. Due in part to the number of air packs being group purchased, the City is able to realize almost \$1,100 in savings per SCBA. With this acquisition, the Fire Department will be able to replace all of its SCBAs to NFPA compliant SCBAs and provide numerous safety features not currently available on the existing obsolete units.

FINANCIAL CONSIDERATIONS

The total purchase price for the 36 SCBAs, spare bottles, masks and voice amplifiers is \$233,422. A 20% match of local agency funds is required for the City to participate in the purchase. Matching funds totaling \$46,685 will be paid by a contribution of \$15,561 from the KFPD and the remaining \$31,124 through an allocation from the City's Vehicle/Equipment Replacement Fund approved in the adopted FY 2013-14 budget.

LEGAL CONSIDERATIONS

Approval of this action results in an inter-governmental purchase between two exempt agencies, thus an open bid process is not required. Furthermore, as previously discussed, the air packs are being sole sourced with Federal approval due to the County-wide standardization and to maintain interoperability.

Reviewed by:


Scott Hanin, City Manager

Attachments:

1. Proposed Resolution
2. Local Agency Share Invoice from CCCFPD
3. Allstar Fire Equipment Invoice

RESOLUTION 2013-XX

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL CERRITO AUTHORIZING THE PARTICIPATION IN A COUNTY-WIDE FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) GRANT WITH CONTRA COSTA COUNTY FIRE PROTECTION DISTRICT (CCCFPD) AND APPROVING THE USE OF \$46,685 IN MATCHING FUNDS AND AUTHORIZING THE PAYMENT OF \$46,685 TO CCCFPD FOR THE 20% MATCH FOR THE \$233,422 PURCHASE OF SELF CONTAINED BREATHING APPARATUS (SCBA) DEVICES FROM ALLSTAR FIRE EQUIPMENT, INC.

WHEREAS, the Fire Department is using 14-year old SCBAs that are no longer compliant with National Fire Protection Association standards; and

WHEREAS, the City Council of the City of El Cerrito recognizes the need to replace these SCBA units with new compliant air packs and bottles to meet standards required to enter atmospheres that are Immediately Dangerous to Life or Health (IDLH); and

WHEREAS, the Fire Department participated with CCCFPD in securing a Regional FEMA Grant totaling \$1.8 million; and

WHEREAS, the cost for the air packs and bottles totals \$233,422 of which the City is required to contribute 20% in matching funds; and

WHEREAS, \$15, 561 of the required \$46,685 matching funds will be paid by the Kensington Fire Protection District (KFPD); and

WHEREAS, the remaining matching funds of \$31,124 were approved in the FY 2013-14 adopted budget from an allocation in the Vehicle/Equipment Fund.

NOW THEREFORE, BE IT RESOLVED that the City Council of the City of El Cerrito authorizes the City's participation in a County-wide FEMA grant with CCCFPD and approves the use of \$46,685 in matching funds of which, \$15,561 will be received from KFPD and the remaining \$31,124 from the Vehicle/Equipment Replacement Fund and authorizes the payment of \$46,685 to CCCFPD for the purchase of 36 SCBA devices from Allstar Fire Equipment, Inc.

BE IT FURTHER RESOLVED that the Fire Department is authorized to proceed with the purchase of this equipment due to its unique nature as allowed under the City's purchasing guidelines.

I CERTIFY that at the regular meeting on October 15, 2013, the El Cerrito City Council passed this resolution by the following vote:

AYES:	COUNCIL MEMBERS:
NOES:	COUNCIL MEMBERS:
ABSENT:	COUNCIL MEMBERS:

IN WITNESS of this action, I sign this document and affix the corporate seal of the City of El Cerrito on October XX, 2013.

APPROVED:

Cheryl Morse, City Clerk

Gregory B. Lyman, Mayor

Contra Costa County



Fire Protection District

September 25, 2013

Lance Maples, Fire Chief
City of El Cerrito Fire Department
10900 San Pablo Avenue
El Cerrito CA 94530

Dear Chief Maples:

RE: Invoice for Local Agency Share, Assistance to Firefighters Grant for SCBA Equipment

We are in receipt of the equipment you requested under the regional Assistance to Firefighters Grant and have paid the invoice in full. Please consider this letter an invoice for your local agency matching share of 20%.

A copy of the final invoice from All Star Fire Equipment Inc. is attached, and a summary of the equipment earmarked for your agency is listed below.

El Cerrito Fire Department

Quantity	Description	Unit Price	Extd
36	Scott SCBA Complete	\$ 5,716.90	\$ 205,808.40
0	Scott SCBA	\$ 3,854.90	\$ -
20	Scott Facepiece	\$ 207.00	\$ 4,140.00
12	Scott Voice Amp.	\$ 350.00	\$ 4,200.00
Subtotal			\$ 214,148.40
9.0% Tax			\$ 19,273.36
Total			\$ 233,421.76
20% Local Agency Share			\$ 46,684.35

Please remit a check in the amount of \$ 46,684.35 payable to Contra Costa County Fire Protection District at your earliest convenience. Please contact me at (925) 941-3312 if you need additional information.

Sincerely,

A handwritten signature in blue ink, appearing to read "J. Lorrekovich".

Jackie Lorrekovich
Chief of Administrative Services

U:\SRMGRS\JL\Invoice SCBA Local Agency Share ECR Sept 2013



INVOICE

INVOICE NUMBER: 167890

INVOICE DATE: 26-Aug-13

DATE SHIPPED: 23-Aug-13

PAYMENT TERMS: NET 30 DAYS

ALLSTAR FEDERAL TAX I.D. NUMBER: 95-4326274

PURCHASE ORDER: P47197

SOLD TO: Contra Costa County Fire Dept.
Attention: Accounts Payable
2010 Geary Road
Pleasant Hill, CA 94523

SHIP TO: Same
2955 Treat Blvd.
Concord, CA 94510
Attn: Terry Buck

MARK FOR: P47197

SHIPPED VIA: DROP SHIPPED

CODE: 50

103195

QTY	UNIT	DESCRIPTION	UNIT PRICE	EXTENSION
86	EA	Scott AP2140204200302 Air-Pak 75, CBRN Regulator w/ QD, Dual EBSS, Pak-Tracker	\$5,716.90	\$491,653.40
172	EA	Scott 804722-01 Carbon Cylinder, 45 Min	Incl.	Incl.
86	EA	Scott AV3000 Sure Seal Facepiece, Medium, with Comm. Bracket	Incl.	Incl.
295	EA	Scott AP2140204200302 Air-Pak 75, CBRN Regulator w/ QD, Dual EBSS, Pak-Tracker	\$3,854.90	\$1,137,195.50
58	EA	Scott AV3000 Sure Seal Facepiece, Medium, with Comm. Bracket	\$207.00	\$12,006.00
68	EA	Scott 200260-01 EPIC Voice Amp.	\$350.00	\$23,800.00

Make all checks payable to: ALLSTAR FIRE EQUIPMENT, INC.
12328 Lower Azusa Road
Arcadia, California 91006

SUBTOTAL	\$1,664,654.90
9.0% TAX	\$149,818.94
SHIPPING CHARGES	\$0.00

If you have any questions regarding this invoice,
please call Customer Service at (626) 652-0900

TOTAL \$1,814,473.84

Allstar Thanks You for Your Business !!!

APPROVED BY: 

MAIN OFFICE • 12328 Lower Azusa Road • Arcadia, CA 91006 • Tel (626) 652-0900 • Fax (626) 652-0920
HAYWARD BRANCH • 2552 Barrington Court • Hayward, CA 94545 • Tel (510) 887-6295 • Fax (510) 887-6298



AGENDA BILL

Agenda Item No. 7(A)

Date: October 15, 2013

To: El Cerrito City Council

From: Garth Schultz, Operations and Environmental Services Division Manager

Subject: East Bay Sanitary Company, Inc. Franchise Agreement Amendment

ACTION REQUESTED

Adopt a resolution approving the proposed Sixth Amendment to the Franchise Agreement (Agreement) between the City of El Cerrito (City) and East Bay Sanitary Company, Inc. (Company) for Fleet Management and Maintenance Services (Fleet Services), effective October 16, 2013 through December 31, 2014.

BACKGROUND

The City of El Cerrito has owned and operated its own curbside recycling collection program since 1979. Though the curbside recycling program has undergone regular changes and improvements since inception, the fundamentals of the program remain much as they were thirty years ago; City employees drive large trucks around El Cerrito to collect recyclables from residents and businesses.

An important aspect of running any recycling collection operation is the maintenance of trucks and other equipment. Over time, as recycling participation in El Cerrito increased dramatically – and newer recycling collection technologies became available – the City replaced older (simpler) recycling collection vehicles with newer, higher capacity, more efficient (and complex) vehicles. The City's current fleet of recycling collection vehicles were purchased in 2008 and 2010, and are sophisticated machines that utilize computers, emission control devices, and lots of hydraulic equipment to perform recycling collection operations. Historically, the City used a combination of in-house labor and independent contractors to perform maintenance services to collection vehicles. While this model served the City well when applied to older vehicles, it has not performed as well with the newer fleet.

The City's recycling collection vehicles now run 40 hours per week, 52 weeks a year. At this level of use, even with the highest level of attention and care, breakdowns are inevitable. In recent years, staff has found that breakdowns have become more prevalent, resulting in additional labor costs and service delays. In 2012 it became clear to staff that, in order to continue to provide the high level of service expected by El Cerrito's recyclers, the City's fleet maintenance program needed overhauling.

Agenda Item No. 7(A)

That same year, the City conducted a Rate and Operations Review of the Company that included an in-depth look at the Company's maintenance practices. It was determined that the Company's fleet maintenance performance was professional, well-run, and had the capacity to expand to include additional vehicles if desired. The Review resulted in a Fifth Amendment to the Franchise Agreement (approved by the City Council on November 20, 2012, Resolution No. 2012-86) that included new terms providing for preventative maintenance of the City's recycling collection vehicle fleet. Additionally, the Fifth Amendment stipulated that the Company and City would meet in good faith to discuss and develop a proposal for full service vehicle maintenance program for the recycling fleet. The proposed Sixth Amendment to the Franchise Agreement is the result of negotiations with the Company as proscribed by the Fifth Amendment.

DISCUSSION

In developing its proposal to conduct Fleet Services, the Company conducted an in-depth evaluation of the City's recycling fleet and submitted a cost estimate to conduct a full service fleet management and maintenance program. The evaluation highlighted several areas for improvement to maintenance of the City's recycling fleet, and provided the background for the cost estimate. Staff and R3 Consulting Group, Inc. (R3) reviewed the Company's proposal and assessed its cost-effectiveness relative to other options available to the City. The table below shows how the hourly rate for Fleet Services provided by the Company compare to the hourly rate charged to the City by the fleet maintenance providers that have performed work for the City in the past two years.

<i>Maintenance Alternative</i>	<i>Hourly Rate</i>
East Bay Sanitary	\$54
Mobile Fleet Care	\$115
Arata Equipment Co.	\$135
Western Truck Center	\$139

The City also requested that the City of Berkeley and Richmond Sanitary Service (both of which also operate solid waste collection fleet maintenance operations) consider proposals to provide fleet services for El Cerrito. The City of Berkeley declined to consider the option and Richmond Sanitary Service stated that their costs are similar to the costs charged by independent contractors (e.g. \$115 - \$139 per hour). Given this information, the Company's proposal is clearly competitive on an hourly cost basis.

More importantly, the Fleet Services provided by the Company will include more than the basic fleet maintenance services normally offered.

These "fleet management" services include a higher level of professional involvement in the City's recycling collection fleet, including:

- Planning for and scheduling all maintenance needs

Agenda Item No. 7(A)

- Ensuring safety and environmental compliance, including training
- Record keeping and reporting
- Performance of maintenance work to the highest professional standards
- Conducting services to maintain the full benefit of warranties
- Conducting services to maximize the cost-effective useful life of the vehicles

The Company has proposed to dedicate the equivalent of one full-time mechanic to performing the Fleet Services stipulated in the Sixth Amendment, for a total annual cost of \$107,900, and a total cost of \$130,379 from October 16, 2013 through December 31, 2014. Parts and supplies are not included in the total contract amount, and will be charged to the City directly, at cost (\$10,000 in parts and supplies for recycling collection vehicles is budgeted in FY14). Though this contract amount is higher than the historical average spent on fleet services, staff and R3 have determined that the benefits outweigh the additional costs, because:

- Previous fleet maintenance services have been sub-par, and have not met the City's needs (including safety and environmental compliance matters as well as maximizing the useful life of the vehicles)
- Fleet Services provided by the Company will reduce the need for staff time devoted to these matters, allowing for greater efficiencies in other areas (such as providing service to the public) and providing for better management of fleet needs (because the Company has personnel trained to perform these functions)
- The Company's proposal includes the ability to perform Fleet Services on other City vehicles, as determined by the Company and the City, with no increase in contract amount (resulting in decreased costs in other City funds)
- Services provided by the Company will result in less down time due to breakdowns, which will reduce the City's need for overtime costs needed to complete routes while also providing a better service to the community

Finally, the Company has performed Fleet Services on a short term test basis since July 2013. During that time the Company has demonstrated that it is fully capable of providing all Fleet Services specified in the Sixth Amendment. Since July, the recycling collection fleet has experienced substantially fewer breakdowns, and has received professionally performed preventative maintenance work it sorely needs. Staff is very satisfied with the performance of the work provided to date, and is eager for the benefits that a Fleet Services agreement such as the proposed will provide.

STRATEGIC PLAN CONSIDERATIONS

Approval of the proposed Amendment fits in with Goal A (Deliver exemplary government services) of the City's Strategic Plan, adopted March 2013. Specifically, approval of the proposed Amendment will result in a more direct relationship between the City and the Company with respect to fleet maintenance matters, which is consistent

with the “*Develop and strengthen relationships with public and private partners*” strategy listed in Goal A.

ENVIRONMENTAL CONSIDERATIONS

Approval of the Sixth Amendment will decrease the need for City staff to drive collection vehicles as far as Pleasanton to receive needed services. Additionally, Fleet Services provided under the terms of the proposed Amendment will ensure that the City’s collection fleet will have fewer breakdowns, run more efficiently, and last as long as possible. While difficult to quantify, all of these will result in marginally fewer greenhouse gas and other polluting emissions attributable to the procurement, operation, and maintenance of the vehicle fleet.

FINANCIAL CONSIDERATIONS

Historically, annual vehicle maintenance costs paid out of the Integrated Waste Management (IWM) fund have ranged from \$35,000 to \$105,000, depending on the age of the fleet and type of vehicles used. Since 2009, when new vehicles were put into operation, the average annual amount was approximately \$50,000. These costs have included basic preventative maintenance, parts, tires, and repairs. Importantly, these costs *did not include* the full fleet management services that will be provided to the City as a result of the proposed Amendment.

Prior to adoption of the FY14 Budget, City staff had been in discussions with the Company regarding the Fleet Services discussed here. At that time, it was assumed that the annual cost of providing service (\$107,900) would be collected by the Company on its collection rates, subject to Council approval. Doing so would have reduced the need for vehicle maintenance costs paid from the Integrated Waste Management (IWM) fund, which is why only \$32,500 was requested in the present fiscal year.

However, since the FY14 Budget was adopted, it has become clear that direct payment from the City’s IWM fund is the more appropriate payment arrangement, because the Company will change the way it structures its maintenance operations (via the formation of a separate company) which means that direct rate funding for these Services is not feasible. As such, approval of the proposed Sixth Amendment will require a \$75,400 increase in the FY14 budget allocation for vehicle maintenance services in the IWM fund and *no need* for related increases to the Company’s collection rates.

Staff is preparing an annual adjustment to the IWM Fee for Council consideration in November that will include an update the IWM 10-year Financial Plan. If the Council approves the Sixth Amendment, the 2014 annual adjustment to the IWM Fee will reflect the need for additional maintenance funds in FY14 and in the future. This will likely result in a greater-than-anticipated 2014 increase to the IWM Fee, but that will be offset by the lack of need to increase the Company’s collection rates for fleet services as previously assumed.

When taking into account all solid waste rate impacts expected for 2014 (including the recently approved Post-collection Agreement, planned annual adjustments to the Company’s collection rates and City’s IWM Fee, potential increases to Richmond’s

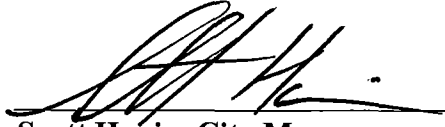
Agenda Item No. 7(A)

Franchise Fee on the Golden Bear Transfer Station, and the proposed Sixth Amendment) staff is predicting that the total 2014 solid waste rates will be between 0% and 1% greater than the current 2013 rates.

LEGAL CONSIDERATIONS

The City Attorney has reviewed the proposed Sixth Amendment and found that legal considerations have been addressed.

Reviewed by:



Scott Hanin, City Manager

Attachments:

1. Accompanying Resolution
2. Proposed Sixth Amendment to Franchise Agreement

RESOLUTION 2013–XX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL CERRITO APPROVING THE SIXTH AMENDMENT TO THE FRANCHISE AGREEMENT BETWEEN THE CITY OF EL CERRITO AND EAST BAY SANITARY COMPANY, INC. FOR FLEET MANAGEMENT SERVICES

WHEREAS, the City of El Cerrito (City) and East Bay Sanitary Company, Inc. (Company) have entered into that certain Franchise Agreement originally dated September 2, 1997 and most recently amended and extended on December 19, 2012 (Franchise Agreement); and

WHEREAS, the Company currently provides for limited vehicle maintenance services to the City’s recycling collection fleet per the terms of the Franchise Agreement; and

WHEREAS, in performing those services the Company conducted a evaluation of the recycling collection fleet for the City; and

WHEREAS, the Company’s evaluation detailed recommendations for improvements to the City’s recycling collection fleet maintenance program; and

WHEREAS, the December 19, 2012 Fifth Amendment to the Franchise Agreement stated that the “Company and City agree to meet in good faith to discuss and develop a proposal for a full service vehicle maintenance program for the City’s recycling collection fleet (and/or other City fleets that will provide for greater safety, efficiency, and cost effectiveness with respect to the maintenance and performance” of the City’s fleets; and

WHEREAS, the City and Company have met in good faith and developed a proposal per the terms of the Fifth Amendment; and

WHEREAS, per the terms of that proposal, the Company will form a separate corporation to be named “East Bay Truck Maintenance, Inc.,” that will function as the City’s independent fleet manager and maintenance operator for the City’s vehicles covered by this Sixth Amendment and will manage, schedule, and provide for all preventative maintenance, and all other required vehicle maintenance and repair services, and all associated record keeping and reporting requirements; and

WHEREAS, the City agrees that upon formation of a separate company “East Bay Truck Maintenance, Inc.,” the City will enter into a separate maintenance agreement with the newly formed East Bay Truck Maintenance, Inc., the terms of which will supersede, and in effect terminate, this Sixth Amendment to Franchise Agreement; and

WHEREAS, the Company shall maintain the City’s vehicles covered by this Sixth Amendment to the highest professional standards in accordance with all manufacturers’ servicing recommendations necessary to maintain the full benefit of all associated manufacturers’ warranties and in compliance with all applicable laws and regulations.

NOW THEREFORE BE IT RESOLVED, by the City Council of the City of El Cerrito, that it hereby approves the Sixth Amendment to the Franchise Agreement between the City of El Cerrito and East Bay Sanitary Company, Inc., herein incorporated by reference and attached as Exhibit A to this resolution.

BE IT FURTHER RESOLVED, that this Resolution shall become effective immediately upon passage and adoption.

I CERTIFY that at a regular meeting on October 15, 2013 the City Council of the City of El Cerrito passed this Resolution by the following vote:

AYES:	COUNCILMEMBERS:
NOES:	COUNCILMEMBERS:
ABSENT:	COUNCILMEMBERS:

IN WITNESS of this action, I sign this document and affix the corporate seal of the City of El Cerrito on October X, 2013.

Cheryl Morse, City Clerk

APPROVED:

Gregory B. Lyman, Mayor

**SIXTH AMENDMENT TO FRANCHISE AGREEMENT
BETWEEN
CITY OF EL CERRITO
AND
EAST BAY SANITARY COMPANY, INC.**

This Sixth Amendment to the Franchise Agreement is entered into as of the 16 day of October 2013 by and between the CITY OF EL CERRITO, a municipal corporation (City) and EAST BAY SANITARY COMPANY, INC. a California corporation (Company).

