



AGENDA

SPECIAL CITY COUNCIL MEETING *(not televised)*
DECEMBER 17, 2019 - 6:15 p.m.
Hillside Conference Room

REGULAR CITY COUNCIL MEETING
DECEMBER 17, 2019 – 7:00 p.m.
City Council Chambers

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

Members:
Mayor Gregory B. Lyman

Mayor Pro Tem Paul Fadelli • Councilmember Janet Abelson
Councilmember Rochelle Pardue-Okimoto • Councilmember Gabriel Quinto

6:15 P.M. ROLL CALL - CONVENE SPECIAL CITY COUNCIL MEETING

1. 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 and to items on the special meeting agenda only.

2. COMMISSION INTERVIEWS, STATUS AND APPOINTMENTS

Action Proposed: Staff requests that City Council conduct interviews and, at the conclusion of interviews, confer with staff regarding the ongoing recruitments, any remaining vacancies, and the scheduling of further special meetings to conduct interviews (if applicable). Council may decide to make appointments at the conclusion of the meeting.

Contact: Holly M. Charl  ty, City Clerk, City Management

3. ADJOURN SPECIAL CITY COUNCIL MEETING

7:00 P.M. ROLL CALL – CONVENE REGULAR CITY COUNCIL MEETING

1. PLEDGE OF ALLEGIANCE TO THE FLAG OR OBSERVATION OF MOMENT OF SILENCE

Councilmember 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 and 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. ADOPTION OF THE CONSENT CALENDAR

All items on the consent calendar shall be acted upon in one motion, unless a member of the city council or staff request separate consideration.

A. Approval of Minutes

Action Proposed: Pass a motion to approve the minutes from the meeting of November 19 and December 3, 2019.

Contact: Holly M. Charléty, City Clerk, City Management

B. Annual Review of Investment Policy

Action Proposed: Adopt a resolution approving the City's Investment Policy.

Contact: Mark R Rasiah, Finance Director/City Treasurer, Finance Department

C. Transportation Impact Fee Annual Report for Fiscal Year 2018-19 Report publicly posted 12/2/2019

Action Proposed: Receive and file the Transportation Impact Fee Annual Report for Fiscal Year 2018-19, ending June 30, 2019.

Contact: Yvetteh Ortiz, Public Works Director/City Engineer, Public Works Department

D. 2019 Storm Drain Improvement Project, City Project No. C5036.7, Construction Contract Award *Exempt from CEQA (Section 15301)*

Action Proposed: Adopt a resolution approving plans and specifications for the 2019 Storm Drain Improvement Project, City Project No. C5036.7 (Project); rejecting the bid submitted by Tri-Valley Excavating Co., Inc as non-responsive and accepting the other eight bids submitted for the Project; authorizing the City Manager to execute a contract in the amount of \$299,331.00 with Ghilotti Bros., Inc. and to approve change orders in an amount not to exceed \$30,000 for the construction of the Project; and amending the Fiscal Year (FY) 2019-20 Adopted Budget and Capital Improvement Program to appropriate an additional \$211,331 in the Storm Drain Fund for the Project.

Contact: Ana Bernardes, Engineering Manager / Senior Engineer; Yvetteh Ortiz, Public Works Director / City Engineer, Public Works

5. PRESENTATIONS

6. PUBLIC HEARINGS

A. Proposed East Bay Sanitary Garbage & Green Waste Collection and Post-Collection Rates and Integrated Waste Management Fees -- Effective January 1, 2020 *Public Hearing Noticed 12/7/2019 and 12/13/2019*

Action Proposed: 1. Conduct a public hearing and upon conclusion adopt a resolution establishing maximum allowable East Bay Sanitary (EBS) garbage and green waste collection, processing and disposal rates, effective January 1, 2020; and
2. conduct a public hearing and upon conclusion adopt a resolution fixing and setting Integrated Waste Management (IWM) Fees, effective January 1, 2020.

Contact: Yvetteh Ortiz, Public Works Director/City Engineer, Public Works Department

B. Urgency Ordinance to Amend Accessory Dwelling Unit Regulations *Interim Urgency Ordinance - 4/5 Vote Required, Public Hearing Noticed 12/7/2019*

Action Proposed: Conduct a public hearing and upon conclusion adopt an interim ordinance repealing and replacing Section 19.20.190 (Accessory Dwelling Units), adding Section 19.20.195 (Junior Accessory Dwelling Units), and approving amendments to Section 19.46.030 (Residential Use Classifications), Chapter 19.47 (Terms and Definitions), and Section 19.24.040 (Required Off-Street Parking Spaces) of the El Cerrito Municipal Code as an urgency measure. A four-fifths vote of the City Council is necessary to adopt an interim urgency ordinance.

Contact: Jeff Ballantine, Senior Planner; Sean Moss, Planning Manager, Community Development Department

7. POLICY MATTERS

8. CITY COUNCIL LOCAL & REGIONAL LIAISON ASSIGNMENTS

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

A. 2020 City Council Local Liaison Assignments *The Mayor will announce the 2020 City Council Liaison Assignments to City Boards, Commissions, and Committees and to Regional Bodies.*

9. CLOSED SESSION - PUBLIC EMPLOYEE EVALUATION

Pursuant to Government Code Section 54957

Title: City Manager

Contact: Sky Woodruff, City Attorney, City Management

10. ADJOURN REGULAR CITY COUNCIL MEETING IN MEMORY OF JUDITH TANNENBAUM

The next regularly scheduled City Council meeting is Tuesday, January 21, 2020 at 7:00 p.m. in the City Council Chambers, 10890 San Pablo Avenue, El Cerrito.

The City of El Cerrito serves, leads and supports our diverse community by providing exemplary and innovative services, public places and infrastructure, ensuring public safety and creating an economically and environmentally sustainable future.

- 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: 510-215-4305 Fax: 510-215-4379, email cityclerk@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.



AGENDA BILL

Agenda Item No. 2.

Date: December 17, 2019
To: El Cerrito City Council
From: Holly M. Charl  ty, City Clerk, City Management
Subject: Commission Interviews, Status And Appointments

ACTION PROPOSED

Staff requests that City Council conduct interviews and, at the conclusion of interviews, confer with staff regarding the ongoing recruitments, any remaining vacancies, and the scheduling of further special meetings to conduct interviews (if applicable). Council may decide to make appointments at the conclusion of the meeting.

INTERVIEW SCHEDULE

Interviews scheduled are as follows:

6:15 p.m.	Allison Cooper	Design Review Board
6:30 p.m.	Thomas Minter	Design Review Board

BACKGROUND

Staff continues to publicize board, commission and committee vacancies as they occur. Vacancies are published on the City's website and in the West County Times, and posted at City Hall, the Community Center and Library. Staff is also utilizing social media outlets to increase awareness and opportunities for citizens to participate by attending meetings and/or serving on a board, commission or committee.

STRATEGIC PLAN CONSIDERATIONS

This section is not applicable to this agenda item.

ENVIRONMENTAL CONSIDERATIONS

This section is not applicable to this agenda item.

FINANCIAL CONSIDERATIONS

This section is not applicable to this agenda item.

LEGAL CONSIDERATIONS

This section is not applicable to this agenda item.

Reviewed by:



Holly Charléty, City Clerk

Attachments:

Application(s) on file with the City Clerk's Office.

1. Commission Matrix

Commission Vacancies/Application Status

AM = Attending Meetings

* = Upcoming Vacancies

Advisory Body (Current Vacancies)	Pending Applicants	CC Mosquito & Vector Control (1)	Arts & Culture Commission (2*)	Citizen Street Oversight Committee (1*)	Committee on Aging (3)	Crime Prev. Committee (11)	Design Review Board (1)	Economic Dev. Committee (7)	Financial Advisory Board (1*)	Human Relations Commission (1*)	Park & Recreation Commission (1/1*)	Planning Commission (2*)	Urban Forest Committee (4*8)	Date Application Received	Notes/Status	Council Interview Date
Ramsey AlQaisi					AM									10/8/2019		
Richard Aslin								AM				X		5/16/2019	2 EDC meetings attended	
Brendan Bloom												X		11/25/2019	Current PC Member seeking second term	1/7/2020 6:15 pm
Ruth Cazden		X												12/9/2019	Current ACC Member seeking second term	1/7/2020 6:45 pm
Allison Cooper						X								11/14/2019	Current ACC Member Interview Scheduled for DRB	12/17/2019 6:15 pm
Viviona Dhillon								AM					AM	11/12/2019		
Dorothy Herzberg		X		AM	AM									12/3/2019	Pending confirmation for ACC interview 1/7/20 at 6:30	
Robert Hrubes													X		Current Member seeking second term UFC Vote 12/9, Council 1/7	
Norman LaForce											X			11/21/2019	Current PRC Member seeking second term	1/7/2020 6:00 pm
Kirsten Meder								AM					AM	8/13/2019	1 UFC meeting attended	
Thomas Minter						X		AM						10/21/2019	Interview Scheduled for DRB	12/17/2019 6:30 pm
Susan Russell													AM	4/15/2019	1 UFC meeting attended	
Frederick Shaw				AM	AM									4/22/2019	1 COA meeting attended	
Mark Sifling								AM					AM	10/16/2019		
Mary Torrusio													X	12/2/2019	Current Member seeking second term UFC Vote 12/9, Council 1/7	
David Van Etten				AM				AM						7/16/2019	2 COA meetings attended	

EL CERRITO CITY COUNCIL DRAFT MINUTES

SPECIAL CITY COUNCIL MEETING (not televised)
NOVEMBER 19, 2019 – 6:00 p.m.
Hillside Conference Room

REGULAR CITY COUNCIL MEETING
NOVEMBER 19, 2019 – 7:00 p.m.
City Council Chambers

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

Members:
Mayor Rochelle Pardue-Okimoto

Mayor Pro Tem Greg Lyman	Councilmember Janet Abelson
Councilmember Paul Fadelli	Councilmember Gabriel Quinto

6:00 P.M. ROLL CALL - CONVENE SPECIAL CITY COUNCIL MEETING
Mayor Pardue-Okimoto called the meeting to order at 06:05 PM.
Present: Mayor Pardue-Okimoto, Mayor Pro Tem Lyman, Councilmember Abelson, Councilmember Fadelli, Councilmember Quinto **Absent:** None

- 1. ORAL COMMUNICATIONS FROM THE PUBLIC**
Cordell Hindler - spoke on need for more youth engagement on boards and labor negotiations hearing both sides and coming to a conclusion.
- 2. COMMISSION INTERVIEWS, STATUS AND APPOINTMENTS**

Action Proposed: Discuss and consider for appointment applicants previously interviewed for the Human Relations Commission.