Preamble

WHEREAS, City and Company have entered into that certain Franchise Agreement originally dated September 2, 1997 and most recently amended and extended on December 19, 2012 (the “Franchise Agreement”); and

WHEREAS, the Company currently provides for limited vehicle maintenance services to the City’s recycling collection fleet per the terms of the Franchise Agreement; and

WHEREAS, in performing those services the Company conducted a Fleet Evaluation for the City, detailing additional maintenance needs for the City’s recycling collection fleet; and

WHEREAS, the Company’s Fleet Evaluation detailed recommendations for improvements to the City’s recycling collection fleet maintenance program; and

WHEREAS, the December 19, 2012 Fifth Amendment to the Franchise Agreement stated that the “Company and City agree to meet in good faith to discuss and develop a proposal for a full service vehicle maintenance program for the City’s recycling collection fleet (and/or other City fleets that will provide for greater safety, efficiency, and cost effectiveness with respect to the maintenance and performance” of the City’s fleets; and

WHEREAS, the City and Company have met in good faith and developed a proposal per the terms of the Fifth Amendment; and

WHEREAS, per the terms of that proposal, the Company will form a separate corporation to be named “East Bay Truck Maintenance, Inc.,” that will function as the City’s independent fleet manager and maintenance operator for the City’s vehicles covered by this Sixth Amendment and will manage, schedule, and provide for all preventative maintenance, and all other required vehicle maintenance and repair services, and all associated record keeping and reporting requirements; and

WHEREAS, the City agrees that upon formation of separate company “East Bay Truck Maintenance, Inc.,” the City will enter into a separate maintenance agreement with the newly formed East Bay Truck Maintenance, Inc., the terms of which will supersede, and in effect terminate, this Sixth Amendment to Franchise Agreement; and

WHEREAS, the Company shall maintain the City's vehicles covered by this Sixth Amendment to the highest professional standards in accordance with all manufacturers' servicing recommendations necessary to maintain the full benefit of all associated manufacturers' warranties and in compliance with all applicable laws and regulations;

THEREFORE, IN CONSIDERATION OF THE COVENANTS AND CONDITIONS CONTAINED HEREIN, THE CITY AND COMPANY DO HEREBY AGREE AS FOLLOWS:

- 1. The foregoing recitals are hereby incorporated into this Agreement.**
- 2. Section 11 (Company Provided Services) Subsection I (Maintenance of the City's Recycling Collection Fleet) is hereby replaced in its entirety with the below:**

I. Fleet Maintenance and Management Services for the City's Recycling Collection Fleet and other City Vehicles

(1) Fleet Maintenance and Management Services (LDs 12 and 13). Effective October 16, 2013, the Company shall perform complete fleet maintenance and management services (Services) for all recycling collection vehicles operated by the City. For the purposes of this Section 11.I, "Services" means all fleet maintenance and management services described herein, including: managing, tracking, scheduling coordinating, performing and following up on all regular preventative maintenance work, repairs, and other concerns involving recycling collection vehicles (including the recommendations issued in the Company's Fleet Evaluation), and; managing, tracking, scheduling coordinating, performing and following up on all regular preventative maintenance work, repairs, and other concerns as requested for other City vehicles.

(2) Included Services (LDs 12 and 13). The primary intent of this Section 11.I is to provide Services to recycling vehicles. Services to other vehicles are of secondary priority, and will be performed upon completion of required services to recycling vehicles. To the extent those Services can be provided without the Company incurring any additional labor expense, they shall be provided at no additional labor cost to the City. Additionally:

- (a) Services performed by the Company shall be equivalent to services that the Company provides for its own vehicle fleet with respect to quality, timing, and work performed.
- (b) The Company shall devote the equivalent of one (1) full time mechanic to the performance of Services provided to the City.
- (c) In performing Services, the Company will be responsible for compliance with all safety, environmental and other applicable regulations, including all required recordkeeping and reporting related to such compliance.
- (d) Services shall occur at the Company's maintenance facility, or at other designated locations such as the Recycling + Environmental Resource Center, Corporation Yard, other City facility, or in the field as needed.

- (e) The Company shall seek City approval for all discretionary repairs totaling \$5,000 or more in parts and supplies, and for any work the Company requested be performed by a third party vendor.
- (f) Services covered by the terms of this Agreement shall include:
 - i. All those required to maintain compliance with all applicable laws and regulations.
 - ii. All those required to maintain the full benefit of all vehicle and equipment warranties.
 - iii. All those required to ensure the maximum useful life of all vehicles, when taking into account vehicle replacement schedules and available maintenance budgets.
 - iv. All those generally considered best management practices for vehicle maintenance, including but not necessarily limited to those listed in (3), (4) and (5) below.

(3) Brake Checks and BIT (Biennial Inspection of Terminals) (LD 1). The Company shall perform brake checks and BIT inspections including the following monthly or as needed:

- (a) Inspection and adjustment of all brake slack adjusters on front and rear axles for all collection vehicles.
- (b) Check air compressor system, brake pads, and all other components of braking system and repair as needed.
- (c) Full BIT inspection of all collection vehicles.
- (d) Maintain a log of all brake checks, adjustments, and BIT inspections to the City with the log to be provided to the City upon request.
- (e) Every attempt will be made to schedule services such that vehicles requiring service will be returned to the City within 48 hours of receiving vehicles.
- (f) Every attempt will be made to conduct all services within 48 hours of receiving vehicles for servicing with the understanding that other priorities or circumstances may take precedence and that this is not an absolute guarantee.

(4) Preventative Maintenance Services (LD 2). The Company shall perform preventative maintenance services including the following quarterly or as needed:

- (a) Complete vehicle inspection.
- (b) Oil change and oil crankcase filter replacement.
- (c) Fuel filter replacement.
- (d) Coolant filter replacement.
- (e) Hydraulic filter replacement.
- (f) Air filter replacement.
- (g) Provide complete report of all services to the City.
- (h) Every attempt will be made to schedule services such that vehicles requiring service will be returned to the City within 48 hours of receiving vehicles.

- (i) Every attempt will be made to conduct all services within 48 hours of receiving vehicles for servicing with the understanding that other priorities or circumstances may take precedence and that this is not an absolute guarantee.

(5) Other Vehicle Maintenance Services (LD 11). The Company shall provide all other vehicle maintenance and fleet management needs, including but not limited to those listed below as well as Services to non-recycling vehicles as stated in Section 11.I(1):

- (a) Lubrication and greasing of all zerk points on body and chassis.
- (b) Check PTO pump mechanism and repair/recommend as needed.
- (c) Check coolant system/radiator and repair/recommend as needed.
- (d) Check welds and repair/recommend as needed.
- (e) Check and change oil and filters of automatic transmission when required or need and recommend interval for this service.
- (f) Check and repair exhaust system, DPF filter and related components.
- (g) Monthly consultation, recommendation, and repair of mechanical breakdowns, including but not limited to the following:
 - i. Damaged components in engine compartment.
 - ii. Damaged components, missing parts in chassis.
 - iii. Damaged components in hydraulic system, including hoses, pumps, switches, leaks and oil changes, packer blades, operating handles, wear-and-tear.
 - iv. Troubleshoot electrical issues and codes from on-board computers, and repair/recommend as needed.
 - v. On-road emergencies as requested.
 - vi. Provide complete report of all repairs to the City.
- (h) Every attempt will be made to schedule services such that vehicles requiring service will be returned to the City within 72 hours of receiving vehicles.
- (i) Every attempt will be made to conduct all services within 72 hours of receiving vehicles for servicing with the understanding that other priorities or circumstances may take precedence and that this is not an absolute guarantee.
- (j) Company reserves the right to utilize third party vendors as Company determines necessary, subject to written City approval. The City will pay approved costs for work provided by third party vendors directly.
- (k) The City agrees to follow and implement all Company recommendations regarding vehicle operation and ongoing maintenance requirements for recycling collection vehicles; such recommendations will be followed and implemented in a manner that is in keeping with available budgets.

(6) Compensation for Fleet Maintenance and Management Services. The City agrees to an initial 2014 annual cost of \$107,900 for Services described in this Agreement, per the terms listed below:

- (a) The annual cost includes all labor costs, Company Operating Margin costs, and additional insurance premiums paid by Company as a result of performing Services. Below is calculation of the initial 2014 annual cost:

Wages	\$68,064
Benefits	22,345
Operating Margin	9,491
Insurance	8,000
Total Annual Cost	107,900

- (b) The Company shall bill the City quarterly for all Services – including parts, tires and supplies at the Company’s cost – performed by the Company per the terms of this Agreement.

- (7) Term and Termination.** The Services provided under Section 11 subsection I of this Franchise Agreement shall commence on October 16, 2013 and shall terminate on December 31, 2014. These terms will continue to renew automatically for successive terms of (1) year each unless the City gives ninety (90) day written notice of its intent to terminate the terms of service in this Section, or upon termination or expiration of the Franchise Agreement.
- (8) City Responsibility for Pre-Existing Conditions.** The Company will not be liable for any and all pre-existing violations, citations, claims, liabilities, lawsuits, causes of action, damages, litigation, judgments, settlements, losses, costs, liens, inspections, re-inspections, or expenses whether known or unknown to the City, that occurred before December 1, 2012, the date that Company began performing vehicle maintenance services and that arise out of or are in connection with the City vehicles that are the subject of the Sixth Amendment to Franchise Agreement.
- 3. Section 11 (Company Provided Services) Subsection Y (Liquidated Damages) is hereby amended to include the following:**
11. \$250 for each failure to conduct and accurately document services required in Section 11.I (5) of this Agreement.
12. Actual cost of any citation, fine or other monetary penalty to the City up to \$10,000 per incident for failure to maintain the City’s vehicles and/or any associated reporting requirements in accordance with the terms and conditions of this Amendment. Company will not be liable for any preexisting violation that existed prior to the execution of this Amendment to the Franchise Agreement.
13. The actual cost incurred for required parts for any instances of failure to maintain the City’s vehicles in accordance with the requirements necessary to provide the full benefits of the manufacturers’ warranties.

4. Section 21 (Indemnification) of the Franchise Agreement is amended to include new paragraph "D" as follows:

D. The City agrees to defend and indemnify the Company and East Bay Truck Maintenance, Inc., (and their respective officers, directors, shareholders consultants, predecessors, successors, assigns, agents, representatives, employees, parent and subsidiary companies, affiliates, and each of them) from and against any and all claims, demands, causes of action, liabilities, judgments, settlements, losses, costs, damages, and/or expenses in law or equity, contract or tort, of every kind and nature whatsoever to the extent they arise out of or relate to operator error, as defined below, or to the extent they arise out of or relate to the negligence or willful misconduct by any operator of any City vehicle that is the subject of the 6th Amendment to Franchise Agreement when the operator of the City vehicle is not an employee of the Company or East Bay Truck Maintenance, Inc.

Operator error includes driving errors, failure to follow written recommendations by the Company or East Bay Truck Maintenance, Inc., and failure to report vehicle deficiencies to the Company or East Bay Truck Maintenance, Inc., when required by state law.

5. Franchise Agreement.

Except as expressly set forth herein, the Franchise Agreement remains in full force and effect.

6. Entire Agreement.

This Sixth Amendment is executed in three (3) duplicate originals, each of which is deemed to be an original. This Sixth Amendment includes six (6) pages of text.

IN WITNESS WHEREOF, the parties hereby have executed this Agreement on the day first above written:

City

Signature _____

Printed Name _____

Title _____

Date _____

Company

Signature _____

Printed Name _____

Title _____

Date _____

APPROVED AS TO FORM:

City Attorney

2176045.1

ATTEST:

City Clerk



AGENDA BILL

Agenda Item No. 7(B)

Date: October 15, 2013

To: El Cerrito City Council

From: Fred Cullum, Building Official
Michael Bond, Fire Marshal
Margaret Kavanaugh Lynch, Development Services Manager

Subject: Adoption, with local modifications, of the 2013 California Building Standards Code, including Green Building Code, Building Code, Fire Code, and related Construction Codes.

ACTION REQUESTED

Staff requests that the City Council take the following actions this evening:

1. Adopt a Resolution which makes findings justifying changes or modifications due to local climatic, geologic and topographic conditions in the 2013 California Building Standards Code, which includes the California Green Code, Building Code, Fire Code, Residential Code and related Construction Codes; and
2. Introduce by title, and approve first reading of an Ordinance which adopts the 2013 California Green Code, Administrative, Building, Fire, Plumbing, Mechanical, Electrical, Energy, Residential Code and related Construction Codes as applicable to all construction within the City of El Cerrito, with local modifications as outlined in the Ordinance.

BACKGROUND/ ANALYSIS

The 2013 California Building Standards Codes (CBSC), which includes the Fire Code, becomes effective in California cities on January 1, 2014. Typically every three years, the California Building Standards Commission reviews and revises the California Building, Fire, Plumbing, Mechanical, Residential and Electrical Codes. The California Health and Safety Code requires local agencies to adopt the building standards contained in these uniform statewide codes, but allows cities to modify the codes to reflect local conditions. El Cerrito adopted its current codes, incorporating and modifying the 2010 California Building Standards Code, including the Fire Code, in November 2010.

A city may establish more restrictive standards in their Building Codes because of local climatic, geological, or topographical conditions. For example, based on the location of El Cerrito in the Very High Fire Hazard Severity Zone and existing climate conditions in the City, Sections 16.02.120 and 16.02.125 are amended to provide that every apartment house and hotel have an approved fire alarm system which conforms to the requirements

Agenda Item No. 7(B)

of the California Fire Code. This requirement is added to the City's Building Code in response to the high threat of fire confronting the City. The presence of an approved fire alarm system in high occupancy structures could save lives in the event of a fire. Other conditions considered include El Cerrito's close proximity to the Hayward Fault Line, creating higher structural stresses and risk of building failure during an earthquake, as well as El Cerrito's steep hillside topography that can allow our limited natural waterways to be inundated during severe winter storms, causing flooding in the lower city elevations.

The local modifications proposed for El Cerrito are outlined in the attached resolution, and include the following local environmental conditions:

1. Climatic Conditions
 - a. Precipitation and Relative Humidity
 - b. Temperature
 - c. Winds
2. Geologic Conditions
 - a. Seismic
3. Topographic
 - a. Soils
 - b. Vegetation
 - c. Surface Features
 - d. Buildings and Landscaping

The attached ordinance adopting the 2013 CBSC represents a continuation of existing City practice with regard to local modifications. There are no substantial changes from the Codes previously codified in Title 16 of the El Cerrito Municipal Code in November 2010. The proposed ordinance as written revalidates and readopts the City's current local amendments, and includes minor new modifications due to local climatic, geologic and topographic conditions. There are, however, considerable changes to the reference numbering in the new California Codes, and the proposed ordinance reflects these new reference numbers in order to ensure that the Municipal Code continues to relate accurately to the California Building Standards Code. Other construction-related California Codes are not included in this ordinance as we are not amending them, and they are automatically adopted and enforced as published by the State on January 1, 2014.

LEGAL CONSIDERATIONS

State law requires that the local agency adopt findings for any local modifications to the building standards contained in the CBSC. These findings are included in the attached resolution.

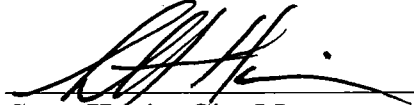
The City of El Cerrito is following the general process for adopting another code by reference, which includes a public hearing after the first reading and introduction of the

Agenda Item No. 7(B)

ordinance. The public hearing can occur in conjunction with the second reading of the ordinance. Pursuant to Government Code 50022.3, the notice of the public hearing must be published once a week for two successive weeks. The City Council must determine that the form of this publication is sufficient to give notice to interested persons of the purpose of the ordinance and the subject matter thereof, and the resolution contains a finding to this effect. In addition, the City Clerk is required to keep on file a copy of the codes to be adopted by reference for at least 15 days before the public hearing as well as after its adoption. These codes will be kept available for public review at the Permit Service Center.

The City Attorney has reviewed and approved the attached Resolution and Ordinance.

Reviewed by:



Scott Hanin, City Manager

Attachments:

1. Resolution
2. Ordinance
3. Public Hearing Notice

RESOLUTION NO. 2013-XX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL CERRITO APPROVING FINDINGS TO SUPPORT LOCAL MODIFICATIONS TO THE STANDARDS CONTAINED IN THE 2013 CALIFORNIA BUILDING STANDARDS CODE, ENACTED AS PART OF ORDINANCE NO. 201X-XX; AND DIRECTING THE CITY CLERK TO SCHEDULE A HEARING AND PUBLISH A NOTICE OF THE ADOPTION OF THE 2013 CALIFORNIA BUILDING STANDARDS CODE IN ACCORDANCE WITH STATE LAW

WHEREAS, Section 17922 of the California Health and Safety Code requires that local agencies adopt Title 24, which is including but not limited to the building standards contained in the California Building Code, the California Fire Code, the California Plumbing Code, the California Mechanical Code, and the California Electrical Code, as such codes are approved by the State Building Standards Commission (collectively, the “California Building Standards Code”); and

WHEREAS, Section 17958.5 of the California Health and Safety Code allows local agencies to enact modifications to those building standards provided that such modifications are reasonably necessary because of local climatic, geological or topographical conditions; and

WHEREAS, Section 17958.7 of the California Health and Safety Code further provides that a local agency which enacts modifications to those building standards must adopt findings which tie those modifications to such local climatic, geological or topographical conditions; and

WHEREAS, the El Cerrito City Council has considered whether certain modifications to the building standards contained in the California Building Standards Code are necessary in El Cerrito due to local climatic, geological, or topographical conditions.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of El Cerrito does hereby adopt the following findings in conformance with its obligations under Section 17958.7 of the California Health and Safety Code:

I. The City of El Cerrito is subject to the following climatic, geological and topographical conditions:

A. Climatic Conditions

General Conditions

The seasonal climatic conditions during late summer, fall and early winter create serious difficulties regarding the control of and protection against fires in El Cerrito. The hot, dry weather typical of this area in the summer and fall, and the extreme dryness of fuel stands in the early winter, coupled with wind, temperature and precipitation conditions outlined below frequently cause fire events which threaten the City.

1. Precipitation and Relative Humidity

(a) Conditions

Precipitation ranges from 15 to 24 inches per year with an average of 18 inches per year. Ninety-five percent of all rainfall occurs during the seven months of October through April and only five percent occurs from May through September. The dry season is considered to last at least six months in this area, where typically 0.8 percent of the annual rainfall occurs in any given month during this period. In addition, the Northern California area is subject to recurrent periods of drought lasting for several years. Relative humidity remains in the middle range most of the year with 45 to 65 percent occurring during the spring, summer and fall, and a wider range of 60 to 90 percent in the winter. Occasionally, the relative humidity falls as low as 12 percent during temporary changes in climate and wind direction. Such low humidity periods can occur any time of year. Coastal fog, on the other hand, can raise humidity especially during night hours.

(b) Impact

During the dry season generally and during occasional periods of low humidity, burning conditions are worse than normal. Such weather conditions cause extreme dryness in combustible material including untreated wood shakes and shingles on buildings, wood siding, and combustible building materials. Non-irrigated grass, brush, and weeds, which are often near buildings, are also subject to extreme drying. Extremely dry, combustible materials are vulnerable to rapidly spreading exterior fires which can quickly transfer to other buildings by means of radiation or flying brands, sparks, or embers. Under such conditions, a small fire can rapidly grow in magnitude beyond the capabilities of the fire department to control. Such fires produce excessive fire loss that has a negative impact on the quality of life in the community.

2. Temperature

(a) Conditions

Temperatures have been recorded as high as 106° F. Seasonal highs over 90° can be sustained for several days in a row.

(b) Impact

High temperatures cause rapid fatigue and heat exhaustion of firefighters, reducing their effectiveness and ability to control large building and wildland fires. High temperatures will preheat combustible building materials and non-irrigated weeds, grass and brush causing their materials to ignite readily and burn more rapidly and intensely. In addition, a series of local ridges and valleys produce differences in solar heating of fuels which increase the probability of erratic fire behavior, including area-wide ignition and "blow-up" conditions. Higher air and fuel temperatures increase the rate of fire spread and reduce the effectiveness of

water applied to extinguish fires. Additional fire department resources and water will be required for timely and effective suppression of fires. Temperature has a direct relationship to the intensity and size of fires.

3. Winds

(a) Conditions

Prevailing winds in the area occur from the west or southwest. Off shore winds from the northeast and east, known locally as Diablo winds, frequently occur during the summer and fall and are prevalent during periods of hot, dry weather. Virtually any time during the year a climatic pattern of strong, steady, dry winds can occur for several days in succession, creating extremely dry conditions. Hillside elevation differences are ideal for the creation of localized up slope or down slope winds, which follow ridgelines or canyon valleys. Because of these topographic variables, winds can be experienced from virtually every direction depending on location and surrounding climatic conditions. Wind velocities range generally from 15 to 25 mph, with typical gusting to 35 mph. Severe storm gusts have been recorded as high as 80 mph. Westerly afternoon winds are common. Forty mph winds are experienced occasionally during extreme fire weather conditions. In rare circumstances, both on shore and off shore breezes up to 55 mph have been registered locally during non-storm conditions.

(b) Impact

Local winds can cause water intrusion and structural deterioration to building components, this deterioration may facilitate a premature structural building collapse. These local winds cause interior and exterior fires to burn intensely and spread rapidly. Wind driven fires involving non-irrigated weeds, grass and brush can grow to a magnitude and intensity beyond the capabilities of the fire department to control. Even relatively moderate winds can cause extreme and erratic fire behavior. Prevailing winds generally align with local topographical features creating ideal avenues for uphill fire spread. Wind driven fires can move uphill or downhill with great speed. When wind driven fires are not controlled they can spread from property to property and threaten the entire community.

Summary

The local climatic conditions created by precipitation patterns, temperature and wind conditions combine to affect the rate of acceleration, intensity, and magnitude of fire in the community. Periods with little or no rainfall, low humidity and high temperatures create extreme fire hazard conditions. Temperature extremes can create intense and erratic fire behavior. Local winds can have a tremendous impact on fire intensity, growth, and spread. Winds can carry sparks and burning brands to other areas up to one-mile away thus spreading fire and causing conflagrations. In building fires and fires at the bottom of canyons, winds can literally create a "blow torch" effect, which concentrates heat and resists control efforts.

B. Geologic Conditions

General Conditions

The geologic features of the local area create conditions that leave the area vulnerable to local flooding, earthquakes, land sliding, restricted access and conflagration. These events create serious difficulty regarding the control of and protection against fires in El Cerrito. Local flooding conditions can impede the ability of the fire department to aid or assist in fire control, evacuations, rescues and other emergency tasks. Among the potential effects of earthquake activity are isolation of neighborhoods or the entire community, loss of water sources and conflagration. Seismic events and landslides may isolate El Cerrito from surrounding communities and restrict or eliminate internal circulation by rendering surface travel difficult or impossible. Topographic features present multiple problems in the delivery of emergency services including fire protection.

1. Seismic

(a) Conditions

El Cerrito is located in a High Risk Seismic Zone, the worst risk rating in the United States. Buildings and other structures in High Risk Zones can experience major damage as the result of a seismic event. Contra Costa County is in close proximity to the San Andreas Fault and contains all or portions of the Hayward, Calaveras, Concord, Antioch, Mt. Diablo, Rogers and other lesser faults. The Hayward and Calaveras faults have been identified as likely sites for a major seismic event in the 7 + Richter scale range within the next 25 years. Minor seismic events have been localized in the El Cerrito-Berkeley area.

Much of the transportation infrastructure is built upon soils classified as subject to liquefaction or landslide. San Pablo Avenue, a major north-south route through the city, is subject to liquefaction. Arlington Blvd., the other main north-south route, is subject to damage from landslide. Potrero, Moeser and Stockton Avenues, primary east-west routes, are all subject to damage from landslide. Damage to these roadbeds would have a significant, negative impact on response times.

Earthquakes of the magnitude experienced locally can cause major damage to electrical transmission facilities which in turn, cause power failures while at the same time starting fires throughout the city. The simultaneous occurrence of multiple fires will quickly disperse available fire department resources, thereby reducing and delaying an emergency response to any additional fires. An electrical power outage would incapacitate elevators, building smoke management systems, lighting systems, alarm systems and other electrical equipment. Since these are urgently needed to assist evacuation and fire control in large buildings there is increased expectation of life loss and major fire losses in such larger buildings.

A seismic event powerful enough to damage roadways would also damage other utility systems such as water mains, natural gas pipelines and telephone lines. The East Bay Municipal Utilities District anticipates seismic disruption of water service. Damage to these systems would have a negative impact on the service delivery capabilities of local emergency services.

(b) Impact

The above listed local geologic conditions increase accessibility problems and fire hazards in the City of El Cerrito. Fire following an earthquake has the potential of causing greater loss of life and damage than the earthquake itself. Hazardous materials, particularly toxic gases, could pose the greatest threat to a larger number of citizens should a leak occur during a significant seismic event. Public safety resources would have to be prioritized to meet the greatest threat and may be unavailable for smaller structure fires in dwellings or other structures. Smaller fires may grow to conflagration proportions. Other factors can intensify the situation:

- 1) The extent of damage to the water system;
- 2) The extent of isolation due to bridge or freeway overpass collapse;
- 3) The extent of roadway damage or amount of debris blocking the roadway;
- 4) Climatic conditions (hot, dry weather with high winds);
- 5) Time of day will influence the amount of traffic on roadways and could intensify the risk to life during normal business hours;
- 6) The availability of timely mutual aid or military assistance;
- 7) Dwellings with wood shingle roof coverings could burn and result in conflagrations.

Summary

The local geologic conditions leave the city vulnerable to emergency conditions created by local flooding, earthquakes, landslide, and conflagration. Local flooding from the drainages and slopes of the East Bay Hills could result in conditions rendering the roads impassible. Earthquakes can occur at anytime. Earthquakes can isolate the community or significant portions of the community, cause loss of water sources used to provide fire protection and cause injury or rescue situations, which could then overtax the available resources to respond to new fires. Land movement can impair, restrict or deny emergency access to significant portions of the city. Geologic features and conditions can make firefighting strategy and tactics difficult at best. When coupled with prevailing climatic and topographic conditions, the City is at risk to conflagration at any time and is extremely vulnerable during or after a triggering event such as earthquake, floods, landslide or fire.

C. Topographic

General Conditions

The topographic features of the city increase the difficulty of fighting fires. Steep hillsides, ridges and deep, well-defined canyons are subject to fires that, in those areas, are easily influenced by wind and weather. Steep canyons are subject to rapid-fire spread, spot fires and area ignition. Fire growth controlled by topographic features (topography-driven fires) is subject to erratic fire behavior including blowups, fire whirls, and sudden changes in fire front direction. On the other hand, certain topographic features such as moist or sparse vegetation conditions, surface features, and man-made improvements such as roads have a dampening influence on erratic fire behavior.

1. Soils

(a) Conditions

The area is replete with various soils, which are unstable: clay loam, unconsolidated fills, and alluvial fans are predominant. These soil conditions are moderately to severely prone to swelling and shrinking, and are plastic and tend to liquefy. Large hillside portions of the city are subject to landslide, slumping and collapse.

(b) Impact

Throughout El Cerrito the topography and the pattern of growth and development have created a network of aging, narrow roads which limit access to some neighborhoods even in the best conditions. These roads are subject to damage and closure from mud and rock slides caused by earthquakes, storms or erosion. Unstable soils can slip causing trees, power poles and lines, or other obstructions to close roadways. Any significant seismic or weather event can close roadways isolating residential subdivisions.

2. Vegetation

(a) Conditions

Highly combustible dry grass, weeds and brush are common six to eight months of each year in the hilly and open space areas adjacent to built-up locations. Many of these areas have experienced wildland fires, which have threatened nearby buildings; particularly those with wood roofs or siding. The City Council has designated areas of the city as Very High Fire Hazard Severity Zones (VHFHSZ) and has adopted vegetation management standards for these areas. Many residential areas border parklands, which contain vegetation fire hazards.

(b) Impact

Combustible dry grass, weeds and brush contribute to a recognized conflagration hazard. City programs like the vegetation management program, the Hillside Natural Area Fire Hazard Reduction Program and strict fire code enforcement have reduced but not eliminated the threat of conflagration due to rapid fire spread in vegetation stands. Should active fire become established in vegetation stands, this growing fire could rapidly overcome fire department control efforts.

3. Surface Features

(a) Conditions

The arrangement and location of natural and man-made surface features, including hills, valleys, creeks, roadways, housing density, commercial areas, and fire stations combine to limit feasible emergency response routes to certain areas.

(b) Impact

The arrangement and location of natural surface features produce an area very similar to those conditions found in the Oakland-Berkeley hills prior to their conflagration of October 1991. Surface features can easily produce fires of great magnitude or with erratic fire behavior that could threaten the entire community.

4. Buildings and Landscaping

(a) Conditions

Many commercial buildings and apartment complexes have building and landscape features, which preclude or greatly limit the operational access of fire department vehicles. There are many concentrations of houses and other buildings with untreated wood shake or shingle roofs or siding in the City which are within 10 feet of each other. There are many such buildings to which access to all but one side is virtually impossible due to landscaping, fences, electrical transmission lines, slopes or other buildings.

(b) Impact

When Fire Department vehicles cannot gain access to buildings on fire, there is a high potential for complete loss. Difficult access to a fire site often requires that personnel must carry equipment for long distances. Such operations quickly exhaust fire personnel and reduce the effective number of personnel available for suppression. Access problems often result in severe delays, the misdirection of fire and smoke control efforts, or the failure to make a timely fire attack.

Summary

The above listed local topographical conditions increase accessibility problems and fire hazards in the City of El Cerrito. Should a significant emergency occur, such as an area wide conflagration, public safety resources would be prioritized to mitigate the greatest threat and may likely remain unavailable for smaller single dwelling or structure fires. Other variables may intensify the situation:

- 1) The extent of damage to the water system;
- 2) The extent of isolation due to bridge and/or freeway overpass collapse;
- 3) The extent of roadway damage and/or amount of debris blocking the roadways;
- 4) Climatic conditions (hot, dry weather with high winds);
- 5) Time of day will influence the amount of traffic on roadways and could intensify the risk to life during normal business and commute hours;
- 6) The availability of timely mutual aid or military assistance;
- 7) The large proportion of dwellings with wood single roof coverings could result in conflagrations.

D. Conclusion

Based on the local climatic, geologic, and topographic conditions outlined above, there is a real risk of damage to the community from a disaster. A seismic event can cause structural damage to buildings and utility infrastructure; storm flooding and high winds may increase the damages. Any of these conditions may negatively affect fire prevention efforts by increasing the frequency, spread, acceleration, intensity, and size of fires involving buildings in this community. Further, these conditions will increase the potential damage to all structures occurring from any earthquake and subsequent fire. It is found, therefore, to be reasonably necessary that the California Fire Code and the State Building Standards Code are changed or modified to mitigate the effects of the above conditions.

II. Pursuant to Sections 17958.5 and 17958.7 of the State of California Health and Safety Code, the City Council of the City of El Cerrito makes the finding that changes, modifications, and amendments to the 2013 Edition of the California Building Standards Codes are needed and are reasonably necessary because of certain local climatic, geologic and topographic features and conditions as described in Section I above, and that those features and conditions, under certain circumstances, affect delivery of emergency services. The amendments to the California Building Standards Codes are enacted to mitigate the impact of those local features and conditions by (i) preventing the chance of accident or injury by requiring standards more stringent than required by the current codes; and (ii) requiring additional built-in automatic fire protection systems which will provide for early detection and initial fire control.

III. The following changes and/or modifications to the 2013 California Building Standards Code are found to be necessary to mitigate the impacts caused by the local climatic, geologic and topographic conditions and are listed as follows:

<u>Municipal Code Section</u>	<u>CBC Section</u>	<u>Findings in Section 1</u>
16.02.020	105.2 (4)	A, B, C, D
16.02.030	107.6	B.1, C.1
16.02.040	107.3	A, B, C, D
16.02.050	114.1.1	A, C.2, C.4
16.02.060	117	A, C.2, C.4
16.02.070	501.2	A, C.2, C.4
16.02.080	903.2	A, C.2, C.4
16.02.090	904.3.5	A, C.2, C.4
16.02.100	905.3	A, C.2, C.4
16.02.110	1704.4	B, C
16.02.120	1905.1.8	B, C
16.02.130	Chapter 23	A, C.2, C.4
16.02.140	2304.11.2.6	A, C.2, C.4
16.02.150	2505	A, C.2, C.4
16.02.160	3402.1	B, C
16.02.170	3405	B, C
16.02.180	3405	B, C
		A, B
16.02.190	Appendix G –	A, B, C
16.03.010	R105.2	A,B,C,D
16.03.020	R403.1.3	B, C, D
16..03.030	R106.3	B1, C1
16.03.040	R106.4	A,B,C,D
16.03.050	R113.6	A,C2,C4

16.03.060	R115	A,C2,C4
16.03.070	R319.1	A,C2,C4
16.03.080	R322.1	A,B,C
16.03.090	R403.1.3	A,C2,C4
16.03.100	R602.10.4.4	A,C2,C4
	And/Table R602.10.3(3)	
	R703.5	
16.03.110		A,C2,C4

16.08.040	Article 23.70(A)(1)	A, C.2, A,C.2,C.4,D
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NOTE: END OF
BUILDING
DIVISION-
REMAINDER
IS FIRE CODE

16.10.030	103.4	A, B, C, D
16.10.040	314.1.1	B, C, D
16.10.050	301.0.1	B, C, D
16.10.060	301.0.2	B, C, D
16.12.020	Table 1.11	A, B, C, D
16.20.020	IPMC 102.3	A, B, C, D
16.20.030	IPMC 111	D
16.20.040	IPMC 304.14	A
16.20.050	IPMC 307.3.1	A, D
16.20.060	IPMC 602.4	A, D
16.26.020	1.1.1.2	A, C.2, C.4, D
16.26.030	1.1.8	A, C.2, C.4, D
16.26.040	1.11.1	A, C.2, C.4, D
16.26.050	102.1	A, C.2, C.4, D
16.26.060	102.9	A, C.2, C.4, D
16.26.070	104.1	A, C.2, C.4, D
16.26.080	104.1.1A and 104.1.1B	A, C.2, C.4, D
16.26.090	104.9	A, C.2, C.4, D
16.26.100	105.1.1	A, C.2, C.4, D

16.26.110	105.6	A, C.2, C.4, D
16.26.120	108	A, C.2, C.4, D
16.26.130	202	A, C.2, C.4, D
16.26.140	202	A, C.2, C.4, D
16.26.150	202	A, C.2, C.4, D
16.26.160	318	A, C.2, C.4, D
16.26.170	401.5	A, C.2, C.4, D
16.26.180	503, 504 and 507	A, C.2, C.4, D
16.26.190	603.6	A, C.2, C.4, D
16.26.200	903.2	A, C.2, C.4, D
16.26.210	903.2	A, C.2, C.4, D
16.26.220	905.3.1	A, C.2, C.4, D
16.26.230	907.2	A, C.2, C.4, D
16.26.240	907.8.2	A, C.2, C.4, D
16.26.250	1008.1.10	A, C.2, C.4, D
16.26.260	1027.6	A, C.2, C.4, D
16.26.270	2701.1.2	A, C.2, C.4, D
16.26.280	2703.1.1	A, C.2, C.4, D
16.26.290	3001.1A	A, C.2, C.4, D
16.26.300	3301.1.1A	A, C.2, C.4, D
16.26.310	3404.2.13	A, C.2, C.4, D
16.26.320	3406	A, C.2, C.4, D
16.26.330	3503A	A, C.2, C.4, D
16.26.340	3803.2.1.7	A, C.2, C.4, D
16.26.350	3804.2A	A, C.2, C.4, D

The aforementioned amendments have been incorporated in detail in Ordinance 2013-XX.

BE IT FURTHER RESOLVED that the City Council of the City of El Cerrito does hereby direct the City Clerk to schedule a public hearing for consideration of Ordinance No. 2013-XX, to be held October 15, 2013, at 7:00 p.m. at the City Council Chambers, and to publish a notice of such hearing in accordance with Government Code Section 50022.3; and that such notice state that the purpose of the ordinance is to adopt the 2013 California Building Standards Code (including the Fire Code) and the California Housing Regulations, with modifications to address unique local conditions.

I certify that at a regular meeting on October 15, 2013, the City Council of the City of El Cerrito passed this Resolution by the following vote:

Ayes:	Council members:
Noes:	Council members:
Abstain:	Council members:
Absent:	Council members:

Agenda Item No. 7(B)
Attachment 1

IN WITNESS of this action, I sign this document and affix the corporate seal of the City of El Cerrito on October XX, 2013.

Cheryl Morse, City Clerk

APPROVED:

Gregory B. Lyman, Mayor

ORDINANCE NO. 2013–XX

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).

The City Council of the City of El Cerrito does hereby ordain as follows:

DIVISION I. That certain documents, copies of which are on file and are open for inspection by the public in the office of the Building Official of the City of El Cerrito, being marked and designated as the California Building Standards Code, 2013 Edition, comprising Title 24, Parts 1, 2 (Vol. 1 and 2), 2.5, 3, 4, 5, 6, 9, 11, and 12 California Code of Regulations, together with all appendices thereto and the California Housing Law Regulations, are hereby adopted, with certain modifications to reflect unique local conditions, as contained in the Municipal Code of the City of El Cerrito for regulating the erection, construction, enlargement, alteration, repair, moving, removal, demolition, conversion, occupancy, equipment, use, height, area and maintenance of all buildings or structures in the City of El Cerrito. Each and all of the regulations, provisions, conditions, and terms of such California Building Standards Code, California Housing Law Regulations, , all of which are on file in the office of the Building Official are hereby referred to, adopted and made a part hereof as if fully set out in this ordinance. The application and use of the Appendices in the California Building Standards Codes and California Fire Code are adopted individually and are subject to approval of the Building Official and Fire Chief respectively.

The City Council of the City of El Cerrito further ordains as follows:

DIVISION II. TITLE 16, CHAPTER 16.02., ORDINANCE NO. XXXX-XX, (CALIFORNIA BUILDING CODE) OF THE EL CERRITO MUNICIPAL CODE IS HEREBY REPEALED IN ITS ENTIRETY AND REPLACED WITH THE FOLLOWING CHAPTER 16.02, TITLED “CALIFORNIA BUILDING CODE”:

Chapter 16.02

CALIFORNIA BUILDING CODE

Sections:

16.02.010	California Building Code - Adoption
16.02.020	Chapter 1 Subsection 105.2 (4) Amended - Exempted Work
16.02.030	Chapter 1 Section 107.6 Added - Garage, Carport and Driveway Grades
16.02.040	Chapter 1 Subsection 107.3 Amended - Examination of Documents
16.02.050	Chapter 1 Section 114.1.1 Added - Littering of Streets
16.02.060	Chapter 1 Section 117 Added - General Regulation of Construction
16.02.070	Chapter 5 Section 501.2 Amended - Premises Identification Numbering
16.02.080	Chapter 9 Subsection 903.2 Amended - Automatic Fire Extinguishing Systems
16.02.090	Chapter 9 Subsection 904.3.5 Amended - Sprinkler System Supervision Alarm
16.02.100	Chapter 9 Subsection 905.3.1 Amended - Standpipe Requirements
16.02.110	Chapter 17 Subsection 1705.3 Amended - Special Inspection
16.02.120	Chapter 19 Subsection 1905.1.8 Added - Structural Forces
16.02.130	Chapter 23 Subsections 2308.9.3 and Table 2308.12.4 Amended - Wood
16.02.140	Chapter 23 Subsection 2304.11.2.6 Amended - Shingle or Shake Siding Materials
16.02.150	Chapter 25 Section 2505 Deleted - Gypsum Shear
16.02.160	Chapter 34 Subsection 3402.1 Amended - Substantial Structural Damage
16.02.170	Chapter 34 Chapter 3405 Adoption - Repair and Reconstruction Ordinance
16.02.180	Chapter 34 Section 3405 Added - Repairs including all subsections associated
16.02.190	Appendix G Section G102.3 Added - Construction in Flood Hazard Areas
16.02.200	Appendix G Section G102.3 Added - Construction in Flood Hazard Areas

16.02.010 California Building Code - Adoption.

The Building Code for the City, sometimes referred to as “the CBC,” is the 2013 California Building Code, incorporating Volumes 1 and 2, (based on the International Building Code, 2009 Edition), including Appendix chapters D, F, G, H, and J, as approved by the California Building Standards Commission, and as published in Title 24, Part 2, Volumes 1 and 2, and Part 2.5 of the California Code of Regulations.

16.02.020 Chapter 1 Subsection 105.2 (4) and (6) Amended - Exempted Work

Subsection 105.2(4) of the CBC is amended to read:

4. Retaining walls which do not retain more than thirty (30) inches of earth when the earth retained is level and where there is no surcharge load, and retaining walls which do not retain more than two (2) feet of earth when the earth retained is sloping not greater than 2h:1v and there is no surcharge load. The above does not apply to retaining walls impounding Class I, II, or IIIA Liquids. See CBC Section 2304.11.7 for treatment of wood used for retaining walls.

16.02.030 Chapter 1 Section 107.6 Added -Garage, Carport & Driveway Grades

Section 107.6 is added to the CBC, to read as follows:

Section 107.6 Garage, Carport and Driveway Grade Requirements.

- (a) Garage and carport floors shall be concrete.
- (b) Any person to whom a building permit has been issued shall, where established, obtain official line and grade information as required in Section 13.20.150 of the City Code prior to the construction of foundations or footings for carports and garages.
- (c) When official line and grade has not been established, it shall be the responsibility of that person to provide such information as required by City Engineer to establish lines and grades.
- (d) Any person to whom a building permit has been issued shall construct the finish floor of carports and garages to an elevation which shall conform to the official driveway data as set forth on plan LL-1031 on file with the City Engineer.

16.02.040 Chapter 1 Subsection 107.3 Amended - Examination of Documents

Subsection 107.3 is added to the CBC, to read as follows:

Review by Fire Chief. Whenever application is made for a building permit, as required by the CBC, the Building Official shall withhold issuance of the building permit until notification from the Fire Chief that all plans required by the California Fire Code (chapter 16.26 of this title) have been reviewed and approved, and that the requirements specified in Section 16.26 have been met.

16.02.050 Chapter 1 Section 114.1.1 Added - Littering of Streets

Section 114.1.1 is added to the CBC, to read as follows:

Section 114.1.1 - Littering of Streets

It shall be unlawful for any person to excavate, dig or move dirt, rock, or other substances so as to allow fragments thereof from being thrown or dropped against or upon lots or buildings, or upon any public right-of-way. Any person dropping such material or tracking dirt, mud or rocks from private property upon any public right-of-way shall immediately cause the same to be removed. Transportation of dirt and rock requires a permit obtained pursuant to chapter 13.24 of the El Cerrito Municipal Code.

16.02.060 Chapter 1 Section 117 Added - General Regulation of Construction

Section 117 is added to the CBC, to read as follows:

Section 117 - General Regulation of Construction

- (a) Work may be prohibited during inclement weather upon the order of the City Building Official.
- (b) The hours of work shall be limited to 7:00 a.m. to 6:00 p.m., Monday through Friday, and 8:00 a.m. to 5:00 p.m. on Saturday. Work shall be prohibited on Sundays and Holidays.

Work hours in the public right-of-way shall be regulated by Public Works Department.

- (c) Work must be controlled to prevent causing a public nuisance such as dust, noise, vibrations, uncontrolled storm water runoff, and traffic congestion.

16.02..070 Chapter5 Section 501.2 Amended - Premises Identification Numbering

Section 501.2 of the CBC is amended to read as follows:

Section 501.2 - Premises Identification Numbering.

- a) The city shall keep on file a description of the method to be used in the assignment of street address identification numbers. This method shall be approved by Council resolution, and shall be available for inspection by any member of the public.
- b) Every main structure or building constructed, altered, repaired or moved into the city shall be assigned a street identification number by the Building Official.
- c) Numbers identifying the street address shall be placed on the street side of the building or structure in such manner as to be plainly visible from the street or public way. Identification numbers shall be a minimum of four (4) inches in height with minimum ½" stroke width for residential, and six (6) inches in height with minimum 1" stroke width for commercial buildings, and of a color to contrast with the surrounding color. Numbers shall be installed prior to final inspection and occupancy of the building or structure.
- d) The premises street address shall be internally or externally illuminated to the satisfaction of the Building Official.
- e) The owner shall be responsible for the maintenance of identification numbers.
- f) Any change of the assigned street identification number must be approved by the Building Official.

- g) Every owner or occupant of any building or structure not numbered in accordance with the provisions of this section shall, within ten (10) days after notice given by the City change the number of such building or structure to the number specified in the notice.

16.02.080 Subsections 903.2 Amended - Automatic Fire-Extinguishing Systems

Subsection 903.2 of the CBC is amended to add:

- a) In every building where the total floor area exceeds 5,000 square feet.
- b) In every building having three (3) or more stories.

16.02.090 Subsection 904.3.5 Amended - Sprinkler System Supervision Alarm

Section 904.3.5 of the CBC is amended by adding the words, “or when required by the Fire Chief.”