Contact: Holly M. Charléty, City Clerk, City Management

Moved/Seconded: Mayor Pro Tem Lyman/Councilmember Abelson

Action: Approved the following appointments: 1) Buddy Akacić to Human Relations Commission for a partial term of 11/19/2019-3/1/2021; and 2) Walter Williams III to Human Relations Commission for a partial term of 11/19/2019-3/1/2022. **Ayes:** Mayor Pardue-Okimoto, Mayor Pro Tem Lyman, Councilmember Abelson, Councilmember Fadelli, **Noes:** Councilmember Quinto

Moved/Seconded: Mayor Pro Tem Lyman/Councilmember Abelson

Action: Approved motion for reconsideration. **Ayes:** Mayor Pardue-Okimoto, Mayor Pro Tem Lyman, Councilmember Abelson, Councilmember Fadelli, Councilmember Quinto **Noes:** None

Moved/Seconded: Mayor Pro Tem Lyman/Councilmember Abelson
Action: Approved the appointment of Buddy Akacić to the Human Relations Commission for a partial term of 11/19/2019-3/1/2021, with the direction to recuse himself from voting on any tenant protection issues brought to the Commission due to his appointment on the Tenant Protections Taskforce. **Ayes:** Mayor Pardue-Okimoto, Mayor Pro Tem Lyman, Councilmember Abelson, Councilmember Fadelli, **Noes:** Councilmember Quinto

Moved/Seconded: Mayor Pro Tem Lyman/Councilmember Quinto
Action: Approved the appointment of Walter Williams III to a partial term of 11/19/2019-3/1/2022. **Ayes:** Mayor Pardue-Okimoto, Mayor Pro Tem Lyman, Councilmember Abelson, Councilmember Fadelli, Councilmember Quinto **Noes:** None

3. CLOSED SESSION CONFERENCE WITH LEGAL COUNSEL- ANTICIPATED LITIGATION

Initiation of Litigation Pursuant to Government Code Section 54956.9(d)(4): One Potential Case

No reportable action.

4. CLOSED SESSION CONFERENCE WITH LABOR NEGOTIATORS

Pursuant to Government Code Section 54957.6

Agency Designated Representatives: Karen Pinkos, City Manager; Glenn Berkheimer, Labor Negotiator; Sky Woodruff, City Attorney; Alexandra Orologas, Assistant City Manager; and Kristen Cunningham, Human Resources Manager.

Employee Organizations: El Cerrito Police Employees Association and Public Safety Management Association - Battalion Chief Unit

Contact: Sky Woodruff, City Attorney, City Management

No reportable action.

5. ADJOURN SPECIAL CITY COUNCIL MEETING

The special meeting adjourned at 07:03 PM

7:00 P.M. ROLL CALL – CONVENE REGULAR CITY COUNCIL MEETING

Mayor Pardue-Okimoto called the meeting to order at 07:11 PM.

Present: Mayor Pardue-Okimoto, Mayor Pro Tem Lyman, Councilmember Abelson, Councilmember Fadelli, Councilmember Quinto **Absent:** None

1. PLEDGE OF ALLEGIANCE TO THE FLAG OR OBSERVATION OF MOMENT OF SILENCE - COUNCILMEMBER FADELLI

2. COUNCIL/STAFF COMMUNICATIONS

City Manager Pinkos - spoke regarding the launch of state auditor website on cities financial health and the work the city has been and will be doing in response.

Mayor Pardue-Okimoto - expressed appreciation for the feedback from the public regarding the auditor's website and encouraged the public to contact her directly; reported the appointment of Buddy Akacić and Walter Williams III to the Human Relations Commission.

Councilmember Quinto - reported attendance at a meeting with state lobbyist to discuss SB54 and AB1080 related to recycling.

Councilmember Abelson - reported attendance at Self Help Counties conference as the Contra Costa Transportation Authority representative.

Councilmember Fadelli - thanked voters for the passage of Measure H; reported attendance at a meeting with state lobbyist to discuss SB54 and AB1080 related to recycling, 85th anniversary celebration for the East Bay Regional Parks District, emergency room conference in Richmond, Environmental Quality Committee meeting, 67th birthday celebration for St. Peters Church; announced annual pancake breakfast on the 1st Saturday of December at St. Peters Church.

Mayor Pro Tem Lyman- announced current and upcoming vacancies for boards, commissions, and committees with a deadline to apply of December 18, 2019; reported attendance at ribbon cutting for Bright Now Dental, St. Peters Church celebration, and Financial Advisory Board meeting.

Mayor Pardue-Okimoto - reported discussions on addressing reserves for the city; reported hosting Save Alta Bates community forum in El Cerrito; announced city holiday lighting event at the Plaza on Thursday in front of Elevation 66.

3. ORAL COMMUNICATIONS FROM THE PUBLIC

Cordell Hindler - invitation to Its a Wonderful Life event, spoke regarding the price of commercial rent in the city.

Dodi Marosi - spoke in hopes to see replacement and cost neutral parking at El Cerrito Plaza, and alternate modes of transportation.

Nick Zamorano - thanked the city and council for working with Make El Cerrito Fire Safe, and reviewed city actions taken in 2019.

Marlene George - commented on fire prevention work still needed, cited other jurisdictions and their actions related to wildfire prevention, and intention to advocate prevention priorities.

Gary Prost - spoke regarding lack of cell phone communications during power outages and requested providers be required to have additional towers available and backup for power outages.

Buddy Akacić - thanked the council for appointment to Human Relations Commission, spoke regarding empty newspaper stands, suggested murals on the boxes, and desire to bring comedy and soul music to the city.

Elizabeth Bashor - spoke regarding a new library and fiscal challenges, shared concern about potential site at El Cerrito Plaza Bart.

Susan Duncan - spoke about recent removal of eucalyptus trees, requested city properties be brought up to vegetation standards.

Joshua Arijar - with Contra Costa Central Labor Council spoke in support of the proclamation supporting protections against deportation.

Claudia Lainez - recipient of Temporary Protected Status (TPS) spoke in support of the proclamation supporting protections against deportation

Sherry Drobner - spoke in support of the proclamation supporting protections against deportation; thanked the Mayor for the Save Alta Bates forum.

Blanca Galeas - recipient of TPS spoke in support of the proclamation supporting protections against deportation.

Carlos Porras - member of the San Francisco Labor Council and director of We Rise San Francisco Labor Center for Immigrant Justice spoke in support of the proclamation supporting protections against deportation.

Rosa Carranza - recipient of TPS spoke in support of the proclamation supporting protections against deportation.

Gabriel Castillo - spoke in support of the proclamation supporting protections against deportation.

Manuel DiPaz - with East Bay Sanctuary Covenant spoke in support of the proclamation supporting protections against deportation.

Blanca Rodriguez - recipient of TPS spoke in support of the proclamation supporting protections against deportation.

Pablo Rodriguez - former TPS recipient, spoke in support of the proclamation supporting protections against deportation.

Crista Ramos - part of TPS Committee for Permanent Residency Bay area and daughter of a TPS recipient spoke in support of the proclamation supporting protections against deportation.

Christina Morales - recipient of TPS spoke in support of the proclamation supporting protections against deportation.

4. **ADOPTION OF THE CONSENT CALENDAR**

Moved/Seconded: Councilmember Abelson/Councilmember Quinto

Action: Approved the consent calendar as indicated below. **Ayes:** Mayor Pardue-Okimoto, Mayor Pro Tem Lyman, Councilmember Abelson, Councilmember Fadelli, Councilmember Quinto **Noes:** None

A. Approval of Minutes

Action Proposed: Pass a motion to approve the minutes from the meeting of October 1 and October 15, 2019.

Contact: Holly M. Charléty, City Clerk, City Management

Action: Approved minutes

B. Proclamation in Support of Protections from Deportation

Action Proposed: At the request of Mayor Pardue-Okimoto, pass a motion to approve a proclamation in Support of Protections from Deportation and a Path to Permanent Residency for Beneficiaries of DACA, TPS and DED

Contact: Holly M. Charléty, City Clerk, City Management

Action: Approved proclamation and authorized the Mayor to send correspondence in support of the item.