16.02.100 Subsection 905.3 Amended - Standpipe Requirements

Subsection 905.3 is amended by adding the following:

Standpipes shall be required in all buildings three (3) stories in height in addition to other requirements in this section, or when required by the Fire Chief.

16.02.110 Subsection 1705.3 Amended - Special Inspection

CBC Subsection 1704.4, Concrete Construction is amended to read as follows:

1704.4 Concrete Construction. The *special inspections* and verifications for concrete construction shall be as required by this section and TABLE 1704.4.

Exceptions: *Special inspections* shall not be required for:

1. Isolated spread concrete footings of buildings three stories or less above *grade plane* that are fully supported on earth or rock, where the structural design of the footing is based on a specified compressive strength, f’c, no greater than 2,500 pound per square inch (psi) (17.2 Mpa).

16.02.120 Subsection 1905.1.8 Added - Structural Forces

Section 1905.1.8. ACI 318 section 22.10.1 allows the use of plain concrete in residential structures assigned to seismic design category D, E or F.

Section 1905.1.8 ACI 318, section 22.10 Delete ACI 318, section 22.10, and replace with the following:

22.10 - Plain concrete in structures assigned to seismic design category C, D, E or F.
22.10.1- Structures assigned to Seismic Design Category C, D, E or F shall not have elements of structural plain concrete, except as follows:

- (a) Isolated footings of plain concrete supporting pedestals or columns are permitted, provided the projection of the footing beyond the face of the supported member does not exceed the footing thickness.

Exception: In detached one and two-family dwelling three stories or less in height, the projection of the footing beyond the face of the supported member is permitted to exceed the footing thickness.

- (b) Plain concrete footing supporting walls are permitted, provided the footings have at least two continuous longitudinal reinforcing bars. Bars shall not be smaller than No. 4 and shall have a total area of not less than 0.002 times the gross cross-sectional area of the footing. A minimum of one bar shall be provided at the top and bottom of the footing. Continuity of reinforcement shall be provided at corners and intersections.

Exception: In detached one and two-family dwellings three stores or less in height and constructed with stud bearing walls, plain concrete footings with at least two continuous longitudinal reinforcing bars not smaller than No. 4 are permitted to have a total area of less than 0.002 times the gross cross –sectional area of the footing.

16.02.130 Chapter 23 Amended - Wood

The following Sections 2308.9.3 and Table 2308.12.4 are amended and/or deleted to read as follows:

Section 2308.9.3 is deleted in its entirety, to be replaced with the following:

2308.9.3 Bracing

A. Braced wall lines shall consist of braced wall panels, which meet the requirements for location, type and amount of bracing as shown in Figure 2308.9.3, specified in Table 2308.9.3(1) and are in line or offset from each other by not more than 4 feet (1219 mm). Braced wall panels shall start not more than 12.5 feet (3810 mm) from each end of a braced wall line. Braced wall panels shall be clearly indicated on the plans. Construction of braced wall panels shall be by one of the following methods:

1. Wood boards of 5/8-inch (16 mm) net minimum thickness applied diagonally on studs spaced not over 24 inches (610 mm) on center.
2. Wood structural panel sheathing with a thickness not less than 3/8-inch (7.9 mm) for 16-inch (406 mm) stud spacing and not less than 3/8-inch (9.5 mm) for 24-inch (610 mm) stud spacing in accordance with Tables 2308.9.3(2) and 2308.9.3(3).

3. Fiberboard sheathing 4-foot by 8-foot (1219 mm by 2438 mm) panels not less than ½-inch (13 mm) thick applied vertically on studs spaced not over 16-inches (406 mm) on center when installed in accordance with Section 2306.6.6 and Table 2306.6
4. Particleboard wall sheathing panels where installed in accordance with 2308.9.3(4).
5. Hardboard panel siding when installed in accordance with Section 2303.1.6 and Table 2309.9.3(5).

For cripple wall bracing see Section 2308.9.4.

For methods 1, 2, 3, 4, and 5, each braced wall panel must be at least 48-inches (1219 mm) in length, covering three stud spaces where studs are 16-inches (406 mm) apart and covering two stud spaces where studs are spaced 24-inches (610 mm) apart.

B. All vertical joints of panel sheathing shall occur over studs. Horizontal joints shall occur over blocking equal in size to the studding except where waived by the installation requirements for the specific sheathing materials.

C. Braced wall panel sole plates shall be nailed to the floor framing and top plates shall be connected to the framing above in accordance with Table 2304.9.1. Sills shall be bolted to the foundation or slab in accordance with Section 1805.6. Where joists are perpendicular to braced wall lines above, blocking shall be provided under and in line with the braced wall panels.

Table 2308.12.4

In footnotes “b” and “c” of Table 2308.12.4, delete all references to “gypsum board”, “lath and plaster”, “Portland cement plaster”, and “gypsum sheathing boards”.

16.02.140 Subsection 2304.11.2.6 Amended - Shingle or Shake Siding Materials

Subsection 2304.11.2.6 of the CBC is amended to add the following sentence at the end thereof:

Siding Materials: Wood shingles or shakes shall be Class B or better which comply with ASTM E108 or UL 790, except that in very high fire hazard severity zones, no wood shake or shingle siding shall be permitted regardless of class designation. See section 8.30.030 of the El Cerrito Municipal Code for roofing standards in very high fire hazard severity zones.

16.02.150 Section 2505 Deleted - Gypsum Shear

Section 2505 of the CBC on the use of gypsum shear is deleted in its entirety.

16.02.160 Subsection 3402.1 Amended - Substantial Structural Damage

Subsection 3402.1 of the CBC is amended to add a definition to read as follows:

Substantial Structural Damage. A condition where:

1. In any story, the vertical elements of the lateral-force-resisting system, have suffered damage such that the lateral load-carrying capacity of the structure in any direction has been reduced by more than 20 percent from its pre-damaged condition, or
2. The capacity of any vertical gravity load-carrying component, or any group of such components, that supports more than 30 percent of the total area of the structure's floor(s) and roof(s) has been reduced more than 20 percent from its pre-damaged condition, and the remaining capacity of such affected elements with respect to all dead and live loads is less than 75 percent of that required by the building code for new buildings of similar structure, purpose, and location.

16.02.170 Chapter 3405 Adoption - Repair and Reconstruction Ordinance

Chapter 3405 establishes regulations as amendments to the building code for the expeditious repair of damaged structures.

16.02.180 Section 3405 Added - Repairs including all subsections associated

The following repair requirements are hereby added as a new Subsection 3405.2.1.1 to Section 3405 "Repairs" of the CBC to read as follows:

3405 Repairs. Repairs of structural elements shall comply with this section.

3405.2.1.1 Seismic evaluation and design. Seismic evaluation and design of an existing building and its components shall be based on the following criteria.

3405.2.1.2 Evaluation and design procedures. The seismic evaluation and design shall be based on the procedures specified in the building code, ASCE 31 *Seismic Evaluation of Existing Buildings* (for evaluation only) or ASCE 41 *Seismic Rehabilitation of Existing Buildings*. The procedures contained in Appendix A of the *International Existing Building Code* shall be permitted to be used as specified in Section 3405.2.1.4.

3405.2.1.3 CBC level seismic forces. When seismic forces are required to meet the building code level, they shall be one of the following:

1. 100 percent of the values in the building code. The R factor used for analysis in accordance with Chapter 16 of the building code shall be the R factor specified for structural systems classified as "Ordinary" unless it can be demonstrated that

the structural system satisfies the proportioning and detailing requirements for systems classified as “Intermediate” or “Special”.

2. Forces corresponding to BSE-1 and BSE-2 Earthquake Hazard Levels defined in ASCE 41. Where ASCE 41 is used, the corresponding performance levels shall be those shown in Table 3405.2.1.3.

TABLE 3405.2.1.3
ASCE 41 and ASCE 31 PERFORMANCE LEVELS

OCCUPANCY a CATEGORY (BASED ON IBC TABLE 1604.5)	PERFORMANCE LEVEL FOR USE WITH ASCE 31 AND WITH ASCE 41 BSE-1 EARTHQUAKE HAZARD LEVEL	PERFORMANCE LEVEL FOR USE WITH ASCE 41 BSE-2 EARTHQUAKE HAZARD LEVEL
P e r f o r I	Life Safety (LS)	Collapse Prevention (CP)
II	Life Safety (LS)	Collapse Prevention (CP)
III	Note (a)	Note (a)
IV	Immediate Occupancy (IO)	Life Safety (LS)

a. Performance levels for Occupancy Category III shall be taken as halfway between the performance levels specified for occupancy Category II and Occupancy Category IV.

3405.2.1.4 Reduced CBC level seismic forces. When seismic forces are permitted to meet reduced building code levels, they shall be one of the following:

1. 75 percent of the forces prescribed in the building code. The R factor used for analysis in accordance with Chapter 16 of the building code shall be the R factor as specified in Section 3405.2.1.3.

2. In accordance with the applicable chapters in Appendix A of the *International Existing Building Code* as specified in Items 2.1 through 2.5 below. Structures or portions of structures that comply with the requirements of the applicable chapter in Appendix A shall be deemed to comply with the requirements for reduced building code force levels.

2.1. The seismic evaluation and design of unreinforced masonry bearing wall buildings in Occupancy Category I or II are permitted to be based on the procedures specified in Appendix Chapter A1.

2.2. Seismic evaluation and design of the wall anchorage system in reinforced concrete and reinforced masonry wall buildings with flexible diaphragms in Occupancy Category I or II are permitted to be based on the procedures specified in Appendix Chapter A2.

2.3. Seismic evaluation and design of cripple walls and sill plate anchorage in residential buildings of light-frame wood construction in Occupancy Category I or II are permitted to be based on the procedures specified in Appendix Chapter A3.

2.4. Seismic evaluation and design of soft, weak, or open-front wall conditions in multiunit residential buildings of wood construction in Occupancy Category I or II are permitted to be based on the procedures specified in Appendix Chapter A4.

2.5. Seismic evaluation and design of concrete buildings and concrete with masonry infill buildings in all Occupancy Categories are permitted to be based on the procedures specified in Appendix Chapter A5.

3. In accordance with ASCE 31 based on the applicable performance level as shown in Table 3405.2.1.3.

4. Those associated with the BSE-1 Earthquake Hazard Level defined in ASCE 41 and the performance level as shown in Table 3405.2.1.3. Where ASCE 41 is used, the design spectral response acceleration parameters S_{xs} and S_{x1} shall not be taken less than 75 percent of the respective design spectral response acceleration parameters SDS and $SD1$ defined by the *International Building Code* and its reference standards.

3405.2.1.5 Wind Design. Wind design of existing buildings shall be based on the procedures specified in the building code.

3405.2.1.6 Repairs to damaged buildings. Repairs to damaged buildings shall comply with this section.

3405.2.1.7 Unsafe conditions. Regardless of the extent of structural damage, unsafe conditions shall be eliminated.

16.02.190 Appendix Chapter 1, Section 110.7 Added - Storm Water Pollution Control Measures

Chapter 1 Section 110.7 is added to the CBC to read as follows:

Storm water pollution control measures shall be implemented during all construction phases of development to prevent pollution from entering waterways. Specific practices of the California Stormwater Quality Association (CASQA) Construction Best Management Practices Handbook shall be incorporated herein.

16.02.200 Appendix G Section G102.3 Added - Construction in Flood Hazard Areas

Section G102.3 is added to the CBC, to read as follows:

Section G102.3 - construction in Special Flood Hazard Area

Construction within special Flood Hazard Areas must comply with chapter 13.40 of the Municipal Code.

Chapter 16.03

CALIFORNIA RESIDENTIAL CODE

Sections:

16.03.010	California Residential Code - Adoption
16.03.020	Chapter 1 Subsection R105.2 (3) Amended - Exempted Work
16.03.030	Chapter 1 Section R106.3 Added - Garage, Carport and Driveway Grades
16.03.040	Chapter 1 Subsection R106.3 Renumbered and Amended - Examination of Documents
16.03.050	Chapter 1 Section 103.6 Added - Littering of Streets
16.03.060	Chapter 1 Section 115 Added - General Regulation of Construction
16.03.070	Chapter 3 Section R319.1 Amended - Premises Identification Numbering
16.03.080	Chapter 3 Section R322.1 of the CRC Amended-Flood-Resistant Construction
16.03.090	Chapter 4 Section R404.1.4.2 of the CRC Amended – Seismic Reinforcing
16.03.100	Chapter 6 Section R602.10.2 and Table R602.10.3(3) of the CRC Amended – Seismic Reinforcing
16.03.110	Chapter 7 Subsection R703.5 Amended - Shingle or Shake Siding Materials

16.03.010 California Residential Code - Adoption.

The Residential Code for the City, sometimes referred to as “the CRC,” is the 2013 California Residential Code, (based on the International Building Code, 2012 Edition), including Appendix chapters G and H, as approved by the California Building Standards Commission, and as published in Title 24, Part 2.5 of the California Code of Regulations.

16.03.020 Chapter 1 Subsection 105.2 (3) Amended - Exempted Work

Subsection 105.2(3) of the CRC is amended to read:

3. Retaining walls which do not retain more than thirty (30) inches of earth when the earth retained is level and where there is no surcharge load, and retaining walls which do not retain more than two (2) feet of earth when the earth retained is sloping not greater than 2h:1v and there is no surcharge load. The above does not apply to retaining walls impounding Class I, II, or IIIA Liquids. See CBC Section 2304.11.7 for treatment of wood used for retaining walls.

16.03.030 Chapter 1 Section 106.3 Added -Garage, Carport & Driveway Grades

Section 107.6 is added to the CBC, to read as follows:

Section 107.6 Garage, Carport and Driveway Grade Requirements.

- (a) Garage and carport floors shall be concrete.
- (b) Any person to whom a building permit has been issued shall, where established, obtain official line and grade information as required in Section 13.20.150 of the City Code prior to the construction of foundations or footings for carports and garages.
- (c) When official line and grade has not been established, it shall be the responsibility of that person to provide such information as required by City Engineer to establish lines and grades.
- (d) Any person to whom a building permit has been issued shall construct the finish floor of carports and garages to an elevation which shall conform to the official driveway data as set forth on plan LL-1031 on file with the City Engineer.

16.03.040 Chapter 1 Subsection R106.3 Renumbered and Amended - Examination of Documents

Subsection R106.3 is renumbered as R106.4 amended by adding a second paragraph to the CRC, to read as follows:

Review by Fire Chief. Whenever application is made for a building permit, as required by the CRC, the Building Official shall withhold issuance of the building permit until notification from the Fire Chief that all plans required by the California Fire Code (chapter 16.26 of this title) have been reviewed and approved, and that the requirements specified in Section 16.26 have been met.

16.03.050 Chapter 1 Section R113.6 Added - Littering of Streets

Section R113.6 is added to the CRC, to read as follows:

Section R113.6 - Littering of Streets

It shall be unlawful for any person to excavate, dig or move dirt, rock, or other substances so as to allow fragments thereof from being thrown or dropped against or upon lots or buildings, or upon any public right-of-way. Any person dropping such material or tracking dirt, mud or rocks from private property upon any public right-of-way shall immediately cause the same to be removed. Transportation of dirt and rock requires a permit obtained pursuant to chapter 13.24 of the El Cerrito Municipal Code.

16.03.060 Chapter 1 Section R115 Added - General Regulation of Construction

Section R115 is added to the CBC, to read as follows:

Section R115 - General Regulation of Construction

- (a) Work may be prohibited during inclement weather upon the order of the City Building Official.
- (b) The hours of work shall be limited to 7:00 a.m. to 6:00 p.m., Monday through Friday, and 8:00 a.m. to 5:00 p.m. on Saturday. Work shall be prohibited on Sundays and Holidays.

Work hours in the public right-of-way shall be regulated by Public Works Department.

- (c) Work must be controlled to prevent causing a public nuisance such as dust, noise, vibrations, uncontrolled storm water runoff, and traffic congestion.

16.03.070 Section R319.1 Amended - Premises Identification Numbering

Section R319.1 of the CRC is amended to read as follows:

Section R319.1 - Premises Identification Numbering.

- h) The city shall keep on file a description of the method to be used in the assignment of street address identification numbers. This method shall be approved by Council resolution, and shall be available for inspection by any member of the public.
- i) Every main structure or building constructed, altered, repaired or moved into the city shall be assigned a street identification number by the Building Official.
- j) Numbers identifying the street address shall be placed on the street side of the building or structure in such manner as to be plainly visible from the street or public way. Identification numbers shall be a minimum of four (4) inches in height with minimum ½" stroke width for residential, and six (6) inches in height with minimum 1" stroke width for commercial buildings, and of a color to contrast with the surrounding color. Numbers shall be installed prior to final inspection and occupancy of the building or structure.
- k) The premises street address shall be internally or externally illuminated to the satisfaction of the Building Official.
- l) The owner shall be responsible for the maintenance of identification numbers.
- m) Any change of the assigned street identification number must be approved by the Building Official.

- n) Every owner or occupant of any building or structure not numbered in accordance with the provisions of this section shall, within ten (10) days after notice given by the City change the number of such building or structure to the number specified in the notice.

16.03.080 Section R322.1 of the CRC Amended-Flood-Resistant Construction

Section R3221.1 of the CRC is amended by adding the following sentence:

Construction within special Flood Hazard Areas must comply with Chapter 13.40 of the Municipal Code.

16..03.090 Section R404.1.4.2 of the CRC Amended – Seismic Reinforcing

Section R404.1.4.2 of the CRC is amended to read as follows:

R404.1.4.2 Seismic reinforcing. Concrete footings located in Seismic Design Categories D0, D1 and D2, as established in Table R301.2(1), shall have minimum reinforcement of at least two continuous longitudinal reinforcing bars not smaller than No. 4 bars. Bottom reinforcement shall be located a minimum of 3 inches (76 mm) clear from the bottom of the footing.

In Seismic Design Categories D0, D1 and D2 where a construction joint is created between a concrete footing and a stem wall, a minimum of one No. 4 bar shall be installed at not more than 4 feet (1219 mm) on center. The vertical bar shall extend to 3 inches (76 mm) clear of the bottom of the footing, have a standard hook and extend a minimum of 14 inches (357 mm) into the stem wall.

In Seismic Design Categories D0, D1 and D2 where a grouted masonry stem wall is supported on a concrete footing and stem wall, a minimum of one No. 4 bar shall be installed at not more than 4 feet (1219 mm) on center. The vertical bar shall extend to 3 inches (76 mm) clear of the bottom of the footing and have a standard hook.

In Seismic Design Categories D0, D1 and D2 masonry stem walls without solid grout and vertical reinforcing are not permitted.

Exception: In detached one- and two-family *dwelling*s which are three stories or less in height and constructed with stud bearing walls, isolated plain concrete footings supporting columns or pedestals are permitted.

16.03.100 Section R602.10.2 and Table R602.10.3(3) of the CRC Amended – Seismic Reinforcing

Section R602.10.4.4 and Table R602.10.3(3) of the CRC are amended by adding a new footnote “e” to the end of CRC Table R602.10.3(3), to read:

e. In Seismic Design Categories D₀, D₁, and D₂, Method GB is not permitted and the use of Method PCP is limited to one-story single family dwellings and accessory structures.

16.03.110 Subsection R703.5 Amended - Shingle or Shake Siding Materials

Subsection R703.5 of the CRC is amended to add the following sentence:

Wood shingles or shakes shall be Class B or better which comply with ASTM E108 or UL 790, except that in very high fire hazard severity zones, no wood shake or shingle siding shall be permitted regardless of class designation. See section 8.30.030 of the El Cerrito Municipal Code for roofing standards in very high fire hazard severity zones.

DIVISION III. TITLE 16, CHAPTER 16.04, ORDINANCE NO. XXX-XX, (CALIFORNIA PLUMBING CODE) OF THE EL CERRITO MUNICIPAL CODE IS HEREBY REPEALED IN ITS ENTIRETY AND REPLACED WITH THE FOLLOWING CHAPTER 16.04, TITLED “CALIFORNIA PLUMBING CODE”:

Chapter 16.04

CALIFORNIA PLUMBING CODE

Sections:

16.02.010 California Plumbing Code - Adoption

16.04.010 California Plumbing Code - Adoption

The Plumbing Code for the City, sometimes referred to as “the CPC,” is the California Plumbing Code, 2013 Edition, (based on the Uniform Plumbing Code, 2012 Edition), as approved by the California Building Standards Commission, and as published in Title 24, Part 5, of the California Code of Regulations.

DIVISION IV. TITLE 16, CHAPTER 16.06, ORDINANCE NO. XXX-XX, (CALIFORNIA MECHANICAL CODE) OF THE EL CERRITO MUNICIPAL CODE IS HEREBY REPEALED IN ITS ENTIRETY AND REPLACED WITH THE FOLLOWING CHAPTER 16.06 TITLED “CALIFORNIA MECHANICAL CODE”:

Chapter 16.06

CALIFORNIA MECHANICAL CODE

Sections:

16.06.010 California Mechanical Code - Adoption.

The Mechanical Code for the City, sometimes referred to as “the CMC,” is the California Mechanical Code, 2013 Edition, (based on the Uniform Mechanical Code, 2012 Edition), as approved by the California Building Standards Commission, and as published in Title 24, Part 4, of the California Code of Regulations

DIVISION V. TITLE 16, CHAPTER 16.08 (CALIFORNIA ELECTRICAL CODE) OF THE EL CERRITO MUNICIPAL CODE IS HEREBY REPEALED IN ITS ENTIRETY AND REPLACED WITH THE FOLLOWING CHAPTER 16.08, TITLED “CALIFORNIA ELECTRICAL CODE”:

Chapter 16.08

CALIFORNIA ELECTRICAL CODE

Sections:

16.08.010 California Electrical Code - Adoption.

16.08.040 Article 230.70 (A) (1) Amended - Readily Accessible Location

16.08.010 California Electrical Code - Adoption

The Electrical Code for the City sometimes referred to as “the CEC,” is the California Electrical Code, 2013 Edition, (based on the National Electrical Code, 2011 Edition), as approved by the California Building Standards Commission, and as published in Title 24, Part 3, of the California Code of Regulations, except as amended and supplemented in the manner set forth in this chapter.

16.08.040 Article 230.70 (A) (1) Amended - Readily Accessible Location

Article 230.70 (A) (1) of the National Electric Code is amended to read as follows:

The service disconnecting means shall be installed at a readily accessible location outside of a building or structure near the point of entrance of the service conductors for single family dwellings. For other occupancies where direct access from the exterior does not occur, a remote control (shunt trip) activating the disconnect shall be located on the exterior of the building in a location and manner acceptable to the Fire and Building Officials.

Chapter 16.24

CALIFORNIA GREEN BUILDING CODE

Section:

16.24.010 California Green Building Code - Adoption.

The Green Building Code for the City is the California Green Building Standards Code, 2013 Edition, as approved by the California Building Standards Commission, and as published in Title 24, Part 11, of the California Code of Regulations.

DIVISION X. TITLE 16, CHAPTER 16.26 (CALIFORNIA FIRE CODE) OF THE EL CERRITO MUNICIPAL CODE IS HEREBY REPEALED IN ITS ENTIRETY AND REPLACED WITH THE FOLLOWING CHAPTER 16.26, TITLED “CALIFORNIA FIRE CODE”:

Chapter 16.26

CALIFORNIA FIRE CODE

Section:

16.26.010 California Fire Code - Adoption.
16.26.020 Chapter 1 Section 1.1.1.2 Added - Title
16.26.030 Chapter 1 Section 1.1.8 Amended - Amendments to the Fire Code
16.26.040 Chapter 1 Section 1.11.1 Amended - Office of the State Fire Marshall
16.26.050 Chapter 1 Section 102.1 Amended - Applicability
16.26.060 Chapter 1 Section 102.9 Amended - Matters Not Provided For
16.26.070 Chapter 1 Section 104.1 Amended - General Authority and Responsibility
16.26.080 Chapter 1 Section 104.1.1A and 104.1.1B Added - General Authority Peace Officer Status
16.26.090 Chapter 1 Section 104.9 Amended - Alternative materials and methods
16.26.100 Chapter 1 Section 105.1.1 Amended - Required permits
16.26.110 Chapter 1 Section 105.6 Amended - Required operational permits
16.26.120 Chapter 1 Section 108 Amended - Board of Appeals
16.26.130 Chapter 2 Section 202 Amended – General Definitions
16.26.140 Chapter 2 Section 202 Amended - Definitions - F
16.26.150 Chapter 2 Section 202 Amended - Definitions - R
16.26.160 Chapter 3 Section 318 Added - General precautions against fire
16.26.170 Chapter 4 Section 401.5 Amended - Making false report
16.26.180 Chapter 5 Sections 503, 504, 505 and 507 Amended -Fire Service Features

16.26.190	Chapter 6 Section 603.6 Amended - Building Services and Systems
16.26.200	Chapter 9 Section 903.2 Amended – Automatic Fire Extinguishing Systems
16.26.210	Chapter 9 Section 903.2 Amended - Automatic Fire Sprinkler Systems
16.26.220	Chapter 9 Section 905.3.1 Amended - Standpipe Systems
16.26.230	Chapter 9 Section 907.2 Amended - Fire Alarm and Detection Systems
16.26.240	Chapter 9 Section 907.8.2 Amended - Record of completion
16.26.250	Chapter 10 Section 1008.1.10 Amended - Panic and fire exit hardware
16.26.260	Chapter 10 Section 1027.6 Amended - Exit and pathways
16.26.270	Chapter 27 Section 2701.1.2 Added - Hazardous Materials
16.26.280	Chapter 27 Section 2703.1.1 Amended - General Provisions
16.26.290	Chapter 30 Section 3001.1A Added - Compressed Gasses
16.26.300	Chapter 33 Section 3301.1.1A Added - Explosives and Fireworks
16.26.310	Chapter 34 Section 3404.2.13 Added - Flammable and Combustible Liquids – Below Ground Tanks
16.26.320	Chapter 34 Section 3406 Amended - Flammable and Combustible Liquids - Above Ground Tanks
16.26.330	Chapter 35 Section 3503A Added - Flammable Gases and Flammable Cryogenic Fluids
16.26.340	Chapter 38 Section 3803.2.1.7 Amended - Liquefied Petroleum Gases - Inside Buildings
16.26.350	Chapter 38 Section 3804.2A Added - Liquefied Petroleum Gases - Outside Buildings

16.26.010 California Fire Code - Adoption.

It is hereby adopted by the city council of the city of El Cerrito for the purpose of prescribing regulations governing conditions hazardous to life and property from fire and explosion, that certain codes and standards known as the 2013 California Building Standards Code, Title 24, California Code of Regulations (CCR), Part 9 (California Fire Code), and by reference the 2012 International Fire Code published by the International Code Council, Inc. (ICC), (including Appendix Chapters A, B, C, D, E, F, G, I, and J) save and except such portions as are deleted, modified or amended by this chapter, of which not less than one copy each have been and are now filed in the office of the Fire Chief and the Building Official of the City of El Cerrito and the same is hereby adopted and incorporated as fully as if set out at length herein, and from the date on which this chapter shall take effect, the provisions thereof shall be controlling within the limits of the City of El Cerrito.

16.26.020 Chapter 1 Section 1.1.1.2 Added - Title

Section 1.1.1.2 Title is added as follows:

Section 1.1.1.2 These regulations shall be known as the Fire Code of the City of El Cerrito, hereinafter referred to as "this code." The California Fire Code and the International Fire Code adopted by reference in Section 1, amendments thereto, additions, and deletions as set forth in this Section shall become effective as set forth in Section 1.1.8 Division and Appendix numbers used are those of the California Fire Code.

16.26.030 Chapter 1 Section 1.1.8 Amended - Amendments to the Fire Code

Section 1.1.8 is amended by adding the following:

The limits referred to in Section 1.1.8.1 of the California Fire Code and International Fire Code adopted by reference in Section 1, amendments thereto, additions, and deletions and appendices as set forth in this section shall become effective as set forth in Section 1.1.9 Article, Section, Division, and Appendix numbers used are those of the California Fire Code.

16.26.040 Chapter 1 Section 1.11.1 Amended - Office of the State Fire Marshall

Section 1.11.1 is amended by adding 1.11.1 A, B and C

A. The California Fire Code as adopted and amended herein shall be enforced by the city fire prevention division which is hereby established and which shall be operated under the supervision of the fire marshal.

B. The fire marshal in charge of the fire prevention division shall be appointed by the fire chief of the city of El Cerrito on the basis of examination to determine his or her qualifications for the position.

C. The chief of the fire department shall recommend to the city council the employment of technical staff members, who, when such authorization is made, shall be selected on the basis of examination to determine their qualifications for the position.

16.26.050 Chapter 1 Section 102.1 Amended - Applicability

Section 102.1 is amended by adding Section 102.1.1

Section 102.1.1 Buildings in existence at the time of the adoption of this code may have their existing use or occupancy continued, if such use or occupancy was legal at the time of the adoption of this code, provided such continued use is not dangerous to life.

Section 102.2 is amended by adding section 102.2.1

Section 102.2.1 Plans for compliance. Upon written notice to the responsible property owner, plans for compliance shall be submitted and approved, and within 18 months or earlier depending on the life-safety significance of the hazard work shall be completed or the building shall be vacated until made to conform.

16.26.060 Chapter 1 Section 102.9 Amended - Matters Not Provided For

Section 102.9 is amended by adding subsection 102.9.1A

102.9.1A Unless otherwise limited by law, the applicable provisions of this code shall apply to vehicles, ships, boats, and mobile vehicles and other facilities when fixed in a specific location within the boundaries of this jurisdiction.

16.26.070 Chapter 1 Section 104.1 Amended - General Authority and Responsibility

Section 104.1 is amended by adding the following:

The Fire Chief or the Fire Code Official is authorized to render interpretations of this code and to make and enforce rules and supplemental regulations in order to carry out the application of its provisions. The Chief may be guided by the 2013 Supplement to the Uniform Fire Code. Such interpretations, rules and regulations, and supplements shall be in conformance with the intent and purpose of this code and shall be available to the public during normal business hours.

16.26.080 Chapter 1 Section 104.1.1A and 104.1.1B Added - General Authority Peace Officer Status

Section 104.1.1A and 104.1.1B are added in their entirety to read as follows:

Section 104.1.1A The Fire Chief and his designated representatives shall have the powers of peace officers while engaged in the performance of their duties with respect to the prevention, investigation, and suppression of fires and the protection and preservation of life and property against the hazards of fire and conflagration.

Section 104.1.1B The Chief, or his duly authorized agents, may issue citations for violations of this ordinance in accordance with Chapter 5C (commencing with Section 853.5), Title 4, Part 2, of the Penal Code.

16.26.090 Chapter 1 Section 104.9 Amended - Alternative materials and methods

Section 104.9 is amended by adding 104.9.3

Section 104.9.3 - The city council, the fire chief and the fire marshal shall act as a committee to determine and specify, after giving affected persons an opportunity to be heard, any new materials, processes or occupancies for which permits are required in addition to those now enumerated in the California Fire Code. The fire marshal shall post such list in a conspicuous place at the offices of the fire prevention division and distribute copies thereof to interested persons.

16.26.100 Chapter 1 Section 105.1.1 Amended - Required permits

Section 105.1.1 is amended by adding Section 105.1.1A:

Section 105.1.1A Fee for Plan Review, Inspection and Permits. Fees required by the City shall be established in the City's master fee schedule, to defray: the costs for plan review of plans required by this code; requested or required inspection services; administrative costs; issuance of permits and all other direct costs incurred by the city.

Section 105.4.1.1 is amended by adding Section 105.4.1.2 (1 to 6):

Section 105.4.1.2 Review of Plans. Whenever required by this Code, plans shall be submitted to the Fire Chief for review and approval prior to construction. Whenever application is made for a

building permit, as required by the Building Code, the Building Official shall withhold issuance of the building permit until notification from the Fire Department that plans required by this code have been reviewed and approved and that the requirements set forth in section 105 have been met. In addition to plan submittals required by other sections of this Code, plans shall be submitted whenever any of the following land developments and/or improvements are proposed:

1. Subdivision of land.
2. Construction, alteration or renovation of a building.
3. Demolition of a building.
4. Provision of a water supply for fire protection.
5. Provision of access for fire apparatus.
6. An occupancy for the storage, use, or handling of any hazardous substance, hazardous material process, or hazardous device.

16.26.110 Chapter 1 Section 105.6 Amended - Required operational permits

Section 105.6 is amended by adding 105.6.48 thru 105.6.51.

48. Christmas tree sales. To use a property for the purpose of selling cut Christmas trees. See applicable provisions of Chapter 3 General Precautions against fire.

49. Pumpkin patches/lots. To use a property for the purpose of selling pumpkins and seasonal items. See applicable provisions of Chapter 3 General Precautions against fire.

50. Liquefied petroleum gases. To store, use, or handle liquefied petroleum gas inside buildings. See Chapter 38.

51. Rockets. To launch model rockets. See California Code of Regulations Title 19, Division 1, Article 17.

16.26.120 Chapter 1 Section 108 Amended - Board of Appeals

Section 108 is amended by adding 108.1.1

Section 108.1.1 Whenever the fire chief disapproves an application or refuses to grant a permit applied for, or when it is claimed that the provisions of the code do not apply or that the true intent and meaning of the code has been misconstrued or wrongly interpreted, the applicant may appeal within thirty days the chief's decision to the city council.

16.26.130 Chapter 2 Section 202 Amended – General Definitions

Section 202 - General Definitions is amended as follows: by changing the definition of Jurisdiction and adding the definition for Fire Marshal by adding Sections 202. A and 202. B.

A. Wherever the word "jurisdiction" is used in the California Fire Code, it shall be held to mean the City of El Cerrito.

B. Where the party responsible for the enforcement of the California Fire Code is given the title of "Fire Marshal," add the following definition: Fire Marshal is the chief of the bureau of fire prevention.

16.26.140 Chapter 2 Section 202 Amended - Definitions - F

Section 202 -F - is amended by adding:

Facility - any structure or location used for storing, processing or handling material or equipment.

Fair - a temporary enterprise principally devoted to the exhibit or sale of products of commerce, agriculture or industry, or to entertainment and amusement and may include the operation of amusement rides or devices, or concession booths.

Firebreak - a continuous strip of land upon and from which all rubbish, weeds, grass or other growth that could be expected to burn when dry has been abated or otherwise removed in order to prevent the surface extension of fire from one area to another.

Fire trail - a graded firebreak of sufficient width, surface, and design to provide access for fire personnel and equipment to suppress and to assist in preventing a surface extension of fires.

Fuel break - a specified width, strip, or block of land on which the vegetation has been permanently modified to a low volume fuel type so that fires burning on it can be more readily controlled.

16.26.150 Chapter 2 Section 202 Amended - Definitions - R

Section 202 - R is amended by adding:

Response Time - the calculated time difference between receiving a report of an alarm and the application of extinguishing agent.

Running Time - the calculated time difference between leaving the first due fire station and arriving on the emergency scene.

Rural Area - that area generally designated for agricultural or open space uses with parcels over 10 acres in size.

Rural Residential Area - that area generally designated for single family residential use with parcels between 3 and 10 acres in size.

16.26.160 Chapter 3 Section 319 Added - General precautions against fire

Chapter 3 Section 319 is added in its entirety:

Section 319 Exterior hazard control.

Section 319.1 Weeds and Rubbish to be Destroyed or Removed.

It shall be unlawful for any person owning, occupying, renting, managing or controlling any real property in this jurisdiction to cause, or permit to remain on the property, or on portions of streets adjoining such property, any weeds, rubbish, litter or other flammable material which creates a fire hazard, a menace to the public health or which is otherwise noxious or dangerous. It shall be the duty of every such person to remove or destroy such weeds, rubbish, litter or other flammable material. Destruction by burning within the jurisdictions unlawful unless the written permission of the Fire Chief of the City is first obtained and all other applicable permits are obtained from appropriate governing jurisdictions.

Section 319.2 Definitions, as used in this article

1. "Weed," as used in this part, means all weeds growing upon streets or private property in this jurisdiction and includes any of the following:
2. Weeds that bear seeds of a downy nature or are subject to flight.
3. Sagebrush, chaparral and any other brush or weeds which obtain such large growth as to become, when dry, a fire menace to adjacent improved property or to streets.
4. Weeds that are otherwise noxious or dangerous.
5. Poison oak and poison ivy when the conditions of growth are such as to constitute a menace to the public health.
6. Dry grass, stubble, brush, litter or other flammable materials that endanger the public safety by creating a fire hazard.
7. "Rubbish" means waste matter, litter, trash, refuse, debris and dirt on streets, or private property in the jurisdiction that is, or when dry may become a fire hazard.
8. "Streets" include alleys, parkways, driveways, sidewalks and areas between sidewalks and curbs.
9. "Person" includes individuals, firms, partnerships and corporations.
10. "Cost of Abatement" shall include all expenses incurred by jurisdiction, including administrative costs, in its work of abatement undertaken pursuant Section 318 of this ordinance.
11. "Superintendent" shall mean the City Manager or designee.

Section 319.3 Declaration of Policy.

The City Council, as the supervising, legislative and executive authority of this jurisdiction, hereby declares that the removal of dry grass, stubble, brush, rubbish, litter or other flammable

material which creates a fire hazard, a menace to the public health or which is otherwise noxious or dangerous is a matter of extreme municipal importance. The City Council hereby adopts the following Fire Hazard Abatement Program for the purpose of abating fire hazards caused by the presence of dry grass, stubble, brush, rubbish, litter or other flammable material on private properties within the City. This program shall be conducted in accordance with the provisions of Government Code Sections 39560-39588 as those sections presently exist or as may be amended. The City Manager or designee shall be deemed the street superintendent for the purpose of carrying out the provisions of this policy.

Section 319.4 Abatement Procedures

- a. The City Council of El Cerrito shall declare by resolution annually, or as often as may be necessary, those properties which are deemed public nuisances because of the presence of dry grass, stubble, brush, rubbish, litter or other flammable material which creates a fire hazard, a menace to the public health or which is otherwise noxious or dangerous.
- b. The resolution may also declare that certain identified properties are seasonal and recurrent nuisances as defined by Government Code Section 39562.1
- c. The resolution shall designate a date, time and place for a hearing at which the owners of the properties identified in the resolution may object to the designation of their properties as public nuisances, and object to the abatement actions proposed by the City as authorized by Government Code Sections 39560-39588.
- d. Written notice shall be provided to the owners of the properties identified in the resolution informing them of the date, time and place of the hearing. This notice shall be in substantially the same form as contained in Government Code Section 39566. Notice to the owners of those properties declared seasonal and recurrent nuisances shall incorporate the provisions contained in Government Code Section 39562.1. The notice shall be served as provided for in Government Code Sections 39564-39567.1.
- e. At the hearing, the City Council shall hear and consider all objections. By resolution, the City Council shall allow or overrule these objections. The City Council shall also order the City Manager or designee to abate the public nuisance conditions at the properties designated in the initial resolution by having the dry grass, stubble, brush, rubbish, litter or other flammable material which creates a fire hazard, a menace to the public health or which is otherwise noxious or dangerous removed.
- f. The City Manager may abate these public nuisance conditions either through the use of City employees or by private contract. The City Manager is authorized to execute such public contracts as may be necessary to abate these public nuisance conditions.
- g. The City Manager shall keep a report of the cost of abatement for each property subject to the City Council resolution. At such time as the City Manager deems appropriate, a hearing shall be scheduled before the City Council for confirming the report. Notice shall be mailed to

each property owner at least five days before the date of the hearing. The notice shall inform the property owner of the costs of abatement of the public nuisance conditions on the property; date, time and place of the hearing at which the property owner may object to the report; and a statement that if the report is confirmed by the City Council, that the costs of tax bill levied against the parcel for collection at the time and in the manner of ordinary municipal taxes. The report shall also be posted at least three days prior to the hearing date at or near the hearing place as required by Government Code Section 39575.

h. At the time fixed for the hearing, the City Council shall consider the report and hear any objections from the property owners liable to be assessed the costs of abatement. The City Council may modify the report if it is deemed necessary. The City Council may also establish installment payments for the abatement costs as provided for in Government Code Section 39581. At the conclusion of the hearing, the City Council shall confirm the report by resolution.

i. The cost of abatement upon each property and the costs incurred by the City in enforcing the abatement shall constitute a special assessment against the property as provided for in Government Code Section 39577. A lien shall attach to the property upon recordation of the order confirming the assessment by the County Recorder. On or before August 10th of each year, the City Manager shall file a certified copy of the report with the County Auditor. As authorized by Government Code Section 39581, the amount of the assessment shall be collected at the time and in the manner of ordinary municipal taxes, subject to the same penalties and procedure of foreclosure and sale provided for ordinary municipal taxes.

Section 319.5 Alternate Mitigation.

In lieu of ordering abatement of fire hazards as provided in Section 319.4, the Fire Chief may order the preparation of firebreaks/fuel breaks around parcels of property when combustible weeds, crops, or brush is present. In determining the proper width of firebreaks/fuel breaks, the Fire Chief shall consider the height of the growth, weather conditions, topography and accessibility to the property of fire protection equipment. The procedure set forth in Section 319.4 for the abatement of weeds and rubbish shall also apply to the preparation of firebreaks/fuel breaks.

Section 318.6 Alternate Procedures

The procedures provided for by this Article are an alternative to any other procedure adopted by the City Council for the abatement of public nuisances, such as Chapter 8.34 of the El Cerrito Municipal Code, or which may be authorized by the law of the State of California.

Section 318.7 Peat Fire, Penalties Therefore

a. It is the duty of each person, firm, corporation or association not to permit on their property a peat fire in, or a fire involving combustible vegetable materials under the surface of the natural ground. It is hereby declared that it is the duty of any person as herein defined to take all necessary precautions to extinguish any subsurface fire involving peat or vegetative material at

his/her own cost and expense.

b. If there exists upon the lands of any person herein defined, subsurface fire involving the burning or combustion of peat or vegetative matter, and the owner or occupant thereof has not taken reasonable precautions within a reasonable time to extinguish or minimize such fire or combustion, the City of El Cerrito may, in addition to its regular duties to extinguish or minimize such fire or combustion, enter upon the lands of any person as herein defined and extinguish such fire or combustion. Any costs incurred by the Fire Department in fighting the fire and for the cost of providing rescue or emergency medical services shall be a charge against said person. The charge shall constitute a debt of that person and is collectable by the fire department incurring those costs in the same manner as in the case of an obligation under contract, express or implied. (Health & Safety Code 13009.)

16.26.170 Chapter 4 Section 401.5 Amended - Making false report

Section 401.5 is amended by adding an additional sentence:

Section 401.5 A charge may be made for excessive false alarms.

16.26.180 Chapter 5 Sections 503, 504, 505 and 507 Amended -Fire Service Features

Chapter 5 Sections 503, 504, 505 and 507 are amended as follows.

Section 503.4 is amended by adding Section 503.4.2:

Section 503.4.2 When approved, gates and barriers may be installed across or over Fire Department access roads. These installations shall meet the standards approved by the Fire Chief and design shall be approved prior to installation.

Section 504.1 is amended by adding:

504.1.1 Exterior exit pathway surfaces leading from an exit to a public way shall be maintained and suitable for pedestrian use in all weather conditions.

Section 505 is amended by adding 505.1.1

505.1.1 Approved address numbers attached to the building or the primary address of the building shall be internally or externally illuminated.

Section 507.1 is amended by adding a preface sentence to read as follows: The type of water supply provided shall meet the standards approved by the Fire Chief.