C. Proclamation upon Retirement of Whitney Dotson

Action Proposed: Pass a motion to approve a proclamation in recognition upon the retirement of Whitney Dotson of the East Bay Regional Park District

Contact: Karen Pinkos, City Manager, City Management

Action: Approved proclamation

D. Proclamation designating "United Against Hate Week"

Action Proposed: Pass a motion to approve a proclamation designating November 17 - 23, 2019 as "United Against Hate Week". **Contact:** Kristen Cunningham, Human Resources Manager, City Management

Action: Approved proclamation

E. Appointment of Members to the Economic Development Committee

Action Proposed: Approve an Economic Development Committee recommendation to appoint Minh-Hoa Ta and Jonathan Zazove to the Economic Development Committee, effective November 19, 2019.

Contact: Jennifer Peat, Management Assistant/EDC Staff Liaison Melanie Mintz, Community Development Director, Community Development Department

Action: Approved appointments

5. PRESENTATIONS

6. PUBLIC HEARINGS

A. Adoption of Building and Fire Code Updates

Notice Published 11/09/2019

Action Proposed: Conduct a public hearing, and upon conclusion 1) Adopt a Resolution which makes findings justifying changes or modifications due to local climatic, geologic and topographic conditions in the 2019 California Building Standards Code, which includes the California Green Building Standards Code, Building Code, Fire Code, Residential Code, Existing Building Code, and related Construction Codes; and 2) Introduce by title, waive the first reading of an Ordinance and set the second hearing for December 3, 2019 which adopts the 2019 California Green Code,

Administrative, Building, Fire, Plumbing, Mechanical, Electrical, Energy, Residential, Existing Building Code, 2018 International Property Maintenance Code and related Construction Codes as applicable to all construction within the City of El Cerrito, with local modifications as outlined in the Ordinance.

Contact: Mark Soltes, Community Development David Gibson, Fire Department

Presentation and Discussion: Presenters and staff responded to comments and questions raised by members of the council regarding process for future changes, determination for amendments, fire chief as a peace officer, noticing, cost of changes, Christmas tree lots, timing for changes on permit applications, and electrification.

Public Hearing: Mayor Pardue-Okimoto opened the public hearing.

Public Comments:

Barbara Chan - shared importance of integrating a climate emergency declaration in updates.

Howdy Goudey - spoke about strong building codes in the state and need for stronger requirements in regard to climate emergency.

Moved/Seconded: Councilmember Quinto/Councilmember Abelson

Action: Approved the close of the public hearing. **Ayes:** Mayor Pardue-Okimoto, Mayor Pro Tem Lyman, Councilmember Abelson, Councilmember Fadelli, Councilmember Quinto **Noes:** None

Moved/Seconded: Mayor Pro Tem Lyman/Councilmember Abelson

Action: Approved Resolution 2019-65. **Ayes:** Mayor Pardue-Okimoto, Mayor Pro Tem Lyman, Councilmember Abelson, Councilmember Fadelli, Councilmember Quinto **Noes:** None

Moved/Seconded: Mayor Pro Tem Lyman/Councilmember Quinto

Action: Introduced by title and waived the first reading of Ordinance 2019-09. **Ayes:** Mayor Pardue-Okimoto, Mayor Pro Tem Lyman, Councilmember Abelson, Councilmember Fadelli, Councilmember Quinto **Noes:** None

7. POLICY MATTERS

A. El Cerrito Plaza BART Transit Oriented Development (TOD)

Action Proposed: 1) Receive a presentation regarding BART's Transit Oriented Development process for El Cerrito Plaza BART, provide feedback on the draft TOD goals and objectives; and 2) Adopt a resolution authorizing evaluation of a potential library to be included for study in the Request for Qualifications, and support BART's inclusion of Sustainable Access Studies and Strategies in the Request for Qualifications.

Contact: Melanie Mintz, Community Development Director, Community Development Department

Presentation and Discussion: Presenters and staff responded to comments and questions raised by members of the council regarding zoning of lot A which is not in the specific plan, alternate transit options not being disrupted, increased costs for development on BART land, addressing increase in ridership, clarification of AB 2923 and SB 35, parking plans, demand response service options, library funding, impact on economics, communication with the Regency and the Plaza, and impacts of cost and management strategy for use of street parking.

Moved/Seconded: Mayor Pro Tem Lyman/Councilmember Quinto

Action: Extended the meeting until 11:00 PM **Ayes:** Mayor Pardue-Okimoto, Mayor Pro Tem Lyman, Councilmember Abelson, Councilmember Fadelli, Councilmember Quinto **Noes:** None

Public Comments:

Mary-Louise Hansen - shared concerns about removal of parking making the station inaccessible for residents and need for equitable access.

Gary Pokorny - spoke in support of consideration for a library as part of the project.

Al Miller - thanked the council for early engagement with BART and how it will help get others involved in the conversation about a new library.

Jeffrey Levin - spoke in support of transit-oriented development and desire to see maximization of affordable housing.

Gail Feldman - expressed concern about access to parking, limited bus access directly to the station from Kensington, late return to vehicles, and encouraged parking on BART property not city streets.

Steve Price - spoke regarding the Ohlone Greenway, bike lockers at the station, and the increase in the use for accessing the station.

Moved/Seconded: Councilmember Quinto/Mayor Pro Tem Lyman

Action: Extended the meeting until 11:30 PM **Ayes:** Mayor Pardue-Okimoto, Mayor Pro Tem Lyman, Councilmember Abelson, Councilmember Fadelli, Councilmember Quinto **Noes:** None

Moved/Seconded: Mayor Pro Tem Lyman/Councilmember Quinto

Action: Approved Resolution 2019-66 with the following changes: Change "Authorizing" to "Requesting" in the title; insert "2014" to the second whereas clause, before San Pablo Avenue Specific Plan; remove the first "on" in the ninth whereas clause; revise the thirteenth whereas clause to read "WHEREAS, the RFQ will require that the developer fund development of Sustainable Access Studies and Strategies that maintain station access for at least the number of customers affected by the reduced number of commuter parking spaces, which shall include special consideration for customers that live further than one-half mile from the station."; and change "authorizes" to "requests" in the first resolved clause. **Ayes:** Mayor Pardue-Okimoto, Mayor Pro Tem Lyman, Councilmember Fadelli, Councilmember Quinto **Noes:** Councilmember Abelson

B. Proposal for Police Services in the Community of Kensington

Action Proposed: Adopt a resolution authorizing the City Manager or designee to present a proposal in response to a Request for Proposals from the Kensington Police Protection and Community Services District to provide police services in the Community of Kensington.

Contact: Paul Keith, Chief of Police, Police Department

Presentation and Discussion: Presenters and staff responded to comments and questions raised by members of the council regarding reasons Kensington is looking for contract services, existing ordinance that requires a public vote on any contract, number of proposed positions versus number requested in the Request for Proposals (RFP), effect on city financials, public safety building maintenance and responsibility, salaries and union agreements, effects on personnel if contract approved and subsequently cancelled, and length of contract.

Moved/Seconded: Councilmember Abelson/Councilmember Quinto

Action: Extended the meeting until 12:00 AM **Ayes:** Mayor Pardue-Okimoto, Mayor Pro Tem Lyman, Councilmember Abelson, Councilmember Fadelli, Councilmember Quinto **Noes:** None

Public Comments:

Dakota McKenzie - stated eight times Kensington residents have made a move for local governance and independence, spoke regarding running for office and limited conversations with residents in favor of contracting out.

Anthony Knight - spoke regarding perception that the Kensington Board has harassed and undermined the police department, and in support of not contracting out.

Paul Dorrah - spoke regarding controversy in the community on the topic of contracting out and that contracting out does not save Kensington money.

Lynn Walter - spoke on special taxes approved for the purpose of supporting an independent police department.

Kevin Pedian - spoke against approval of a full-service contract and support of the hybrid model option and commented on the condition of the public safety building.

Linda Lipscomb - cited government code language regarding providing police services, and authorization specifically cited for the Kensington district to have authority to provide services.

Moved/Seconded: Mayor Pro Tem Lyman/Councilmember Quinto

Action: Authorized the Police Chief to write a letter in response to the RFP stating the general information provided at the meeting, and that Kensington would need to resolve their ordinance requiring a public vote on a contract, prior to the city submitting a full response. **Ayes:** Mayor Pardue-Okimoto, Mayor Pro Tem Lyman, Councilmember Abelson, Councilmember Fadelli, Councilmember Quinto **Noes:** None

8. CITY COUNCIL LOCAL & REGIONAL LIAISON ASSIGNMENTS

Mayor Pro Tem Lyman - reported that RecycleMore will be setting new rates and has hired Peter Holtzclaw as the new executive director.

9. ADJOURN REGULAR CITY COUNCIL MEETING

The regular meeting adjourned at 11:58 PM

Gregory B. Lyman, Mayor

This is to certify that the foregoing is a true and correct copy of the minutes of the City Council meeting(s) of November 19, 2019 as approved by the El Cerrito City Council.

Holly M. Charléty, MMC, City Clerk

EL CERRITO CITY COUNCIL DRAFT MINUTES

REGULAR CITY COUNCIL MEETING DECEMBER 3, 2019 – 7:00 p.m. City Council Chambers

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

Members:
Mayor Rochelle Pardue-Okimoto

Mayor Pro Tem Greg Lyman
Councilmember Paul Fadelli

Councilmember Janet Abelson
Councilmember Gabriel Quinto

7:00 P.M. ROLL CALL – CONVENE REGULAR CITY COUNCIL MEETING
Mayor Pardue-Okimoto called the meeting to order at 07:03 PM.
Present: Mayor Pardue-Okimoto, Mayor Pro Tem Lyman,
Councilmember Abelson, Councilmember Fadelli, Councilmember
Quinto **Absent:** None

**1. PLEDGE OF ALLEGIANCE TO THE FLAG OR OBSERVATION OF
MOMENT OF SILENCE - Councilmember Lyman**

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 and staff.*

Councilmember Quinto - reported attendance at retreat with east bay division.