16.26.190 Chapter 6 Section 603.6 Amended - Building Services and Systems

Section 603.6 is amended by adding subsection 603.6.6:

Section 603.6.6 Spark Arrester. Chimneys used with fireplaces or heating appliances in which solid or liquid fuel is used shall be maintained with a spark arrester as required for incinerators by the mechanical code.

16.26.200 Chapter 9 Section 903.2 Amended – Automatic Fire Extinguishing Systems

Section 903.2 is amended by adding 903.2.20:

903.2.20. An automatic fire extinguishing system shall be required in all occupancies of 5000 square feet or greater.

16.26.210 Chapter 9 Section 903.2 Amended - Automatic Fire Sprinkler Systems

Section 903.2 is amended by adding subsections 903.2.20.1 through 903.2.20.6

Section 903.2.20.1 Fire Department Delivery Capability. An automatic fire sprinkler system shall be installed in all new buildings or occupancies or in existing buildings or structures that change occupancy classification or use when the required fire flow exceeds 2,000 GPM, or the total floor area exceeds 5,000 square feet.

For the purpose of this section, buildings separated by area separation walls, as set forth in Section 706 of the California Building Code, shall not be considered to create separate buildings unless such walls are constructed as specified in the California Fire Code.

Section 903.2.19.2 Undetermined Occupancy. When fire sprinkler systems are required in buildings of undetermined occupancy, they shall be designed and installed to have a sprinkler density of not less than that required for an Ordinary Hazard Group 2 use, with a minimum design area of 3,000 square feet. Occupancy is considered undetermined if not classified at the time the building permit is issued. Where a subsequent occupancy requires a fire sprinkler system of greater density than Ordinary Hazard Group 2, the system shall be upgraded to such use.

Section 903.2.20.3 Response Times. An automatic fire sprinkler system shall be installed in all new buildings or occupancies when any of the following requirements is exceeded.

Section 903.2.20.4 Run Times. A maximum running time of 3 minutes or a maximum response time of 5 minutes from the first-due station. Times shall be measured by the most direct route on surface streets.

Section 903.2.20.5 Distance from Fire Apparatus Access. The Fire Chief may require installation of automatic fire sprinkler system when the exterior wall of the 1st story is located more than 150 feet from approved fire apparatus access.

Section 903.2.20.6 Other Codes. An automatic sprinkler system shall be installed in all other occupancies as may be required by the Uniform Building Code or the California Building Code.

16.26.220 Chapter 9 Section 905.3.1 Amended - Standpipe Systems

Section 905.3.1 Subsection (2) is amended by replacing subsection (2) in its entirety:

Section 905.3.1 Subsection (2). "three stories" (3) or more in height replaces four stories (4) or more in height.

Section 905.3.1 is amended by adding subsection (5):

5. When standpipes are required and the building is equipped with automatic fire sprinklers, a class one standpipe(s) is required and the standpipe shall be interconnected with the fire sprinkler system.

16.26.230 Chapter 9 Section 907.2 Amended - Fire Alarm and Detection Systems

Section 907.2 is amended by adding subsection 907.2 A:

Section 907.2 A. At the discretion of the Fire Chief, single-station smoke alarms or multiple-station smoke alarms may be required to be connected to an approved 24-hour monitored fire alarm system.

16.26.240 Chapter 9 Section 907.8.2 Amended - Record of completion

Section 907.8.2 is amended by adding subsection 907.8.2.1

Section 907.8.2.1 Acceptance, maintenance and testing records. A copy of acceptance, maintenance and testing records shall be maintained on site and shall be available to the city upon request.

16.26.250 Chapter 10 Section 1008.1.10 Amended - Panic and fire exit hardware.

Section 1008.1.10 Exception is amended by adding the following sentence:

The use of this exception may be revoked by the Fire Chief or the Building Official for due cause.

16.26.260 Chapter 10 Section 1027.5 Amended - Exit and pathways

Section 1027.5 is amended by adding Subsection 1027.5.1:

Section 1027.5.1. Exterior Exit Pathways. Exterior exit pathway surfaces leading from an exit to a public way shall be maintained and suitable for pedestrian use in all weather conditions.

16.26.270 Chapter 50 Section 5001.2 Added - Hazardous Materials

Section 5001.1 is amended by adding subsection 5001.1.2:

Section 5001.1.2 Coordinated Enforcement. Where the Contra Costa County Health Services Department is enforcing State Health and Safety and/or County health regulations, the Fire Department will coordinate efforts to eliminate duplication of time and resources to comply with hazardous material regulations. When approved by the Fire Chief equivalent documentation and compliance may be accepted in lieu of requirements of Appendix E. Where Contra Costa County Health & Safety regulations and California Fire Code regulations conflict, the more restrictive provisions shall prevail.

Exception: Where state or county regulations specifically limit or pre-empt local regulations to be more restrictive.

16.26.280 Chapter 50 Section 5004.1 Amended - General Provisions

Section 5004.1 is amended by adding 5004.1. A, and 5004.1. B

A. The limits referred to in Section 5004.1 of the California Fire Code, in to which the storage of hazardous materials is restricted are hereby established as follows: All areas within the jurisdiction shall be for retail in group M occupancies.

B. Exception - A permit shall be obtained from the Fire Marshal approving on site Hazardous Materials for retail sales, storage or commercial/industrial use.

16.26.290 Chapter 53 Section 5304.2A Added - Compressed Gasses

Section 5304.2 is amended by adding 5304.2A

A. The limits referred to in Section 5304.2 (ch 54,58,60 through 67) of the California Fire Code, in which the storage of compressed natural gas is restricted, are hereby amended as follows: All areas within the jurisdiction without and approved permit by the Fire Marshall.

16.26.300 Chapter 56 Section 5601.1.1A Added - Explosives and Fireworks

Section 5601.1.1 is amended by adding 5601.1A and Exception:

A. The limits referred to in Section 5601.1 of the California Fire Code and Title 19 Division 1 Chapter 6 and 10 subchapter 3, in which the storage of storage of explosives and blasting agents is restricted, are hereby amended as follows: All areas within the jurisdiction.

Exception: The Fire Marshall may authorize limited amount of explosives or blasting agents with permit.

16.26.310 Chapter 57 Section 5704.2.11.6 Added - Flammable and Combustible Liquids – Below Ground Tanks

Section 5704.2.11.6 is added in its entirety to read:

Section 5704.2.11.6. Abandonment and status of tanks. Tanks taken out of service as a result of properties being abandoned or its use being changed shall be removed in accordance with Section 5704.2.14.2

Section 5704.2.13.1.3 is amended in its entirety to read:

Section 5704.2.13.1.3 Out of Service for More Than 180 Days. Underground tanks that have been out of service for a period greater than 180 days shall be removed from the ground in accordance with Section 5704.2.14 and the site shall be restored in an approved manner. Permit requirements with the Contra Costa County Health Services Department, Environmental Division shall be complied concurrently with the permit requirements of the City.

Section 5704.2.13.2.3 is deleted in its entirety.

Section 5704.2.13.2.3 is amended to replace “one year” with “more than 180 days”

Section 5704.2.13.2.3. Out of service for more than 180 days Aboveground tanks which have been out of service for a period greater than 180 days shall be removed in accordance with Section 5704.2.14 and the site shall be restored in an approved manner. Permit requirements with the Contra Costa County Health Services Department, Environmental Division shall be complied with concurrently with the permit requirements of the City.

16.26.320 Chapter 57 Section 5704 Amended - Flammable and Combustible Liquids - Above Ground Tanks

Section 5704.2.9.6.1 is amended by adding 5704.2.9.6.1A and 5704.2.9.6.1B establishment of limits of districts in which storage of flammable or combustible liquids in outside aboveground tanks is prohibited or restricted:

A. The limits referred to in Section 3406.2.4.4 of the California Fire Code, in which the storage of flammable or combustible liquids in outside above ground tanks is restricted, are hereby amended as follows: All areas within the jurisdiction without an approved permit by the Fire Marshal.

B. The limits referred to in Section 3406.4 in which new bulk plants for flammable or combustible liquids are prohibited, are hereby amended as follows: Any area which is zoned other than industrial without an approved permit from the Fire Marshal.

16.26.330 Chapter 58 Section 5803A Added - Flammable Gases and Flammable Cryogenic Fluids

Section 5803 is amended by adding 5803A and Exception:

A. Stationary containers is restricted, are hereby established as follows: All areas within the jurisdiction without an approved permit by the Fire Marshal.

Exception: The Fire Marshall may authorize limited amount of explosives or blasting agents with permit.

16.26.340 Chapter 61 Section 6103.2.1.7 Amended - Liquefied Petroleum Gases - Inside Buildings

Section 6103.2.1.7 is amended in its entirety to read:

Section 6103.2.1.7 Individual portable containers used, stored, or handled inside of buildings used for assembly or business for people cooking, display, or similar use shall be limited in size to one quart capacity and shall be of an approved type. The number of portable containers permitted will be at the discretion of the Fire Chief or authorized representative.

16.26.350 Chapter 61 Section 6104.2A Added - Liquefied Petroleum Gases - Outside Buildings

Section 6104.2 is amended by adding 6104.2 A

A. The limits referred to in Section 6104.2 of the California Fire Code, in which storage of liquefied petroleum gas is restricted, are hereby amended as follows: All areas of the jurisdiction without an approved permit from the Fire Marshal.

DIVISION XII. SEVERABILITY CLAUSE

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of the ordinance. The Council hereby declares that it would have adopted the ordinance, and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that one or more sections, subsections, sentences, clauses or phrases be declared invalid.

DIVISION XIII. EFFECTIVE DATE

This ordinance shall take effect thirty (30) days after passage and shall within fifteen (15) days after passage, be posted in accordance with Section 36933 of the Government Code of the State of California with the names of these City Council members voting for and against it.

Agenda Item No. 7(B)

Attachment 2

The foregoing ordinance was introduced at a regular meeting of the City Council of the City of El Cerrito, held on the ____ day of _____, 2013.

Adopted and ordered posted at a meeting of the City Council for the City of El Cerrito held on the ____ of _____, 2013 by the following vote:

AYES:	COUNCILMEMBERS:
NOES:	COUNCILMEMBERS:
ABSTAIN:	COUNCILMEMBERS:
ABSENT:	COUNCILMEMBERS:

Greg Lyman, Mayor

Cheryl Morse, City Clerk



**EL CERRITO CITY COUNCIL
PUBLIC HEARING NOTICE**

NOTICE IS HEREBY GIVEN that the El Cerrito City Council will conduct a public hearing on **Tuesday, October 15, 2013 at 7:00 p.m.** or as soon thereafter as the matter can be heard, in the Council Chambers at the El Cerrito City Hall, 10890 San Pablo Avenue, El Cerrito, California, for the purpose of considering the following:

Adoption of an Ordinance of the City of El Cerrito which amends 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).

Any person wishing to speak to the City Council on this matter is invited to attend the hearing and/or to furnish written comments to the City Council in care of the City Clerk, City of El Cerrito, 10890 San Pablo Avenue, El Cerrito, CA 94530, prior to the hearing. Comments received no later than Monday, November 11, 2013 will be included in Council agenda packets. Comments received thereafter will be submitted to Council as supplemental communications at the meeting. Copies of the codes being considered for adoption are on file with the Building Official, and are open for public inspection. You may also contact the Building Official by telephone at (510) 215-4360 if you have questions regarding the ordinance.

Dated: October 10, 2013

CITY OF EL CERRITO

Cheryl Morse, City Clerk



AGENDA BILL

Agenda Item No. 7(C)

Date: October 15, 2013
To: El Cerrito City Council
From: Gregory B. Lyman, Mayor
Mark Friedman, Councilmember
Subject: Boards, Commissions and Committees Study Session

ACTION REQUESTED

Discuss the current status of City of El Cerrito Boards, Commissions and Committees and provide direction to the subcommittee and/or staff regarding recommended changes and revisions.

BACKGROUND

In January 2010, the City Council formed a subcommittee to perform “periodic reviews of commission appointments, terms and procedures” (January 19, 2010 Minutes, Item 7B). The subcommittee was initially Councilmembers Ann Cheng and Greg Lyman. In December 2012, Councilmember Mark Friedman replaced Ann Cheng on the subcommittee.

The subcommittee is continuing work started in 2003 when the City Council established a subcommittee of Councilmembers Sandi Potter and Janet Abelson to review the status of Boards, Commissions and Committees (“Advisory Bodies”). That subcommittee’s work was discussed at length at both the February 7, 2005 and March 21, 2005 City Council meetings. Most of the subcommittee recommendations were approved during the March 21, 2005 meeting. Many of these recommendations were implemented, along with additional staff recommendations made in November 19, 2007 with the following actions: Resolutions 2005-14 (dated 3/19/05) and 2007-11 (dated 11/19/07) and Ordinances 2007-02, 2007-11, 2007-12 and 2007-13. In subsequent years, the Council has modified the functions of some Advisory Bodies, including the Street Oversight Committee (Ordinance 2008-3), the Crime Prevention Committee (Resolution 2009-35) and the Financial Advisory Board (Ordinances 2010-01 and 2012-03).

The current subcommittee is focused on improving the City Council Liaison role, the selection process and the distribution of the terms for the Advisory Bodies. In performing its work, the subcommittee found some recommendations from 2005 that should be reconsidered and identified a few more recommendations that would develop appropriate communications.

DISCUSSION

The subcommittee reviewed the history, scope of work, legal framework, and appointment process for the City’s Advisory Bodies. The subcommittee met with City staff to receive background and technical assistance to complete this review. The documents reviewed are listed in Table 1, of which a few are attached (Attachment 1 through Attachment 5). If the Council desires, all of the reference materials can be made available for review.

Agenda Item No. 7(C)

The subcommittee built on the extensive efforts completed by the City Council between 2003 and 2007. This subcommittee met with staff several times between 2010 and 2013. The subcommittee established the following specific goals in 2010:

- A. Refine and develop efficient and appropriate communication between the City Council, Staff and Advisory Bodies
- B. Develop future community leaders and assess opportunities for the growth of these leaders
- C. Standardize the roles of Boards, Commissions and Committees
- D. Streamline the terms and appointments of board, commission and committee members
- E. Resolve some outstanding miscellaneous issues

The following discussion frames the documents reviewed and the issues identified to address the goals developed. The recommendations proposed are one way to achieve the goals.

ANALYSIS

After discussing the background information and the subcommittee goals, the subcommittee developed several ideas and recommendations for the City Council to discuss. The following discussion outlines the issues and information taken into consideration to form the recommendation changes. The subcommittee hopes the Council will review the analysis, discuss the recommendation and provide direction to the subcommittee and staff regarding appropriate next steps to complete the Council's desired changes.

Efficient and Appropriate Communications

In the December 2010 issue of *Western City Magazine*, an article entitled "The Ethical Hazards of City Council Members Attending Other Board Meetings" (Attachment 3) outlined several potential risks for Councilmembers that attend meetings of Council-appointed advisory bodies. The article suggests that Councilmembers consider not attending such meetings in order to avoid any ethical risks or bias, particularly concerning those that serve as quasi-judicial bodies. The article is provided as an attachment. The City Attorney agrees that the City Council should consider avoiding meetings of Advisory Bodies. Implementation of this recommendation would either eliminate or significantly reduce the role of the City Council Liaison as it currently exists.

Previous evaluations of Advisory Bodies evaluated adjacent and comparably sized cities. Attachment 6 includes a list of El Cerrito Advisory Bodies, advisory bodies in similar sized Cities and the role of Council Liaison in other local cities. The City of Walnut Creek evaluated this issue and elected to eliminate all of their Council Liaisons in July 2013 (Meeting Minutes provided as Attachment 5).

As identified in the Western City article, a Councilmember that serves as a regular, assigned Liaison may be regarded as a de facto member of the Advisory Body. This creates difficulties for both the Council Liaison and the members, as the Liaison may feel a responsibility to participate in the meetings. It also creates expectations among the members of the Advisory Bodies that the Council Liaison will contribute or even provide direction, thus inadvertently allowing the Councilmember to unduly influence the decision making process, which should be

Agenda Item No. 7(C)

independent of Council participation. Since no decision of the City Council can be made by any one Councilmember, this could create confusion to the Advisory Body as to the direction of the City Council.

The evolution of the Council Liaison role over time has served to improve and enhance communication between the City Council and the Advisory Bodies. However, the subcommittee is concerned that the Liaison role could conflict with the independence of the City's Advisory Bodies to make unbiased recommendations to the City Council. The subcommittee is also seeks to ensure that Councilmembers have the ability to focus on building relationships with agencies throughout the region, including commitments to appointments to regional advisory bodies, as discussed in the Strategic Planning process.

The City Council could choose to eliminate the City Council Liaison role entirely, as Walnut Creek did. Agendas and minutes for the City Council and all Advisory Bodies are available and regularly posted on the City's website and the minutes could be exchanged (as will be discussed in a subsequent recommendation). This would put the burden on Staff Liaisons to the Advisory Bodies to provide updates to and from the City Council to facilitate communication. Alternatively, other changes could be made that would preserve the role of Council Liaison but reduce the potential ethical hazards as discussed in the article. These alternatives could include:

- A. **Eliminate specific assignments:** The Council Liaison role would periodically rotate among all Councilmembers (excluding the Mayor) and therefore each Councilmember would not have specific assignments. This will avoid the Liaison being regarded as a regular member of any one Advisory Body, and allow Councilmembers to experience all of the Advisory Bodies.
- B. **Attend meetings quarterly:** Attending less meetings also serves to avoid the Council Liaison being regarded as a regular member of the advisory body, while preserving the ability of the Councilmember to communicate regularly between the body and the Council.
- C. **Eliminate specific assignments and attend meeting quarterly:** The Council could also consider having one Councilmember attend all of the Advisory Body meetings once per quarter. This would further reduce any one Liaison's commitment to one meeting per Advisory Body per year, allow each Councilmembers to communicate with each advisory body, and provide a uniform message from the Council each quarter.
- D. **Liaisons leave meetings following their report:** This would serve to eliminate the perception that Councilmembers will directly or indirectly influence the decision making process of the advisory body while further preserving the two-way communication between the Council and the advisory body.
- E. **Remove City Council Liaisons from Committees:** While Boards and Commissions are chartered by the El Cerrito Municipal Code, Committees are working groups that are established by City Council resolution. As such, while they are still regarded as official Advisory Bodies, they have a different process for appointment, larger capacity for volunteers, and have missions and duties that serve as extensions of the work of City staff. The Committees are more self-directed and assisted in their work by the staff than

other Advisory Bodies, so there is less of a need for a Liaison. This would reduce the number of Liaison commitments required of the City Council.

Development of Future Leaders

Candidates for City Council typically serve on one or more Advisory Bodies before running for City Council. Advisory Bodies are an excellent way for future leaders to learn the workings of the City and develop leadership skills. The subcommittee wanted to increase leadership development without exposing the current Councilmembers to the ethical hazards previously identified. The following suggestions could accomplish this.

- A. **Annual work plan:** The Chair of an Advisory Body would work with the Staff Liaison to develop an annual work plan of items to be accomplished by the Advisory Body during the term of the Chair. This would give the Chair ownership of the Advisory Body's accomplishments.
- B. **Annual reports:** To enhance communication between the City Council and the Advisory Bodies, Chairs could annually report to the Council and the public at a regular City Council meeting. This report would be brief in nature, but would allow the ability for the entire Council to hear a report on activities of the Advisory Bodies and learn the goals and objectives for the coming year. The work plan and report could follow the City's fiscal year and be presented during May and June Council deliberations on the City's budget.
- C. **Mayor's quarterly breakfast:** The Mayor would meet with all of the Advisory Body Chairs quarterly to discuss issues the various Chairs are encountering. This is modeled after Walnut Creek, which just eliminated all City Council Liaisons.

Standardization of Advisory Bodies

In 2007, ECMC 2.04.220.A was revised to reflect that along with Boards and Commissions, Committees "are appointed by the council to advise and perform any duties determined by the council in one of more aspects of city government." It further states that "Committees sponsored by the city are intended to be working groups, do not fill quasi-judicial roles, and are established by council resolution." ECMC 2.04.220.C states that "Committees shall be governed by the same criteria as boards and commissions unless otherwise prescribed by council resolution."

To better reflect that committees have greater flexibility and provide much more than an advisory role, the subcommittee recommends that ECMC section 2.04.220.C should be expanded to identify how the committee application process differs from boards and commissions. The current ECMC 2.04.220 is attached (Attachment 7). The following are additional subcommittee recommendations.

- A. **Eliminate City Council Liaison role for committees:** As previously discussed, the subcommittee feels that the committees will operate best if they are guided by the Staff Liaisons as extensions of City staff. The committees are greater than merely an advisory role and assist staff with implementation of strategies identified in the Strategic Plan.

Agenda Item No. 7(C)

Staff receives their direction from the Strategic Plan and the annual budget process. A Council Liaison to committees is not needed. We recommend the Council Liaison role be eliminated for all committees.

- B. **Change Economic Development Board to a Committee:** With the demise of the Redevelopment Agency and the focus on Economic Development that arose through the City Council's Strategic Plan process, the current role, duties and configuration of the Economic Development Board (EDB) could be better focused as a working group. The EDB should be more than an Advisory Body and should have the flexibility to assist staff in implementing strategies to achieve the economic goals identified in the Strategic Plan. To accomplish this, the subcommittee recommends EDB be changed to a committee, the Economic Development Committee. This would allow for more members to invigorate the committee. The subcommittee recommends elimination of ECMC section 2.04.290 to implement this change.

Vacancies and Terms

The following items for City Council consideration are meant to enhance the appointment process for both Councilmembers and applicants to the City's Advisory Bodies. The goal is to ease the administrative work necessary for appointments and help provide a streamlined interview process for Councilmembers to conduct.

- A. **Consider a City Council subcommittee to review applications and choose interview candidates:** Currently, the City Council conducts interviews of every applicant that seeks a position. A subcommittee of the Council could conduct a screening process of the applications submitted and then schedule interviews with selected candidates. Alternatively, the entire City Council could review applications and select candidates to continue in the interview process.
- B. **Change terms from January 1 to March 1:** The Maddy Act requires that the City announces upcoming vacancies for all Boards, Commissions and Committees by December 31 of each year. Changing the term date would streamline the ability to advertise, collect applications, and conduct interviews that is more in line with the Maddy Act by allowing more time for the appointment process.
- C. **Redistribute the term termination dates:** ECMC 2.04.220.B.3 requires that "membership be divided into four, approximately equal groups, appointed in consecutive years." With many of the changes to the Advisory Bodies made over time, many of them do not have terms expiring evenly over a four-year cycle. The subcommittee recommends that staff be directed to continue to adjust the termination dates so that the terms and resulting vacancies are better temporally distributed.

Other Considerations

- A. **Expand AB 1234 to certain advisory bodies:** Currently, no members of any City Advisory Bodies are required to fulfill ethics training as required by AB 1234. This training would be beneficial, particularly for those bodies that are quasi-judicial in nature. It is recommended that members of advisory bodies that are required to complete a Form 700 also be required to regularly comply with AB 1234 training

Agenda Item No. 7(C)

requirements. With the ease of training available, it would not be a great burden on these members. This would include members of the Planning Commission, Design Review Board, Arts and Culture Commission, and Financial Advisory Board.

- B. **Chair serves for no more than two consecutive years:** The City Council could consider requiring that no one member serves as chair for more than two years. This would allow for some continuity while assuring that the position is more readily available for members to serve.
- C. **Consider removing the need for a minimum number of committee members for a quorum:** Explore revising ECMC section 2.04.220.C to allow committees to continue meeting even when their membership drops below 5.
- D. **Better define the potential for conflicts of interest between Advisory Bodies:** Some of the potential conflicts, like serving on the Planning Commission and Design Review Board simultaneously, are very clear. However, other potential conflicts on appointees serving on two Advisory Bodies simultaneously are evaluated on a case-by-case basis. Council can consider giving staff direction to better identify the possibility of serving on more than one Advisory Body on the application and providing an explanation of how there may be a conflict that has to be evaluated if the appointee desires to serve on more than on Advisory Body. Also direct staff to address the potential conflict of two appointed members from the same address serving on conflicting Advisory Bodies.
- E. **More clearly identify the committee appointment process on the application:** The previous application for Boards, Commissions and Committees was approved by the City Council, meaning that any further changes to the application must also be approved by the City Council. The subcommittee feels that if the City Council can provide clear direction to staff to improve the application to direct applicants to attend the committee meetings and be committee appointed, then staff can make these revisions—and any further changes to the application—administratively.

Additionally, the subcommittee reviewed the previous recommendations of the original subcommittee and the detailed discussion documented in the minutes from 2005, and identified the following recommendations that should be reconsidered:

- A. The Council discussed and concurred that the Economic Development Board (EDB) should not have two positions required as El Cerrito business owners (March 21, 2005 Meeting Minutes for Item 6D, page 10). The discussion recommended that only one of the EDB should be an El Cerrito business owner. ECMC 2.04.290.B requires two business owners. If EDB is made into a committee, ECMC section 2.04.290 will be eliminated and the structure of the committee will be described in a Council Resolution.
- B. Similarly, the following statement from page 3 of the March 21, 2005 recommendations memo is illustrative and should be incorporated into ECMC section 2.04.220:
“City boards, commissions and committees are intended to provide a valuable service to the community by providing in-depth advice to the City Council on a variety of topics and assume some of the workload from Council to research issues or gather public input.”

The subcommittee recommends changing ECMC section 2.04.220 incorporate this language.

Agenda Item No. 7(C)

- C. One of the recommendations from March 21, 2005 was the exchange of Council and Advisory Body minutes. The subcommittee feels this would improve the exchange of information and recommends the October 21, 1991 policy regarding Advisory Bodies be changed to incorporate this policy.
- D. The recommendation to update the October 21, 1991 policy regarding Advisory Bodies does not appear to have been implemented. This subcommittee proposes that the City Council update the policy.
- E. The 2005 subcommittee, as previously discussed, proposed changes to the application form and the questions on the form. This subcommittee recommends providing direction to staff to revise the application form administratively, without requiring further Council approval.

ALIGNMENT WITH STRATEGIC PLAN GOALS

The Strategic Plan adopted by the City Council in April 2013 identified “Transparency and Open Communication” as a core value. The goal of “Delivering Exemplary Government Services” included a strategy of “developing and strengthening relationships with public and private partners, residents, businesses, schools, and community groups.”

LEGAL CONSIDERATIONS

Any direction provided by the City Council that will require changes to the El Cerrito Municipal Code or any other legislative action will be brought back at a later meeting by staff and the City Attorney.

ATTACHMENTS:

- Attachment 1** – El Cerrito City Council October 21, 1991 Policy titled “Council and Staff Relations with City Commission, Boards, Committees and Task Forces” (Attachment 4 to Agenda Bill for Item 6D, March 21, 2005)
- Attachment 2** – El Cerrito City Council March 21, 2005 Code of Conduct for Appointed Officials
- Attachment 3** – Western City December 2010 article “The Ethical Hazards of City Council Members Attending other Board Meetings”
- Attachment 4** – City of Walnut Creek July 26, 2013 Agenda Bill for Item 5
- Attachment 5** – City of Walnut Creek July 26, 2013 Meeting Minutes for Item 5
- Attachment 6** – List of Appointed Bodies in Cities of Similar Size
- Attachment 7** – El Cerrito Municipal Code section 2.04.220

Table 1

Documents Reviewed by Subcommittee

1. El Cerrito City Council October 21, 1991 Policy titled “Council and Staff Relations with City Commission, Boards, Committees and Task Forces” (Attachment 4 to Agenda Bill for Item 6D, March 21, 2005), (**Attachment 1**)
2. El Cerrito City Council July 21, 2003 Agenda Bill for Item 2B
3. El Cerrito City Council July 21, 2003 Meeting Minutes for Item 2B
4. El Cerrito City Council February 7, 2005 Agenda Bill for Item 6A
5. El Cerrito City Council February 7, 2005 Meeting Minutes for Item 6A
6. El Cerrito City Council March 21, 2005 Agenda Bill for Item 6D
7. El Cerrito City Council March 21, 2005 Meeting Minutes for Item 6D
8. El Cerrito City Council March 21, 2005 Resolution 2005-14
9. El Cerrito City Council March 21, 2005 Code of Conduct for Appointed Officials, (**Attachment 2**)
10. El Cerrito City Council February 20, 2007 Agenda Bill for Item 7B
11. El Cerrito City Council February 20, 2007 Meeting Minutes for Agenda Item 7B
12. El Cerrito City Council Ordinance 2007-02
13. El Cerrito City Council November 5, 2007 Agenda Bill for Item 7B regarding Ordinance 2008-3
14. El Cerrito City Council November 5, 2007 Meeting Minutes for Item 7B regarding Ordinance 2008-3
15. El Cerrito City Council November 19, 2007 Agenda Bill for Item 6B
16. El Cerrito City Council November 19, 2007 Meeting Minutes for Item 6B
17. El Cerrito City Council Ordinance 2007-11
18. El Cerrito City Council Ordinance 2007-12
19. El Cerrito City Council Ordinance 2007-13
20. El Cerrito City Council November 19, 2007 Resolution 2007-11
21. City of El Cerrito January 19, 2010 Agenda
22. City of El Cerrito January 19, 2010 Meeting Minutes for Item 7B
23. Western City December 2012 article “The Ethical Hazards of City Council Members Attending other Board Meetings”, (**Attachment 3**)
24. City of Walnut Creek July 26, 2013 Agenda Bill for Item 5, (**Attachment 4**)
25. City of Walnut Creek July 26, 2013 Meeting Minutes for Item 5, (**Attachment 5**)
26. El Cerrito Municipal Code section 2.04.220 through Municipal Code section 2.04.320

***COUNCIL AND STAFF RELATIONS WITH
CITY COMMISSIONS, BOARDS, COMMITTEES AND TASK FORCES***

Adopted: October 21, 1991

City Council

A council member will be assigned as liaison to each City commission, board, committee and task force (commission). Making liaison assignments is one of the first orders of business for the Mayor when a new City Council is organized each year.

The council liaison is the primary communications link between the City Council and the commission.

The liaison will advise the commission on Council policies and priorities and provide general direction to the group. The liaison represents the City Council as a whole when advising a commission. In turn, the liaison will relay to the City Council questions or concerns from the commission that need to be addressed by the Council as a whole.

The liaison will act as observer for and reporter to the City Council on commission activities. A time is set aside at the end of each regularly scheduled Council meeting for liaison reports.

Liaison participation in commission activities generally is limited to the items specifically outlined in this policy.

Council liaison members need to be especially careful not to participate in deliberations on recommendations which later may come before the City Council for decision or which may be appealed to the Council. It is critically important to avoid both the substance and the appearance of having pre-judged an issue which may later become the subject of a hearing before the City Council.

Liaison attendance at all commission meetings is desirable though not always possible. The Mayor should encourage commission members to give advance notice to their Council liaison members when liaison attendance is desired so that dates can be set and proper noticing accomplished.

City Staff

A staff liaison is assigned to each commission. The staff role is:

- Preparing agendas in conjunction with the Chair,
- Taking and transcribing minutes,
- Providing information upon request,
- Preparing reports, and
- Relaying such reports and other information to the City Council at the request of the commission.

The City Council also may ask staff to relay information to a commission. The staff role generally is limited to these specific activities.

CITY OF EL CERRITO

CODE OF CONDUCT FOR APPOINTED OFFICIALS

- Appointed Officials work for the City Council and the common good of the people of El Cerrito and not for any private or personal interest.
- Appointed Officials must endeavor to treat all members of the public and issues before them in a fair and equitable manner.
- Appointed Officials shall make impartial decisions, free of bribes, unlawful gifts, narrow political interests and financial or other personal interests that impair independence of judgment or action.
- Board, commission, and committee decisions should be fair, objective, made in public, and understandable.
- Appointed Officials shall fully participate in their meetings and other public forums while demonstrating respect and courtesy to others, practicing civility and decorum in discussions and debate, listening courteously and attentively, and engaging in effective communication. Appointed Officials are expected to contact their staff liaison if they cannot attend a scheduled meeting.
- Appointed Officials should act in an efficient manner, making decisions and recommendations based upon research and facts in accordance with the Brown Act to allow full and equal participation in the public process.
- Appointed Officials shall refrain from abusive conduct, personal charges or verbal attacks upon the character, motives, ethics or morals of other members of their board, other boards, staff or public.
- Appointed Officials shall respect and preserve the confidentiality of information provided to them concerning confidential matters of the City, and refrain from disclosing any information received confidentially without proper legal authorization nor use such information to advance the personal, financial, or private interests of themselves or others.
- Appointed Officials should use their title only when conducting official City business, for information purposes, or as an indication of background and expertise, carefully considering whether they are exceeding or appearing to exceed their authority.
- Appointed Officials should respect established channels of communication with City staff, treat staff members professionally, and shall not attempt to pressure or influence discussions, recommendations, workloads, schedules or department priorities without the approval of a majority of the City Council. Appointed Officials shall not attempt to solicit any type of political support from the City Council or City staff.
- To the best of their ability, Appointed Officials shall represent the official policies and positions of the City Council. In unofficial settings, Appointed Officials should be clear in representing to the public, other agencies, and the media whether their comments or statements represent the official City position or a personal viewpoint.

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The Ethical Hazards of City Council Members Attending Other Board Meetings

BY MICHAEL DEAN



Michael Dean is a Sacramento-based principal and the ethics chair at the legal firm of Meyers Nave. Dean serves as city attorney for the City of Dixon and assistant city attorney for the cities of Colusa and Plymouth. He can be reached at mdean@meyersnave.com. This column is provided as ethics advice and is not intended as legal advice.

Imagine this scenario: The planning commission is considering whether to recommend a zoning change to the city council, which would allow more residential use in the downtown area and promote the mixed-use vision in its General Plan. Wouldn't any city council member want to know as much information as possible? Attending the planning commission meeting and listening to the perspectives of the city planner, engineer, architect, commission members and others might seem like a smart move. The council member may even be able to ask questions of the participants or give his or her views, thus learning about the issues and influencing the matter before it comes before the city council. In fact, city council members can often be found in the audience of planning commission meetings, listening to the proceedings and occasionally participating.

However, this may not be such a good idea. As innocent as a council member's motives may be, when he or she personally attends a planning commission meeting or another subordinate committee meeting, he or she may be crossing an ethical boundary. Council members do not violate any laws by *attending* commission meetings. However, they run the risk of:

- Potentially revealing a biased view, thereby causing their own disqualification should the matter at hand subsequently come before the council;
- Interfering with the role of the commission as an independent advisory body; and

- Not acting in accordance with the views of the city council as a whole.

Most city council members know to steer clear of the somewhat hazy legal boundaries that might cause them to be disqualified from the decision-making process due to bias. Many if not most planning commission or other commission decisions are merely advisory to or at least appealable to the city council. Because the right to due process is attached to many of these types of commission decisions, the participants in such proceedings have the right to an unbiased decision-maker at the city council level. A council member who comments at the commission meeting and indicates a firm position on a particular matter may be subjected to a challenge for bias when the same issue reaches the city council.

Related Ethical Challenges

Beyond the issue of perceived bias, participating in a commission meeting raises other ethical questions. For instance, council members generally have the authority to remove a commission member. With this power, a council member's mere attendance at a meeting can be highly influential, especially when he or she makes his or her opinions known. Merely indicating that one is not speaking for the entire council, but rather providing one's own opinion, does not address the significant impact of the "boss" offering an opinion. This influence may also jeopardize a significant role of the commission, which is to provide independent recommendations or decisions to the city council. After all, none of the cities' commissions are required to exist; if the city council wants to have the role of decision-maker, it could take that role. But when a city establishes a commission, the city council has also by implication indicated its desire to have an independent body make decisions or recommendations. The presence of the appointing authority at the commission meetings affects that independence.

Likewise, in a council-manager form of government, the intent and expectation is that a city council will act as a whole, not as individuals. Council members normally receive the same information simultaneously from city staff or from their subordinate commissions or the public's testimony. This allows the council members as a body to draw conclusions in a fair and balanced way based upon the same factual foundation.

City council members may undermine this expectation when they individually attend meetings of a subordinate commission. To some extent the council member who attends collects information that will not reach other council members in quite the same way. Those council members who attend may also subtly influence either the outcome of the commission's deliberations or how the matter will eventually be presented before the council — in ways not available to the council members who did not attend the commission meeting.

Of course, council members do not completely give up their rights as private citizens, and they are both free to and expected to gather information relevant to the performance of their duties. They are entitled to attend a commission's public meeting. However, to remain firmly upright on the ethical tightrope, council members should wait until the commission makes its recommendation to the city council in its entirety — thus preserving the original intent of both the independent commission and the city council.

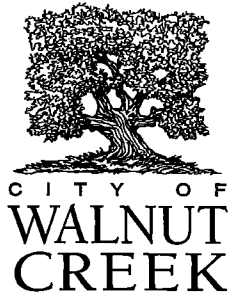
Alternatives to Attending in Person

This does not deprive council members of the ability to learn what occurs at a commission meeting. A city council member may listen to most meetings online, on television or by using the city clerk's taped

recordings. Information can also be obtained by reading the commission's meeting minutes. A council member's personal presence at or participation in a commission meeting, on the other hand, could reveal a biased view, disrupt the independence of the commission or exert undue influence on the commission, regardless of the council member's intent. It is best avoided.

For More Information

Learn more about bias in the October 2006 "Everyday Ethics" column, "When an Elected Official Feels Passionately About an Issue: Fair Process Requirements in Adjudicative Decision-Making."



Agenda Item No. 5

Agenda Report

DATE: JULY 26, 2013

TO: CITY COUNCIL

FROM: CITY MANAGER'S OFFICE

SUBJECT: CITY COUNCIL GOVERNANCE TOPICS:

- Council Liaisons to City Commissions
- Council Legislative Advocacy and Lobbying Services
- Council Standing Committees

STATEMENT OF ISSUE:

Over time, City Councils have reviewed various aspects of how policy-making governance works in Walnut Creek. For example, two years ago a study of all City Commissions and related Committees resulted in changes to the composition, number and charter of our five City Council appointed Commissions.

For this meeting, the current City Council will discuss topics related to governance of the City of Walnut Creek, with a focus on three specific areas: the Council's liaison role with City Commissions; lobbying and legislative activity; and City Council subcommittees. The City Council will be asked to respond to a series of questions related to the three topics by facilitator Linda Barton of Management Partners. As a result of these discussions, the City Council will be asked to provide direction or action steps to be taken on each issue.

RECOMMENDED ACTION:

The City Council will discuss Commission Liaisons, Sub-Committees and Legislative/Lobbying topics, and then create a consensus direction on these issues, including action steps.

DISCUSSION:

Management Partners representative Linda Barton will facilitate a discussions on the issues of Council Liaison roles to the Commissions, Council sub-committees, and the City legislative advocacy and possible lobbyist support. Linda has provided an agenda (Exhibit I) to outline how the elements of this work unfold. These topics have been considered for discussion, based upon feedback, interest and comments from individual Councilmembers to me over the past few months. Councilmembers have also made public requests to discuss standing sub-committees at a future Council meeting.

This session is structured to take input to topic related questions provided to the City Council, as shown on Exhibit 1. To assist in your preparations, we have provided a series of documents and background information.

Commission Liaisons:

Below are the transcribed notes from the Commission chairs/vice chairs breakfast of July 12. The Mayor facilitated a discussion about the role of Council liaisons. She captured the following input based upon those Commission representatives in attendance defining what they are looking for. This information can assist the Council in your discussions.

- More contact (from Liaison)
- Understanding of City Council perspective on their work; opportunity to provide Commission perspective to Council
- Getting early input on major land use issues
- Show up and provide perspective, reminders
- Understanding of availability; provide advice; be accessible; mentor chair; need commission chair training
- Provide oversight
- Some commissions are reactive; need strategic context; would be helpful to align work
- Council vision; meet more frequently
- Want a seat at the table to understand Council priorities

Legislative Advocacy/Lobbying Services

I have included the current Resolution (03-1) which defines the Council's Legislative Advocacy Program. Give staff reductions in prior years and changes in priorities, this program is not currently active.

Two separate proposals for lobbyist services are included as well.

Standing Sub-Committees:

Mayor Pro Tem Lawson and Councilmember Simmons have penned a memorandum regarding standing committees. Included, as attachments, are a memo from the City Attorney in 2011 related to subcommittees, a finance committee survey, and a document illustrating standing sub-committees in neighboring cities.

Linda has received all of these same materials, and looks forward to facilitating a discussion on these topics, leading to your collective direction and action steps for each subject.

FINANCIAL IMPACTS:

None.

ALTERNATIVE ACTION:

None.

DOCUMENTS:

Exhibit I – Agenda for Governance Topics Discussion from Management Partners
Exhibit II – 2013 City Councilmember Assignments
Exhibit III – City Council Rules and Procedures
Exhibit IV – Resolution 03-1: City Council Legislative Advocacy Program
Exhibit V – Lobbying Services Proposal – Jordan and Associates
Exhibit VI - Lobbying Services Proposal – Townsend Public Affairs
Exhibit VII – Memo – Standing Sub-Committees
 Attachment 1 – City Attorney Wenter’s 2011 Memorandum - Council Subcommittees
 Attachment 2 – Finance Committee Survey Spreadsheet
 Attachment 3 – Council Subcommittees from Adjoining Cities and Towns

COUNCIL ACTION RECOMMENDED:

The City Council will discuss Commission Liaisons, Sub-Committees and Legislative/Lobbying topics, and then create a consensus direction on these issues, including action steps.

STAFF CONTACT: Ken Nordhoff, City Manager
(925) 943-5812
Nordhoff@walnut-creek.org

**CITY COUNCIL MINUTES
SPECIAL MEETING**

**FRIDAY, JULY 26, 2013 AT 8:30 A.M.
CITY HALL, 3RD FLOOR CONFERENCE ROOM
1666 NORTH MAIN STREET**

COUNCIL MEMBERS:

**HASKEW
SIMMONS
WEDEL
MAYOR PRO TEM LAWSON
MAYOR SILVA**

Minutes are considered draft until approved by the City Council

1. OPENING OF THE MEETING – Mayor Silva called the meeting to order at 8:32 a.m.

- a. Pledge of Allegiance
- b. Roll Call – all Councilmembers were present.

2. PUBLIC COMMUNICATIONS

Mayor Silva announced that public comment would take place during Council's consideration of each item.

**3. FISCAL SUSTAINABILITY SERVICE REVIEW SUMMARY AND ACTION PLAN
NEXT PHASE – COMMUNITY ENGAGEMENT AND OUTREACH – PUBLIC OPINION
RESEARCH**

City Manager Ken Nordhoff reviewed the Fiscal Sustainability Service Review Summary and Action Plan reports as provided in the agenda report. The reports summarize the Council's direction of the comprehensive service evaluation process undertaken over the past several months and mark the completion of the first three activities of the Fiscal Sustainability Strategic Priority. The reports illustrate overlapping outcomes resulted from the 13 services presented, including the need to: plan for asset management and replacement costs; explore partnership opportunities; increase cost recovery; and explore alternative service delivery models.

Discussion ensued regarding several of the services:

Public Parking and Downtown Enhancements

City Manager Nordhoff reported that the expectation is that these items will not burden the General Fund. The Parking Enterprise Fund Long Term Financial Plan will be presented in phases over the next twelve months.

Facility Asset Management

Councilmember Simmons stated concern with the implementation of the Climate Action Plan and drought-tolerant landscaping.

The meeting was recessed to allow for lunch from 12:07 p.m. to 1:02 p.m.