Councilmember Fadelli - reported attendance at Wildcat Canyon Prevention
group.

Mayor Pardue-Okimoto - reported attendance at tree lighting ceremony.

3. ORAL COMMUNICATIONS FROM THE PUBLIC

Rose Stramm - shared comments from Ira Shareno and Judith Frank regarding
the city's budget and lack of reserves, requested access to un-audited
financials and additional financial details provided on the city's website.

Denny Christner - spoke regarding the state auditor report, lack of reserves,
and concerns regarding the financial status of the city.

Kay Starkweather - spoke regarding fire safety, thanked city for work
completed, spoke regarding fires that occurred in October and blocked access,
requested guidance on evacuation routes prior to the next fire season and
weekly nixle reports during the fire season on activity.

4. ADOPTION OF THE CONSENT CALENDAR

Moved/Seconded: Mayor Greg Lyman/Councilmember Gabe Quinto **Action:** Approved items A, D, and E on the consent calendar as indicated below.
Ayes: Mayor Pardue-Okimoto, Mayor Pro Tem Lyman, Councilmember Abelson, Councilmember Fadelli, Councilmember Quinto **Noes:** None

A. Proclamation in recognition of 20 years of service to the West Contra Costa Transportation Advisory Committee (WCCTAC)

Action Proposed: Pass a motion to approve a proclamation in recognition of Councilmember Abelson's 20 years of dedicated service to the West Contra Costa Transportation Advisory Committee.

Contact: Holly M. Charl  ty, City Clerk, City Management

Action: Approved proclamation

B. Proclamation upon Retirement of Detective Jeff Albrandt

Action Proposed: Pass motion to approve a proclamation in recognition upon the retirement of Detective Jeff Albrandt of the El Cerrito Police Department.

Contact: Paul Keith, Chief of Police, Police Department

Moved/Seconded: Mayor Pro Tem Lyman/Councilmember Fadelli

Action: Pulled from consent by Mayor Pro Tem Lyman. Approved proclamation. **Ayes:** Mayor Pardue-Okimoto, Mayor Lyman, Councilmember Abelson, Councilmember Fadelli, Councilmember Quinto **Noes:** None

C. Proclamation for 70th anniversary of Sundar Shadi Holiday Display

Action Proposed: At the request of Mayor Pro Tem Lyman, pass a motion to approve a proclamation in recognition of the 70th anniversary of the Sundar Shadi holiday display.

Contact: Holly M. Charl  ty, City Clerk, City Management

Public Comments:

Jane Bartke - thanked volunteers and steering committee who help with continuing to put up the display.

Michelle Fadelli - shared details of Mr. Shadi's life and history of display, as well as upcoming events.

Rich Bartke - shared that Mr. Shadi was also a member of Park and Recreation Commission, President of the Historical Society, and donated funds to help build city hall.

Moved/Seconded: Mayor Pro Tem Lyman/Councilmember Quinto

Action: Pulled from consent by Mayor Pro Tem Lyman. Approved proclamation. **Ayes:** Mayor Pardue-Okimoto, Mayor Pro Tem Lyman, Councilmember Abelson, Councilmember Fadelli, Councilmember Quinto **Noes:** None

D. Declare and Certify the Results of the November 5, 2019 Special Election and adopt a special tax on Real Property Located in El Cerrito

Action Proposed: 1) Adopt a resolution confirming the results of the November 5, 2019 Special Election and declaring the passage of Measure H; and 2) Adopt Ordinance No. 2019-06, authorizing a Special Tax on Real Property Located in El Cerrito to Fund Parks and Recreation Facilities Maintenance and Enhancement and Amending and Restating Chapter 4.56 of the El Cerrito Municipal Code as Approved by the Voters at the November 5, 2019 Special Election.

Contact: Holly M. Charl  ty, City Clerk, City Management

Action: Adopted Resolution 2019-67 and Ordinance 2019-06

E. Co-Sponsorship Application - Friends of Ravenscliff

Action Proposed: Adopt a resolution recognizing the Friends of Ravenscliff as a City Co-Sponsored organization and authorizing the City Manager or designee to grant the use of City Facilities utilizing the co-sponsored rates in the Master Fee Schedule.

Contact: Taylor Melton, Recreation Supervisor, Recreation Department

Action: Adopted Resolution 2019-68

5. PRESENTATIONS

6. PUBLIC HEARINGS

**A. 2nd Read and Adoption of Building and Fire Code Ordinance -
*Notice Published 11/23/2019, 1st Public Hearing and Reading Held 11/19/2019***

Action Proposed: Conduct a public hearing, and upon conclusion waive the second reading and adopt Ordinance 2019-09 which adopts the 2019 California Green Code, Administrative, Building, Fire, Plumbing, Mechanical, Electrical, Energy, Residential, Existing Building Code and related Construction Codes as applicable to all construction within the City of El Cerrito, with local modifications as outlined in the ordinance.

Contact: Mark Soltes, Building Official, Community Development
David Gibson, Fire Marshal, Fire Department

Public Hearing: Mayor Pardue-Okimoto opened the public hearing.

Public Comments: None

Moved/Seconded: Mayor Pro Tem Lyman/Councilmember Quinto

Action: Closed the public hearing. **Ayes:** Mayor Pardue-Okimoto, Mayor Pro Tem Lyman, Councilmember Abelson, Councilmember Fadelli, Councilmember Quinto **Noes:** None

Moved/Seconded: Mayor Pro Tem Lyman/Councilmember Quinto
Action: Waived the second reading and adopted Ordinance 2019-09.
Ayes: Mayor Pardue-Okimoto, Mayor Pro Tem Lyman, Councilmember Abelson, Councilmember Fadelli, Councilmember Quinto **Noes:** None

7. POLICY MATTERS

A. CITY COUNCIL REORGANIZATION

The City Council will elect a Mayor and Mayor Pro-Tempore to serve a term of one year.

Contact: Holly M. Charléty, City Clerk, City Management
Mayor Pardue-Okimoto shared reflections of her year, her goals from when she took office, and accomplishments from 2019.

The City Clerk declared the offices of Mayor and Mayor Pro Tempore open. Councilmember Fadelli nominated Councilmember Lyman for the office of Mayor.

Moved/Seconded: Councilmember Lyman/Councilmember Quinto
Action: Selected Councilmember Lyman as Mayor. **Ayes:** Councilmember Pardue-Okimoto, Councilmember Lyman, Councilmember Abelson, Councilmember Fadelli, Councilmember Quinto **Noes:** None

Mayor Lyman was sworn and shared comments on his plans and goals for the upcoming year.

Councilmember Quinto nominated Councilmember Fadelli for the office of Mayor Pro Tempore.

Moved/Seconded: Councilmember Pardue-Okimoto/Councilmember Abelson **Action:** Selected Councilmember Fadelli as Mayor Pro Tempore. **Ayes:** Mayor Lyman, Councilmember Abelson, Councilmember Fadelli, Councilmember Pardue-Okimoto, Councilmember Quinto **Noes:** None

Mayor Pro Tempore Fadelli shared comments on his plans and goals for the upcoming year.

8. CITY COUNCIL LOCAL & REGIONAL LIAISON ASSIGNMENTS

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

Councilmember Pardue-Okimoto - reported that the Park and Recreation Commission is planning to bring forward names for trails in the Hillside Natural Area.

Mayor Lyman - announced that the Environmental Ad Hoc Committee is meeting and plans to bring a recommendation to the full in the new year.

9. ADJOURN REGULAR CITY COUNCIL MEETING

The regular meeting adjourned at 8:22 PM

Gregory B. Lyman, Mayor

This is to certify that the foregoing is a true and correct copy of the minutes of the City Council meeting(s) of December 3, 2019 as approved by the El Cerrito City Council.

Holly M. Charl  ty, MMC, City Clerk



AGENDA BILL

Agenda Item No. 4.B.

Date: December 17, 2019
To: El Cerrito City Council
From: Mark R Rasiah, Finance Director/City Treasurer, Finance Department
Subject: Annual Review of Investment Policy

ACTION PROPOSED

Adopt a resolution approving the City's Investment Policy.

BACKGROUND/ANALYSIS

The investment policy serves as the foundation of a local agency's investment goals and priorities. If the investment policy is carefully researched, effectively drafted, and reviewed regularly to assure that it continues to meet the agency's goals/priorities for its portfolio, it can help protect the assets of the organization. The existence of an approved investment policy demonstrates that the governing body is performing its fiduciary responsibilities, thereby, inspiring trust and confidence among the public that it serves.

These policies are intended to provide financial direction to staff and greater assurance to the City Council on the processes and procedures taken to assure financial responsibility of the City. Continuing annual approval of these Financial Policies has been included in these drafts for the purpose of ongoing review and exposure of the policies to the City Council. It is the policy of the City of El Cerrito to invest public funds in a manner which provides for safety of principal while providing sufficient liquidity to cover the City's short and long term needs while generating the appropriate yield. All investment activity will conform to the California Government Code, Sections 53601 through 53659.

It has been the practice of City staff to bring the Investment Policy to the City Council for review and approval annually. Each year the policies are reviewed by city staff and the Financial Advisory Board (FAB). Any recommended changes to these policies are brought to the City Council for review and approval. The Investment Policy was reviewed and discussed by the FAB at their November 12, 2019 meeting; FAB passed a motion to approve the policy without any changes. The policies were last reviewed by the City Council at its December 18, 2018 City Council meeting.

STRATEGIC PLAN CONSIDERATIONS

The purpose of the City's Investment Policy is to provide guidelines for prudent investment of the City's idle funds and ensure policies, procedures and systems represent best practices in financial management (Goal B).

ENVIRONMENTAL CONSIDERATIONS

This section is not applicable to this agenda item.

FINANCIAL CONSIDERATIONS

Continue to create the potential for increased interest income on investments as well as diversification of the City's investments to provide greater security. There is no fiscal impact of adopting these policies.

LEGAL CONSIDERATIONS

Annual approval of the Investment Policy by the City Council is not required by California Government Code. However, the policy is being presented for approval following the FAB review in accordance with the City's policy and our intention to allow for transparency in activities pertaining to safeguarding the City's assets.

Reviewed by:



Karen Pinkos, City Manager

Attachments:

1. Resolution
2. Exhibit A to the Resolution

RESOLUTION NO. 2019-XX

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL CERRITO APPROVING
THE COMPREHENSIVE INVESTMENT POLICY AND RESCINDING RESOLUTION
NO. 2018-66

WHEREAS, the purpose of the Investment Policy is to provide guidelines for operational and strategic decision making related to investment matters; and

WHEREAS, the Investment Policy was last reviewed in December 2018 as a part of the annual review; and

WHEREAS, the Investment Policy was reviewed by the Financial Advisory Board on November 12, 2019 without any changes being made.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of El Cerrito, that it hereby approves the City of El Cerrito Investment Policy effective December 17, 2019 incorporated by reference and attached hereto as Exhibit A.

I CERTIFY that at a regular meeting on December 17, 2019 the City Council of the City of El Cerrito passed this Resolution by the following vote:

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

IN WITNESS of this action, I sign this document and affix the corporate seal of the City of El Cerrito on December XX, 2019.

Holly M. Charl  ty, City Clerk

APPROVED:

Gregory B. Lyman, Mayor

City of El Cerrito Investment Policy

Approved:

Resolution:

POLICY

It is the policy of the City of El Cerrito ("City"), to invest public funds in a manner which provides for safety of principal while providing sufficient liquidity to cover the City's short and long term needs while generating the appropriate yield. All investment activity will conform to the California Government Code, Sections 53601 through 53659.

In accordance with Section 53646 of the California Government Code, the Treasurer may annually render to the City Council a statement of investment policy and the policy will have been previously reviewed by the Financial Advisory Board.

1.0 SCOPE

This investment policy applies to all financial assets of the City as accounted for in the City of El Cerrito's Comprehensive Annual Financial Report. Policy statements included in this document focus on the City's pooled funds, but will also apply to all other funds under the Treasurer's control unless specifically exempted by statute or ordinance. This policy includes, but is not limited to the following funds:

- General Fund
- Enterprise Funds
- Capital Project Funds
- Debt Service Funds
- Special Revenue Funds
- Internal Service Funds
- Trust and Agency Funds
- Retirement Agency Funds
- Any new funds created by the City Council

This policy specifically exempts any City or bond proceeds in the possession of a trustee or fiscal agent. These bond proceeds shall be invested in accordance with the requirements and restrictions outlined in the bond documents. This policy does not apply to any lending program of the City.

2.0 PRUDENCE

All persons authorized to make investment decisions for the City of El Cerrito are trustees and

therefore fiduciaries subject to the prudent person rule.

The standard of prudence to be used by City of El Cerrito fiduciaries is the "Prudent Investor" Standard found in the California Government Code Section 53600.3.

The fiduciaries are the City Manager, City Treasurer and City Council. Acting within the intent and scope of the Investment Policy and other written procedures, and exercising due diligence, shall be relieved of personal responsibility for an individual security's credit risk or market price changes, provided deviations from expectations are reported to the City Council in a timely manner and the fiduciaries take appropriate action to control adverse developments.

3.0 OBJECTIVE

The objective of the investment portfolio is to meet the City's short and long-term cash flow needs. To achieve this objective, the portfolio will be structured to provide, in priority order, safety of principal, liquidity and yield.

3.1 Safety: Safety of principal is the foremost objective of the City of El Cerrito in the investment of public funds. All investments of the City shall be undertaken in a manner that ensures the preservation of capital. Each investment transaction shall seek to ensure that capital losses are avoided, whether from issuer default, broker/dealer default, or erosion of market value. The City shall seek to preserve principal by mitigating the two types of risk: credit risk and market risk.

3.2 Credit Risk: Credit risk is the risk of loss due to failure of the issuer to repay an obligation and shall be mitigated by investing in only high-quality credit investments and by diversifying the investment portfolio so that the failure of any one issuer would not unduly jeopardize the City's fiscal status.

3.3 Market Risk: Market risk is the risk of market value fluctuations due to overall changes in the general level of interest rates and shall be mitigated by structuring the portfolio so that securities mature at the same time major expenditures occur, eliminating the need to sell securities prior to their

maturity. The taking of short positions, which is, selling securities the City does not own, is prohibited. It is explicitly recognized herein, however, that in a diversified portfolio, occasional measured losses are inevitable and must be considered within the context of overall investment return.

3.4 Liquidity: The City's investment portfolio will be structured to provide sufficient liquidity to meet the operating requirements of the City of El Cerrito. The City of El Cerrito will attempt to match its investments with anticipated cash flow requirements whenever possible. The maximum maturity of any one security, unless otherwise restricted by the California Government Code, is limited to five years. The portfolio's weighted average maturity shall be limited to three years.

3.5 Yield: State law requires that the objective of return on investment be subordinate to the objectives of safety and liquidity. Employees should also seek the best return on investments while satisfying the concerns of safety and liquidity. Therefore, the Treasurer shall seek to achieve a return on the funds under City control throughout all economic cycles, taking into consideration the City of El Cerrito's investment risk constraints and cash flow requirements.

4.0 DELEGATION OF AUTHORITY

Pursuant to Section 53601 of the California Government Code, the City Council as the legislative body of the City of El Cerrito has primary responsibility for the investment of all funds in the City treasury. As authorized under Section 53607 of the California Government Code, the City Council hereby delegates its authority to invest or reinvest the funds of the City, and to sell or exchange securities so purchased, to the City Treasurer who shall assume full responsibility for all such transactions until such time as this delegation of authority may be revoked by the City Council. In the City Treasurer's absence, the City Manager is authorized to perform any such transactions.

5.0 INVESTMENT PROCEDURES

The City Treasurer may establish written investment policy procedures for the operation of the investment program consistent with this policy. The procedures could include reference to safekeeping, wire transfer agreements, banking service contracts and collateral/depository agreements.

6.0 ETHICS AND CONFLICT OF INTEREST

Elected officials, officers and employees of the City who make investment decisions will refrain from any activity that could conflict with the proper execution of the investment program or which could impair their ability to make impartial investment decisions. Employee actions will be in accordance with this policy, California Government Code Sections 1090 et seq, 87100 et seq., other applicable Government Code Sections or future Council actions.

7.0 AUTHORIZED FINANCIAL DEALERS AND INSTITUTIONS

The City of El Cerrito shall transact business only with commercial banks, savings and loans, credit unions, and investment securities broker/dealers. The broker/dealers must be primary dealers regularly reporting to the Federal Reserve Bank of New York or regional broker/dealers that qualify under the Securities and Exchange Commission Rule 15c3-1 (uniform net capital rule). Selection of financial institutions and broker/dealers authorized to do business with the City shall be at the discretion of the fiduciaries. The Treasurer will maintain a list of financial institutions authorized to provide investment services to the City.

All financial institutions and broker/dealers who desire to become qualified bidders for investment transactions must supply the Treasurer with audited financial statement from the three most recent years, at least three references from other California Local agencies, a completed Broker/dealer questionnaire and a statement certifying that the institution has reviewed the California Government Code Section 53600 et seq. and the City's Investment Policy. The certification will state that the financial institution or broker/dealer and all investments presented to the Treasurer will be in compliance with the applicable State Code and the City Investment Policy.

The Treasurer shall determine if the Financial Institutions are adequately capitalized, make markets in securities appropriate to the City's needs and are recommended by other local agency portfolio managers.

The Treasurer will conduct an annual review of the financial condition of all qualified institutions. Additionally, their current financial statements are required to be on file.

8.0 AUTHORIZED INVESTMENTS

The City is authorized by California Government Code Section 53600 et seq. to invest in the following types of securities:

United States Treasury Bills, Bonds, and Notes, or those for which the full faith and credit of the United States are pledged for the payment of principal and interest. There is no limitation as to the percentage of the portfolio that can be invested in this category. The maximum term shall be five years.

Obligations issued by United States Government Agencies such as, but not limited to the Federal Farm Credit Bank (FFCB), the Federal Home Loan Bank (FHLB), the Federal Home Loan Mortgage Corporation (FHLMC), the Federal National Mortgage Association (FNMA), the Student Loan Marketing Association (SLMA), the Government National Mortgage Association (GNMA) and the Tennessee Valley Authority (TVA). United States Government Agency securities with call features are also authorized. There is no limitation as to the percentage of the portfolio that can be invested in this category. The maximum term shall be five years.

Bills of exchange or time drafts drawn on and accepted by a commercial bank, otherwise known as Banker's Acceptances. Purchases in this category may not exceed 180 days to maturity nor exceed 30% of the cost value of the portfolio.