5. CITY COUNCIL GOVERNANCE TOPICS

Linda Barton of Management Partners, facilitated this portion of the meeting. She provided the Council with a number of questions on the various governance topics in preparation for this meeting. She reported that her goal is to create consensus direction on each of the three items. She provided the Council with ground rules as follows: listen to each other; value differences; stay on track; no interrupting; and be succinct.

Council's Liaison Role with City Commissions

The City Council discussed the need for clarity of the liaison role and the need for input from the City's commissions about what they need from the City Council. Mayor Silva shared that at the July 12 Mayor/Chair breakfast meeting, she inquired about the role of Council liaison from those in attendance. Input received from this meeting is captured in the agenda report.

Facilitator Barton raised the following questions to the Council: What are the issues with the liaison role to the Commissions? What is the definition of "role?" Why do we have liaison roles?

The consensus direction reached by the City Council in regards to their liaison role is as follows:

- Eliminate the Council liaison role as it exists today. In place of the liaison role, offer an opportunity for informal coaching/mentoring with interested Councilmembers and/or experienced Commission colleagues. This coaching/mentoring process is to be documented.
- Continue with the quarterly Mayor/Chair breakfast meetings. Notes or minutes from the meeting should be shared with each Commission and the full Council.
- At a future breakfast meeting, the Mayor and Mayor Pro Tem should solicit feedback about the most effective ways to engage the commissions. The liaison role that commissioners have with outside organizations should be discussed. The decision to continue with these roles should be left to each commission. Feedback from this meeting should be shared with the full Council.
- Continue providing commission training and develop a specialized training for commission chairs and vice chairs.

City Council Standing Subcommittees

Mayor Pro Tem Lawson and Councilmember Simmons introduced the topic of Council subcommittees. Currently, two standing Council subcommittees exist – Finance and Housing. Mayor Pro Tem Lawson and Councilmember Simmons shared descriptions for both subcommittees including purpose, objectives, roles and responsibilities, etc. and recommended their continued use. The City Council was supportive of continuing with the Finance and Housing subcommittees and directed staff to return to the Council at a future meeting to formalize their existence.

Discussion ensued regarding the creation of additional Council subcommittees. Mayor Pro Tem Lawson re-raised the notion of a public safety subcommittee. Reference was also made to a Council subcommittee regarding education and youth services as proposed by resident Ruth Carver under public communications. The Council opined that the creation of new subcommittees should include staff input, require a defined purpose and be presented in writing to the full Council for a decision. The Council directed staff to author a policy outlining procedures pertaining to City Council subcommittees, including: subcommittee descriptions (purpose, meeting schedule, timeline, etc.), a process for requesting the formation of a subcommittee and a review process to ensure the subcommittees in place are effective.

The City Council agreed to the formation of an ad hoc subcommittee comprised of Councilmember Simmons and Mayor Pro Tem Lawson to establish a vision for the proposed subcommittees (public safety and education/youth services) and return to the Council at a future meeting for discussion and action. If feasible, the ad hoc subcommittee is to return to the Council with the necessary written materials for the City Council meeting of September 17.

City Manager Nordhoff suggested the policy related to City Council subcommittees be presented at the next City Council workshop, scheduled for October 25 or at the latest, completed in time for the approval of the Councilmember Assignments for 2014.

The meeting was recessed from 2:12 p.m. – 2:18 p.m.

Lobbying and Legislative Activity

City Manager Nordhoff reported that the City currently does not have a lobbyist. Resolution 03-01 currently defines the Council's legislative advocacy program, but the program has not been active due to staff reductions in prior years and changes in priorities.

The City Council discussed the reasons for lobbying and legislative activity and indicated that Walnut Creek should have a leadership role and established positions on key issues. By Council concensus, it was agreed to move forward with a process to solicit proposals from lobbying firms as well as explore partnering with other cities for lobbying services. A request for proposals (RFP) for lobbying services should be issued and should include lobbying at both the state and federal levels. A key role of the lobbyist will be to meet annually with the City Council to develop a legislative platform. The legislative platform will be the basis for positions taken by the City on legislative matters at the state and federal levels. Upon completion of an RFP process, the City Council will interview the lobbying firms and make a final decision on contracting with a lobbying firm.

Facilitator Barton reported that she would summarize the steps to be taken as a result of today's discussion (her summary of the meeting is included as an attachment).

6. COUNCILMEMBER & STAFF ANNOUNCEMENTS OR REPORTS

Mayor Silva reported that at the October workshop the three Work Program activities not yet started, Downtown Plaza, Wireless Communication Facilities Ordinance Update and the Strategic Communications Plan – will be addressed. She inquired if the Council had any other topics they would like scheduled for this workshop. ARCS Director Gordon reported that the design work for Boundary Oak could possibly be discussed.

7. ADJOURNMENT OF SPECIAL MEETING at 4:17 p.m.

Attachment: Workshop Summary from Linda Barton, Management Partners.

City Clerk Suzie Martinez, City of Walnut Creek

Approved:

Mayor Cindy Silva, City of Walnut Creek

Management Partners



August 8, 2013

City of Walnut Creek City Council Quarterly Retreat Held July 26, 2013 Summary of Discussions

The City of Walnut Creek City Council and Executive Team held its quarterly retreat on July 26, 2013. The purpose of the workshop was to provide an opportunity for the Council and staff to discuss three issues of concern and to create a consensus on action steps to be taken for each of the issues. This is a summary of the discussions held on the following issues:

- Liaison role with City commissions
- City Council standing subcommittees
- Lobbying and legislative activity

The meeting was held from 1:00 p.m. to 5:00 p.m. in the Walnut Creek City Hall. Participants in the meeting were:

- Mayor, Cindy Silva
- Mayor Pro Tem, Kristina Lawson
- Councilmember, Loella Haskew
- Councilmember, Bob Simmons
- Councilmember, Justin Wedel
- City Manager, Ken Nordhoff
- City Attorney, Bryan Wenter
- Assistant City Manager, Lorie Tinfow
- Arts, Recreation and Community Services Director, Barry Gordon
- Community Development Director, Sandra Meyer
- Chief of Police, Tom Chaplin
- Public Services Director, Heather Ballenger
- City Clerk, Suzie Martinez

The facilitator for the workshop was Linda Barton of Management Partners.

Agenda

The agenda for the meeting included the following items:

- Welcome and introductions
- Description of process for discussing three issues; ground rules
- Discussion of three issues
 - Liaison role with City commissions
 - City Council standing subcommittees
 - Lobbying and legislative activity
- Next steps and retreat evaluation

Ground Rules

To aid in having the most effective discussions, several ground rules were set for the afternoon, as follow:

- Listen to each other
- Value differences
- Stay on track
- No interrupting
- Be succinct

Consensus Direction

The City Council discussed the three governance issues and reached consensus direction on each issue. The action steps resulting from the discussions are listed below for each issue.

Liaison Role with City Commissions

The City Council discussed the need for clarity of the liaison role and the need for input from the City's commissions about what they need from the City Council. They also discussed providing assistance to new commission members who may be unclear about the expectations of their role.

As a result of the discussions, the Council consensus was for the following action steps:

- The current Council liaison roles should be eliminated.
 - In place of the liaison roles, the Mayor, Mayor Pro Tem and commission chairs and vice chairs should continue their quarterly breakfast meetings. These should include notes or minutes to be shared with the full membership of each commission and the City Council.
 - The Mayor and Mayor Pro Tem should hold a breakfast meeting to solicit feedback from commission chairs and vice chairs about the most effective ways to begin to engage the entire commission in discussion. There should also be a discussion of the liaison roles that commissioners have with outside organizations and a determination as to whether this should continue. The feedback from this meeting should be shared with the full Council.
 - The existing training for commissioners presented by the City should continue.
- 

- Specialized training for chairs and vice chairs should be developed, to include materials from the League of California Cities.
- New commissioners should be offered the opportunity for coaching/mentoring with interested Council members and/or experienced commission colleagues.

Council Standing Subcommittees

The City Council discussed the value and purpose of standing subcommittees. The discussion concluded that the subcommittees should accomplish work that is different from that carried out at City Council meetings. Subcommittees can serve as a sounding board and an opportunity to provide feedback to staff on new ideas.

As a result of the discussions, the City Council consensus was for the following action steps:

- The Finance and Housing Standing Subcommittees should continue. A charter for each should be developed with input from staff. The charter should include membership and function.
- An Ad Hoc Committee of Mayor Pro Tem Lawson and Councilmember Simmons should develop a charter for a new Public Safety Standing Subcommittee and a new Education Standing Subcommittee. The process should include input from the City Manager and the Police Chief. The timeline is to have the recommendations completed for discussion at the September 17 City Council meeting. The implementation should be prior to new Council assignments in 2014.
- A policy should be developed and documented to review standing subcommittees every few years to determine the effectiveness of each.
- A policy should be developed and documented for Council to follow when new standing subcommittees are proposed.

Lobbying and Legislative Activity

The City Council discussed the reasons for lobbying and legislative activity and indicated that Walnut Creek should have a leadership role on these issues and should develop consensus positions on key issues affecting the City.

As a result of the discussions, the City Council consensus was for the following action steps:

- The Council will move forward on a process to solicit proposals from lobbying firms and also explore partnering for lobbyist services with other cities. A request for qualifications (RFQ) should seek proposals for both federal lobbying and state legislative activity from each firm.
- A final decision on contracting with a lobbying firm will be made following City Council interviews of the firms.
- A key role of the lobbyist will be to meet with the City Council annually to develop an agenda of issues and then focus specifically on those issues with the federal and state government delegations.



Next Steps and Retreat Evaluation

The City Manager and staff will return to the Council with specific items on future City Council agendas to implement each of the above listed items.

Attached is a consolidation of the evaluation comments provided at the end of the retreat.



El Cerrito Boards, Commissions and Committees				
B/C/C	No. of Members	How Appointed	Meetings	Primary Goals
Committee On Aging	Up to 15	Cmte. recommendation, Council Approval	Once monthly (3 rd Wednesday)	Affordable housing; Quality programs; Improved transportation; Increased support services
Art & Culture Commission	7	Standard application process	Once monthly (4 th Monday)	Resources for arts; Promote arts; Funding and grant opportunities; Recommendation for public art
Citizens Street Oversight Committee	5	Standard application process	3x per year	Oversight of Pothole Repair and Local Street Improvement and Maintenance Transactions and Use Tax
Civil Service Commission	5	Standard application process	As needed	Hear appeals; Witness testimony; Advice/counsel to personnel officer; Hearings on personnel administration
Crime Prevention Committee	Up to 15	Cmte. recommendation, Council approval	Once monthly (2 nd Wednesday)	Develop/promote crime prevention; Promote cooperation/awareness; Recommendations for program
Design Review Board	5	Standard application process (at least 3 members of design profession)	Once monthly (1 st Wednesday)	Design review function; Public hearings for administrative design review; Board of appeals for sign ordinance
Economic Development Board	7	Standard application process (residents and/or business owner, one reserved for Chamber president)	Quarterly	Recommendation for Economic Development Plan; Encourage community involvement; Resource of business/resident members
Environmental Quality Committee	Up to 15	Cmte recommendation, Council approval	Once monthly (2 nd Tuesday)	Act as ambassadors for citywide environmental quality efforts. Develop programs to reduce citywide environmental impacts. Educate and involve residents in City environmental programs and activities.
Financial Advisory Board	5	Standard application process	Once monthly (2 nd Tuesday)	Review budget, financial plan, investment policies, audit; Recommendations for financial policies
Human Relations Commission.	7	Standard application process	Once monthly (1 st Wednesday)	Promote tolerance, understanding; Initiate/encourage education, activities; Review EEO, discrimination, incidents
Park & Recreation. Commission	7	Standard application process	Once monthly (4 th Wednesday)	Recommendation on budget/fees; Assist/promote programming; Recommendation on facilities
Planning Commission	7	Standard application process	Once monthly (3 rd Wednesday)	Public hearings for planning permits; Appeals of zoning decisions; Public hearings for zoning amendments
Tree Committee	Up to 15	Cmte. recommendation, Council approval	Once monthly (2 nd Monday)	Advise on growth, maintenance, location; Recommend programs/proper care

Listing of Boards, Commissions, and Committees--Contra Costa & Alameda Counties, Cities 10,000-50,000

Albany

Arts Committee
Charter Review Committee
Civil Service Board
Community Media Access Committee
Disaster Policy Advisory Group
Library Board
Parks & Recreation Commission
Planning & Zoning Commission
Social & Economic Justice Committee
Sustainability Committee
Traffic & Safety Commission
Waterfront Committee

Brentwood

Arts Commission
Advisory Neighborhood Committee
Parks & Recreation Commission
Planning Commission
Youth Commission

Clayton

Community Services Commission
Keller Ranch Committee
Planning Commission
Park Design Committee
Trails & Landscape Committee

Danville

Arts Commission
Parks & Leisure Services Commission
Heritage Resource Commission
Historic Design Review Committee
Planning Commission
Design Review Board

Dublin

Heritage and Cultural Arts Commission
Human Services Commission
Parks & Community Services Commission
Planning Commission
Senior Center Advisory Committee
Youth Advisory Committee

Hercules

Citizens Finance Advisory Committee
Community & Library Services Commission
Measure O Citizens Oversight Committee
Planning Commission

Lafayette

Banner Advisory Committee
Bicycle-Pedestrian Advisory Committee
Capital Projects Assessments Committee
Circulation Commission
Creeks Committee
Crime Prevention Commission
Code Enforcement Appeal Board
Design Review Commission
Dwtn. St. Imp. Mstr. Plan Implmt. Comm.
Emergency Preparedness Commission
Parks, Trails, & Recreation Commission
Planning Commission
Public Art Committee
Senior Services Commission
Youth Services Commission

Moraga

ADA Advisory Committee
Audit & Finance Committee
Design Review Board
Local Sales Tax Oversight Committee
Parks & Recreation Commission
Planning Commission
Traffic Safety Advisory Committee
Youth Involvement Committee

Martinez

Cemetery Commission
Civil Service Commission
Design Review Committee
Parks, Recreation, Marina & Cultural Cmsn
Planning Commission
Veterans Commission
Youth Commission

Newark

Community Development Committee
Disaster Council
Planning Commission
Senior Citizen's Committee

Oakley

Housing Element Ad Hoc Committee
Youth Advisory Council

Orinda

Art in Public Places Committee
Citizens Infrastructure Oversight Cmte
Finance Advisory Committee
Historic Landmarks Committee
Library Facility Steering Committee
Parks & Recreation Commission
Planning Commission
Public Works Aesthetic Review Committee
Traffic Safety Advisory Committee

Piedmont

Budget Advisory & Financial Planning Cmte
CIP Review Committee
Civil Service Commission
KCOM (TV) Advisory Committee
Park Commission
Planning Commission
Police & Fire Pension Board
Public Safety Committee
Recreation Commission

Pinole

Community Services Commission
Economic Dev & Housing Advisory Committee
Planning Commission
Traffic & Pedestrian Safety Committee
Youth Commission

Pleasant Hill

Architectural Review Commission
Civic Action Commission
Commission on Aging
Diablo Vista Water System Advisory Committee
Education Commission
Housing Rehabilitation Loan Committee
Planning Commission
Traffic Safety Committee

San Pablo

Community Foundation
Planning Commission
Safety Commission
Sign Ordinance Advisory Committee
Youth Commisison

San Ramon

Architectural Review Board
Arts Advisory Committee
Building Inspection Board of Appeals
Economic Development Advisory Committee
Finance Committee
Housing Advisory Committee
Library Advisory Committee
Parks & Community Services Commission
Planning Commission
Senior Citizen Advisory Committee
Teen Council
Transportation Advisory Committee
Transportation Demand Mgmt. Adv. Cmte.

COUNCIL LIAISON APPOINTMENTS: OTHER CITIES		
CITY	COUNCIL LIAISON	COMMENTS
ALBANY	No	A member of each board, committee and commission reports to the Council with an annual work plan.
ANTIOCH	No	
BERKELEY	No	
BRENTWOOD	Yes	However, Councilmembers may not attend commission meetings regularly.
CONCORD	No	
CLAYTON	Yes	Liaison to every commission except the Planning Commission. One of the commissioners reports at every meeting.
DANVILLE	Yes	Councilmembers provide a report on Commission activities at Town Council meetings. Liaisons are appointed for one year. Additionally, the Chair of each commission reports to the Town Council at a Council meeting. Clerk prepares a rotating schedule for the year in which each liaison and Chair will report twice during that time frame.
DUBLIN	No	
EL CERRITO	Yes	Council Liaisons attend each commission and committee meeting and report commission and committee work projects and activities at each regular Council meeting.
HERCULES	No	
LAFAYETTE	Yes	Appoints primary and secondary Council Liaisons for each commission, committee and task force each December. Mayor also schedules a joint meeting with each body so the volunteers have an opportunity to speak to the entire Council at a regularly scheduled meeting and receive feedback.
MARTINEZ	No	
MORAGA	No	Except for two boards on which Councilmembers also sit with volunteers – Audit Finance Committee and a Traffic Safety Committee.
NEWARK	Yes	Not on the Planning Commission. Some committees have a unique structure made up Councilmembers and Volunteers.
OAKLEY	No	
ORINDA	Yes	Council Liaisons for each commission that might only attend one meeting per year and serve as the Council point person if needed.
PIEDMONT	Yes	Council Liaisons are appointed to each of the four Commission. A Liaison and an alternate are appointed to each of the five committees. Acts very similar to El Cerrito's practice.
PINOLE	No	Eliminated Council Liaisons to Commissions several years ago upon the advice of their attorney. However, one Councilmember currently attends the Youth Commission and this appointment is part of an annual review of the overall Council assignment list.

PITTSBURG	No	
PLEASANT HILL	Yes	Councilmembers attend but generally do not report out.
SAN PABLO	No	
SAN RAMON	Yes	However, Councilmembers may not attend commission meetings regularly.
WALNUT CREEK	No	Role eliminated July 2013 and replaced with a Council coaching/mentoring process. Conducts a quarterly Mayor/Chair breakfast meeting. In the future notes from the meeting may be shared with each Commission and the full Council.

EL CERRITO MUNICIPAL CODE

2.04.220 Boards, Commissions and Committees.

- A. Boards, commissions and committees are appointed by the council to advise and to perform any duties determined by the council in one or more aspects of city government. Except as otherwise provided in state law, boards and commissions are directly responsible to the council and fill quasi-judicial roles. Commissions are made up of lay citizens, while boards are residents with special expertise. Committees sponsored by the city are intended to be working groups, do not fill quasi-judicial roles, and are established by council resolution. Appointment to boards and commissions shall be made only after:
1. Advertisement of the open position in a local paper;
 2. Public interviews of applicants for the positions;
 3. Appointment by a majority of the council.
- B. Unless determined elsewhere in law, the boards and commissions shall be governed by or meet the following criteria:
1. Membership. The boards and commissions shall consist of seven members each, who shall be residents of the city, unless otherwise provided in this chapter. A "member" shall be defined as a voting member of any board, commission or committee established by the city council, notwithstanding the manner in which such voting member is appointed.
 2. Appointments. The members shall be appointed by majority vote of the council. Members shall not be reappointed to the same board or commission for more than two consecutive full terms.
 3. Term. Terms are four years, commencing on January 1st unless a member is removed from office pursuant to the provisions of subsection B4 of this section. The membership shall be divided into four, approximately equal groups, appointed in consecutive years. If a board member or commissioner fails to complete the term, the council appointment shall be for the remainder of the uncompleted term. Members are not eligible to serve on the same board or commission if they have served two consecutive full four-year terms.

4. Removal of Members.
 - a. Members of boards and commissions serve at the pleasure of the council and may be removed by a majority vote of the entire council. It shall be presumed that any member who is absent for three consecutive regularly scheduled meetings without cause, or half the regular meetings in a calendar year, or who resides outside the city, has resigned. The staff liaison shall notify the city clerk of a vacancy within five days after the staff liaison has determined that the vacancy exists. Within one week after receiving such notice from the commission liaison, the city clerk shall notify any member whose appointment has automatically terminated and report to the council that a vacancy exists and that an appointment should be made to fill the vacancy.
 - b. An absence shall be considered excused if either: (1) the member informs the staff liaison of his or her intended absence at least twenty-four hours prior to the scheduled time of the meeting, or (2) such absence is due to unforeseeable and unavoidable circumstances and reported and explained in writing to the staff liaison prior to the next meeting of the board or commission. Excused absences for reasons shall not exceed a period of one hundred twenty calendar days.
 - c. Nothing contained in this section shall be deemed to limit the power of the city council to remove any member of any city board, commission or committee at any time, with or without cause.
5. Quorum. A quorum of the board or commission shall consist of a simple majority of the appointed members.
6. Officers. At the first meeting of each calendar year, the board or commission shall select its officers. These shall consist of a chairperson (chair) and a vice chairperson.
7. Conduct of Business. The conduct of board or commission business shall be by Sturgis Standard Code of Parliamentary Procedure, or by rules of procedure adopted by the board or commission.
8. Minutes. The staff liaison of the board or commission shall cause minutes to be prepared for the membership and presented at the following meeting

Agenda Item No. 7(C)

Attachment 7

for approval by the board or commission. Minutes shall be posted on the city's website within ten days of the board or commission's approval.

9. Staff Assistance. The city staff shall provide appropriate notice to the members of the agenda for each meeting, and shall provide to the members the draft minutes of the previous meeting for their approval. Each board or commission shall have access to all information possessed by the city concerning its agenda items. The city manager will provide for staff assistance at the meetings of the various boards and commissions.
 10. Meetings. Unless otherwise provided, the boards and commissions shall meet at least monthly, on a regularly scheduled basis, in a public meeting room, and shall be subject to the Ralph M. Brown Act, Government Code Section 54950 et seq.
- C. Committees shall be governed by the same criteria as boards and commissions unless otherwise prescribed by council resolution. (*Ord. 2007-11 § 1, 2007: Ord. 92-2 Div. 2 (part), 1992.*)