Commercial Paper of prime quality and ranked P1 by Moody's Investor Services, A1 by Standard and Poor's or F1 by Fitch Financial Services Inc., issued by a corporation organized and operating in the U.S. as a general corporation and having assets in excess of \$500 million and having an "A" or better rating on its long-term debt as provided by Moody's, Standard and Poor's or Fitch. Purchases of eligible commercial paper may not exceed 270 days to maturity. Purchases of commercial paper may not exceed 10 percent of the cost value of the portfolio or represent more than 10 percent of the outstanding paper of an issuing corporation.

Total combined corporate debt (Commercial Paper and Medium-Term Notes) may not exceed 20 percent of the cost value of the portfolio.

Negotiable Certificates of Deposit issued by a nationally or state-chartered bank or a state or federal savings institution or credit union. Securities eligible for purchase in this category shall be rated "A" or better by Moody's, Standard and Poor's or Fitch. Purchases of Negotiable Certificates of Deposit shall not exceed 30 percent of the cost value of the portfolio nor exceed a five-year term.

Medium Term Notes (MTNs) issued by corporations organized and operating within the United States or by depository institutions licensed by the United States or any state and operating within the United States. MTNs eligible for investment in this category must be rated "A" or better by Moody's, Standard and Poor's or Fitch. Investments in this category will be limited to a five-year maximum maturity and may not exceed 10 percent of the cost value of the portfolio.

Total combined corporate debt (Commercial Paper and Medium-Term Notes) may not exceed 20 percent of the cost value of the portfolio.

Shares of beneficial interest issued by diversified management companies that are Money Market Funds registered with the Securities and Exchange Commission under the Investment Company Act of 1940. These funds must either have attained the highest rating/ranking by at least two of the three largest nationally recognized rating services. Investments in this category will not exceed 5 percent of the portfolio.

State Pool – Local Agency Investment Fund (LAIF). This fund was established by the State Treasurer for the benefit of Local agencies under California Government Code Section 16429.1. The City may invest in the LAIF up to the maximum amount permitted by State law. Purchase of investments will take into account the need for liquidity offered by LAIF for operational purposes, as well as the need for portfolio diversification.

Time Certificates of Deposit collateralized in accordance with the California Government Code Sections 53652 and 53653, may be purchased by the City from banks or savings and loan associations or credit unions. Purchases in this category will not exceed 5 years to maturity or 30 percent of the cost value of the portfolio. Purchases in a single institution will not exceed 10 percent of the cost value of the portfolio.

Derivative Securities are those securities that derive their value from another asset or index. Investments in derivative securities will be made using the Prudent Investor Rule and will be limited to federal agency callable issues. Purchases in this category will not exceed 10% of the cost value of the portfolio.

Prohibited Investments. Investments not described herein are ineligible investments. The City shall not invest any funds in inverse floaters, range notes, or

interest only strips that are derived from a pool of mortgages, in accordance with, California Government Code Section 53601.6. With the exception of callable agencies, any security that derives its value from another asset or index is prohibited. In addition, the City shall not invest any funds in any security that could result in zero interest accrual if held to maturity.

9.0 INVESTMENT POOLS/MUTUAL FUNDS

A thorough investigation of any pooled investments or money market mutual fund is required prior to investing City funds. A due diligence review will be performed on all money market mutual funds and pooled investment funds on a continued basis.

As outlined in section 7.0 of this policy, investments in mutual funds are restricted to money market mutual funds and must meet the experience and asset requirements as stated. The fiduciaries will continually monitor the funds to ensure the maintenance of those ratings/requirements.

Reports on the performance of the Pooled Money Investment Account/LAIF can be found on the California State Treasurer's web site as well as the Investment Board report, historical rates/costs and market valuations. These reports shall be reviewed by the Treasurer each month as part of the due diligence review.

10.0 COLLATERALIZATION

California Government Code, Sections 53652 et seq., specifies the types and levels of collateral for public funds on deposit above the FDIC insurance amounts. The collateral requirements apply to both active bank deposits (checking and savings accounts) and inactive bank deposits (non-negotiable certificates of deposit) and must be maintained for all the City's bank deposits

11.0 SAFEKEEPING AND CUSTODY

All securities held by the City of El Cerrito shall be held in safekeeping by a third-party bank trust department acting as agent for the City under the terms of the custody agreement executed by the bank and the City, and shall be evidenced by safekeeping receipts. All securities will be received and delivered using standard delivery-versus-payment (DVP) procedures. Investments in the State Pool or money market mutual funds are undeliverable and are not subject to delivery or third-party safekeeping.

12.0 DIVERSIFICATION

Except as provided in section 8.0, the City of El Cerrito will diversify its portfolio by investment type, issuer, maturity dates and broker/dealer. Limits for security types are set forth in Section 8.0 of this document.

13.0 INTERNAL CONTROLS

The City Treasurer will maintain a system of internal controls to ensure compliance with investment procedures of the City and Successor Agency of the City of El Cerrito and the California Government Code and these controls will be audited annually by the City's external audit firm.

14.0 REPORTING

The Council may request that the Treasurer render a report to the City Council. The report shall include the type of investment, issuer, maturity date, par and cost/book values of all securities, investments and monies held by the City of El Cerrito. It shall also include the rate of interest, the current market value as of the report date and the source of the valuation. The report shall state compliance of the portfolio with the Investment Policy as well as the California Government Code and it shall state the City's ability to meet its estimated expenditures for the next six months or provide an explanation as to why sufficient money is not available and what actions are being done to correct the deficiency.

15.0 INVESTMENT POLICY REVIEW AND ADOPTION

The City of El Cerrito's investment policy will continue to be reviewed and adopted by the City Council annually, even if not required by California Government Code 53646. Prior to the annual submission to the City Council the Investment Policy will be reviewed by the Financial Advisory Board and the Board's comments will be presented to the City Council for its consideration.

16.0 GLOSSARY

AGENCIES: Federal agency securities and/or Government sponsored enterprises.

BANKERS ACCEPTANCE (BA): A draft or bill or exchange accepted by a bank or trust company. The accepting institution, as well as the issuer, guarantees payment of the bill.

BROKER: A broker brings buyers and sellers together for a commission.

CERTIFICATE OF DEPOSIT (CD): A time deposit with a specific maturity evidenced by a certificate. Time certificates of deposit are collateralized in

accordance with the State code. Large-denomination CD's are typically negotiable and non-collateralized.

COLLATERAL: Securities, evidence of deposit or other property which a borrower pledges to secure repayment of a loan. Also refers to securities pledged by a bank to secure deposits of public monies.

DEALER: A dealer, as opposed to a broker, acts as a principal in all transactions, buying and selling for his own account.

DELIVERY-VERSUS-PAYMENT: There are two methods of delivery of securities: delivery versus payment and delivery versus receipt. Delivery versus payment is delivery of securities with an exchange of money for the securities. Delivery versus receipt is delivery of securities with an exchange of a signed receipt of the securities.

DERIVATIVES: (1) Financial instruments whose return profile is linked to or derived from, the movement of one or more underlying index or security, and may include a leveraging factor, or (2) financial contracts whose value is derived from an underlying index or security (interest rates, foreign exchange rates, equities or commodities).

DIVERSIFICATION: Dividing investment funds among a variety of securities offering independent returns.

FEDERAL CREDIT AGENCIES: Agencies of the Federal government set up to supply credit to various classes of institutions and individuals, e.g., S&L's, small business firms, students, farmers, farm cooperatives, and exporters.

FEDERAL DEPOSIT INSURANCE CORPORATION (FDIC): A federal agency that insures bank deposits, currently up to \$250,000 per deposit.

FEDERAL HOME LOAN BANKS (FHLB): Government sponsored wholesale banks (currently 12 regional banks) which lend funds and provide correspondent banking services to member commercial banks, thrift institutions, credit unions and insurance companies. The mission of the FHLB is to liquefy the housing related assets of its members who must purchase stock in their district Bank.

FEDERAL NATIONAL MORTGAGE ASSOCIATION (FNMA): FNMA, like GNMA was chartered under the Federal National Mortgage Association Act in 1938. FNMA is a federal corporation working under the auspices of the Department of Housing and Urban Development (HUD). It is the largest single provider of residential mortgage funds in the United States. Fannie Mae, as the corporation is called, is a private stockholder-owned corporation. The corporation's purchases include a variety of adjustable mortgages and second loans, in addition to fixed-rate mortgages. FNMA's securities are also highly liquid and are widely accepted. FNMA assumes and guarantees that all security holders will receive timely payment of principal and interest.

FEDERAL RESERVE SYSTEM: The central bank of the United States created by Congress and consisting of a seven-member Board of Governors in Washington, D.C., 12 regional banks and about 5,700 commercial banks that are members of the system.

FIDUCIARY: An individual in whom another has placed the utmost trust and confidence to manage and protect property or money. The relationship wherein one person has an obligation to act for other's benefit.

GOVERNMENT NATIONAL MORTGAGE ASSOCIATION (GNMA or Ginnie Mae): Securities influencing the volume of bank credit guaranteed by GNMA and issued by mortgage bankers, commercial banks, savings and loan associations, and other institutions. Security holder is protected by full faith and credit of the US Government. Ginnie Mae securities are backed by the mortgages, including FHA and VA mortgages. The term "pass-throughs" is often used to describe Ginnie Maes.

ISSUER: A legal entity that has the power to issue and distribute securities. Issuers include corporations, municipalities, foreign and domestic governments and their agencies, and investment trusts.

LIQUIDITY: A liquid asset is one that can be converted easily and rapidly into cash without a substantial loss of value. In the money market, a security is said to be liquid if the spread between bid and asked prices is narrow and reasonable size can be done at those quotes.

POOLED MONEY INVESTMENT FUND (LAIF):

The aggregate of all funds from political subdivisions that are placed in the custody of the County or State Treasurer for investment and reinvestment. The State of California's pool is known as the Local Agency Investment Fund, or LAIF.

MARKET VALUE: The price at which a security is trading and could presumably be purchased or sold.

MATURITY: The date upon which the principal or stated value of an investment becomes due and payable.

MONEY MARKET: The market in which short-term debt instruments (bills, commercial paper, bankers' acceptances, etc.) are issued and traded.

PORTFOLIO: Collection of securities and investments held by an investor.

PRIMARY DEALER: A group of government securities dealers who submit daily reports of market activity and positions and monthly financial statements to the Federal Reserve Bank of New York and are subject to its informal oversight. Primary dealers include Securities and Exchange Commission (SEC) registered securities broker-dealers, banks and a few unregulated firms.

PRUDENT PERSON RULE: An investment standard. In some states, the law requires that a fiduciary, such as a trustee, may invest money only in a list of securities selected by the custody state. In other states, the trustee may invest in a security if it is one which would be bought by a prudent person of discretion and intelligence who is seeking a reasonable income and preservation of capital.

RATE OF RETURN: For fixed-rate securities, it is the coupon or contractual dividend rate divided by the purchase price which is also the current yield.

SAFEKEEPING: A service to customers rendered by banks for a fee whereby securities and valuables of all types and descriptions are held in the bank's vaults for protection.

SECURITIES & EXCHANGE COMMISSION:

Agency created by Congress to protect investors in securities transactions by administering securities legislation.

SEC RULE 15c301: See Uniform Net Capital Rule.

TREASURY BILLS: A non-interest bearing discount security issued by the US Treasury to finance the national debt. Most bills are issued to mature in three months, six months, or one year.

TREASURY BONDS: Long-term coupon-bearing US Treasury securities issued as direct obligations of the US Government and having initial maturities of more than 10 years.

TREASURY NOTES: Medium-term coupon-bearing US Treasury securities issued as direct obligations of the US Government and having initial maturities from two to 10 years.

UNIFORM NET CAPITAL RULE: Securities and Exchange Commission requirement that member firms as well as non-member broker-dealers in securities maintain a maximum ratio of indebtedness to liquid capital of 15:1; also called *net capital rule* and *net capital ratio*. Indebtedness covers all money owed to a firm, including margin loans and commitments to purchase securities, one reason new public issues are spread among members of underwriting syndicates. Liquid capital includes cash and assets easily converted into cash.

YIELD: The rate of annual income return on an investment, expressed as a percentage: (a) Income Yield is obtained by dividing the current dollar income by the current market price for the security; (b) Net Yield or Yield to Maturity is the current income yield minus any premium above par or plus any discount from par in purchase price, with the adjustment spread over the period from the date of purchase to the date of maturity of the bond.



AGENDA BILL

Agenda Item No. 4.C.

Date: December 17, 2019
To: El Cerrito City Council
From: Yvetteh Ortiz, Public Works Director/City Engineer, Public Works Department
Subject: Transportation Impact Fee Annual Report for Fiscal Year 2018-19

ACTION PROPOSED

Receive and file the Transportation Impact Fee Annual Report for Fiscal Year 2018-19, ending June 30, 2019.

BACKGROUND & ANALYSIS

The City of El Cerrito City Council passed Resolution 2018-70 adopting a Transportation Impact Fee (TIF) and amending the Master Fee Schedule to include the new TIF in December 2018 and adopted Ordinance No. 2019-1 adding Chapter 4.54 - Transportation Impact Fee to the El Cerrito Municipal Code, Title 4 - Revenue and Finance in January 2019. Following these actions, the TIF became effective on February 19, 2019. The TIF was established under authority granted by the Mitigation Fee Act, AB 1600, contained in Sections 66000 to 66025 of the California Government Code.

Pursuant to Government Code Section 66006, within 180 days after the end of each fiscal year, the City Council shall receive a report that includes the following information: a brief description of the TIF, the amount of the TIF schedule, the beginning and ending balance of the TIF account, the amount of the fees collected and the interest earned, information about the City's Capital Improvement Program (CIP) funded by the TIF, and the amount of any refunds.

City staff prepared the Annual Report (Attachment 1) as required by Government Code Section 66006. The TIF became effective in Fiscal Year 2018-19, and revenues from the TIF were collected for less than half of the year. As a result, there was no beginning fund balance, interest earned nor expenses/encumbrances during the year. The TIF fees collected and ending fund balance on June 30, 2019 was \$207,216.80. In addition, no interfund transfers, loans nor refunds were made.

STRATEGIC PLAN CONSIDERATIONS

The Transportation Impact Fee is consistent with the City's Strategic Plan *Goal B - Achieve long-term financial sustainability* as it generates funding for transportation infrastructure and facilities to accommodate future development, and ensures development pays its fair share of transportation improvements.

ENVIRONMENTAL CONSIDERATIONS

This section is not applicable to this agenda item.

FINANCIAL CONSIDERATIONS

The Capital Improvement Fund, Non-Departmental Capital Outlay, Transportation Impact Fees Account (301-90-50 48610) receives all TIF revenues collected and all interest generated. TIF revenues can be used to pay for design, engineering, environmental review, permits, right-of-way acquisition, utility relocation, project management and construction of the eligible transportation improvements designated in Resolution 2018-70.

City staff anticipates that funding from the TIF will soon be needed for the Del Norte Transit Oriented Development (TOD) Infrastructure/Complete Streets Project, a project in the Fiscal Year 2019-20 Capital Improvement Program. Staff will request an allocation from the TIF in Fiscal Year 2019-20 as part of a mid-year update to the budget, to be presented for City Council consideration in early 2020.

LEGAL CONSIDERATIONS

As required by Government Code Section 66006, the City Council must review the Annual Report at the next regularly scheduled public meeting of the City Council that falls at least fifteen (15) days after the information is made available to the public.

On December 2, 2019, a Notice of Availability, along with the Annual Report was posted on the City's website at <https://www.el-cerrito.org/Archive.aspx?AMID=113>. This notice, including time and place of the City Council meeting, was sent on the same date to interested parties that had previously requested to be notified regarding development fees.

Receipt and filing of this report will allow the City to use TIF revenues to fund eligible transportation projects.

Reviewed by:



Karen Pinkos, City Manager

Attachments:

1. Notice of Availability and TIF Annual Report for Fiscal Year 2018-19



**NOTICE OF AVAILABILITY OF THE
TRANSPORTATION IMPACT FEE ANNUAL REPORT
FOR FISCAL YEAR 2018-19**

NOTICE IS HEREBY GIVEN that the Transportation Impact Fee Annual Report for Fiscal Year 2018-19 (ending June 30, 2019) is available for public review at <https://www.el-cerrito.org/Archive.aspx?AMID=113> and in the Office of the City Clerk, 10890 San Pablo Avenue, El Cerrito CA 94530, during regular business hours. For further information on the report, please contact the Public Works Department at (510) 215-4382 or engineer@ci.el-cerrito.ca.us.

NOTICE IS FURTHER GIVEN that the City Council will consider accepting the Transportation Impact Fee Annual Report for Fiscal Year 2018-19 at its regularly scheduled meeting on December 17, 2019 at 7:00 p.m., or thereafter in the City Council Chambers, located at El Cerrito City Hall, 10890 San Pablo Avenue. For further information on the City Council meeting, please contact the City Clerk at (510) 215-4305.

Posted on the City's website on 12/2/2019

Holly M. Charlety, City Clerk

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 five days 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).



**TRANSPORTATION IMPACT FEE
ANNUAL REPORT
FOR
FISCAL YEAR 2018-19**

NOVEMBER 22, 2019

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A. INTRODUCTION

In January 2019, the City of El Cerrito City Council adopted Ordinance No. 2019-1 adding Chapter 4.54 - Transportation Impact Fee (TIF) to the El Cerrito Municipal Code (ECMC), Title 4 - Revenue and Finance. The TIF was established under authority granted by the Mitigation Fee Act, AB 1600, contained in Sections 66000 to 66025 of the California Government Code.

This report contains information on the City of El Cerrito's TIF for Fiscal Year 2018-19 (ending June 30, 2019).

B. ANNUAL REPORTING REQUIREMENTS

Pursuant to Government Code section 66006(b)(1), within 180 days after the end of each fiscal year, the City Council shall receive a report that includes the following information:

- A brief description of the TIF.
- The amount of the fee (TIF schedule).
- The beginning and ending balance of the TIF account for the prior fiscal year.
- The amount of the fees collected and the interest earned in the prior fiscal year.
- Information from the City's current Capital Improvement Program (CIP) including:
 - Expenditure of fee revenue on transportation improvements and other program costs in the prior fiscal year, including expenditure amounts, identification of each public improvement on which fees were expended, and the total percentage of the cost of the public improvement that was funded with the TIF.
 - Programming of the ending account balance to specific transportation improvements and the timing of those improvements within the planning horizon of the City's current CIP, including an approximate construction start date for incomplete public improvement projects for which sufficient funds have been collected.
 - Description of any interfund transfers or loans, including identification of the public improvement on which the transfer or loan will be expended, any loan repayment dates, and the rate of interest on any loans made from the TIF account.
- The amount of refunds made pursuant to subdivision (e) of Section 66001 and any allocations pursuant to subdivision (f) of Section 66001.

Also, per Government Code 66006(b)(2), the report must be made available to the public at least 15 days prior to the regularly scheduled meeting of the City Council at which the report is considered, and mailed, at least 15 days prior to the meeting, to any interested party who files a written request with the City for mailed notice of the meeting.

C. TRANSPORTATION IMPACT FEE DESCRIPTION

To implement the goals and objectives of the City of El Cerrito's General Plan and related master and specific plans, and to mitigate the impacts caused by future development in the City, certain transportation improvements must be constructed. The City Council has determined that a Transportation Impact Fee is needed to finance these transportation improvements and to pay for each development's fair share of the construction and acquisition costs of the necessary transportation improvements.

The City Council adopted Council Resolution 2018-70 setting the amount of the fee, describing the need for the fee, listing the types of transportation improvements to be financed, describing the estimated cost of these improvements, describing the reasonable relationship between the fee and the various types of future development, and setting time for payment of the fee.

The transportation improvements eligible for funding with the TIF are based on prior planning studies completed to support the City's growth and the impact of that growth on the transportation system. The focus of these improvements is to connect El Cerrito residents to employment and activity centers and major transit facilities within the City and in neighboring jurisdictions. These improvements are located and connect to San Pablo Avenue, the City's primary transportation corridor serving all modes. The TIF project list is a selection of projects from the following: San Pablo Avenue Specific Plan (SPASP), Active Transportation Plan (ATP) and Ohlone Greenway Master Plan, which were previously adopted by the City Council.

The City applies the TIF to building permits associated with New Construction and Intensification of Use as described in the TIF Administrative Guidelines approved by the City Manager in April 2019. City staff, as part of their typical process of reviewing a proposed Development Project, determine the land use categories that are applicable and calculate the TIF based on the TIF Administrative Guidelines. This applies to both private and public Development Projects. The TIF payment is due at the time of building permit issuance.

The Capital Improvement Fund, Non-Departmental Capital Outlay, Transportation Impact Fees Account (301-90-50 48610) receives all Transportation Impact Fees collected and all interest generated, and is used to pay for design, engineering, environmental review, permits, right-of-way acquisition, utility relocation, project management and construction of the transportation improvements as designated in Council Resolution 2018-70.

D. FEE SCHEDULE

The amount of the TIF in Fiscal Year 2018-19 was established by City Council Resolution No. 2018-70 on December 18, 2018 as summarized below.

Land Use	Fee
Residential	
Single Family	\$3,322 per dwelling unit
Multi-Family	\$2,325 per dwelling unit
Nonresidential	
Commercial	\$4.48 per square foot
Hotel/Motel	\$3.65 per square foot
Office	\$3.85 per square foot
Industrial	\$2.43 per square foot
Other*	\$ 3,322 per equivalent dwelling unit

Note: *Applies to development projects that do not clearly conform to one of the defined residential or nonresidential categories and is likely to be applicable only in exceptional cases. In such cases the fee would be based on an estimated trip generation rate adjusted for equivalent dwelling units (EDU), and multiplied by the same cost per EDU applied to the other land use categories, as described in the TIF Administrative Guidelines.

Beginning July 1, 2019 and each July 1 thereafter, the TIF will be adjusted as described in the TIF Administrative Guidelines. The annual fee adjustment is based on the annual percentage change in the Engineering News-Record Construction Cost Index for the San Francisco Bay Area for the prior 12-month period, and is adopted by City Council with adoption of the City's Master Fee Schedule.

E. FINANCIAL SUMMARY

The table below summarizes TIF beginning fund balance, fees collected, interest earned in the account, expenses/encumbrances, and ending fund balance for Fiscal Year 2018-19.

Beginning Balance - July 1, 2018	\$0.00
Fees Collected	\$207,216.80
Interest Earned	\$0.00
Expenses/Encumbrances	\$0.00
Ending Balance - June 30, 2019	\$207,216.80

Fees were collected for only a portion of the fiscal year as the TIF became effective on February 19, 2019.

F. PROJECT DESCRIPTIONS

Because Fiscal Year 2018-19 is the first and only a partial year in which the fees have been collected, no projects were funded with TIF revenues during this time period.

The Public Works Department anticipates needing funding from the TIF for the Del Norte Transit Oriented Development (TOD) Infrastructure/Complete Streets Project, and requesting an allocation in Fiscal Year 2019-20 as part of the mid-year update to the budget, to be presented for City Council consideration in early 2020.

No interfund transfers or loans were made.

No refunds were made pursuant to subdivision (e) of Section 66001 and any allocations pursuant to subdivision (f) of Section 66001.

3439000.1



AGENDA BILL

Agenda Item No. 4.D.

Date: December 17, 2019
To: El Cerrito City Council
From: Ana Bernardes, Engineering Manager / Senior Engineer; Yvetteh Ortiz, Public Works Director / City Engineer, Public Works
Subject: 2019 Storm Drain Improvement Project, City Project No. C5036.7, Construction Contract Award

ACTION PROPOSED

Adopt a resolution approving plans and specifications for the 2019 Storm Drain Improvement Project, City Project No. C5036.7 (Project); rejecting the bid submitted by Tri-Valley Excavating Co., Inc as non-responsive and accepting the other eight bids submitted for the Project; authorizing the City Manager to execute a contract in the amount of \$299,331.00 with Ghilotti Bros., Inc. and to approve change orders in an amount not to exceed \$30,000 for the construction of the Project; and amending the Fiscal Year (FY) 2019-20 Adopted Budget and Capital Improvement Program to appropriate an additional \$211,331 in the Storm Drain Fund for the Project.

BACKGROUND

The 2019 Storm Drain Improvement Project, City Project No. 5036.7, is a part of the Measure J Storm Drain Program in the FY 2019-20 Capital Improvement Program. Over the last several years, Public Works staff regularly evaluate the need for minor and urgent repairs and improvements some of which are brought to our attention by residents and businesses. Repairs and improvements have included increasing inlet storm drain capacity and repairing and modifying deficient pipe sections in order to reduce localized flooding at several locations throughout the City. Also, in the last two years, staff have been working on an update to the City's Storm Drain Master Plan to evaluate, develop cost estimates, prioritize and develop a financing plan for systemwide improvements.

Earlier this year, Public Works staff were alerted by residents to urgent storm drain issues at three locations as follows: 700 Block of Hancock Way (Site 1), 1000 Block of King Street (Site 2), and 1700 Block of Arlington Boulevard (Site 3). In May 2019, Public Works staff began investigating the conditions at the Hancock Way site and determined that a storm drain pipe and drain inlet were failing and needed to be repaired. The repair is complicated by on-going subsidence and displacements in this area, which is within the larger Blakemont Slide area, an active creeping landslide in the Kensington-El Cerrito area. Similar issues were encountered at the other two sites which are within mapped landslide areas in El Cerrito.

Given the nature of the three sites, Public Works staff prepared a Request for Proposals for engineering and design services and in July 2019, selected BKF Engineers and Ninyo & Moore, the City's on-call civil engineering and geotechnical engineering consultants, to perform a geotechnical investigation and develop the design for the drainage repairs at the three sites.

The Project will repair the three sites as follows:

Site 1) 700 Block of Hancock Way is a residential cul-de-sac south of Terrace Drive. On-going settlement, expansion and movement of the subgrade have damaged existing storm drain structures along the street and created an undulating street profile that has resulted in ponding of water. The easterly profile of curb and gutter will need to be removed and replaced as well as the storm drain pipe crossing the street and the existing inlet. Sections of the road will need to be reconstructed and regraded. Public Works staff have temporarily barricaded the area of the existing storm drain inlet and are monitoring it during this rainy season until the required repairs are completed.

Site 2) 1000 Block of King Drive is also a residential street located north of Moeser Lane. The west side of the road right in front of the residence at 1007 King Drive has settled, the asphalt has cracks and the curbs and gutters need to be re-established so rain waters along the gutters can reach the existing storm drain facilities at Moeser Lane and along King Drive. Public Works staff have temporarily sealed the existing cracks on the pavement and have placed sandbags in the area as temporary measures until the required repairs are completed.

Site 3) 1700 Block of Arlington Boulevard is a minor arterial south of Cutting Boulevard. In front of 1765 Arlington Boulevard, the sidewalk surrounding the existing storm drain facility has settled creating a tripping hazard and causing the sidewalk to separate from the existing storm drain inlet. There is also a large gap underneath the existing sidewalk where the subgrade has moved and settled. The project will require the repair of the top of the storm drain inlet and reconstruction of the sidewalk, curb and gutter. Public Works staff have placed temporary asphalt around the inlet plate in order to mitigate the tripping hazard in the sidewalk until the required repairs are completed.

Ninyo & Moore completed the geotechnical report for these three sites in September 2019, and BKF Engineers completed the Plans, Specifications and Engineering Estimate (PS&E) in late October 2019. The Notice Inviting Bids for the Project was advertised in the West County Times on November 14 and 21, 2019. Additionally, the notice and complete set of Contract Documents were sent to eight Builder and Construction Exchanges in the Bay Area and Northern California as well as were available for purchase through the BPXpress website, an online planroom. The project notice was also posted on the City's website. One addendum was issued.

ANALYSIS

For bidding purposes and to allow flexibility of award within available funding, the work was divided into a Base Bid and an Additive Alternate Bid. Site 1 and Site 2 are part of the Project's Base Bid and Site 3 was selected as the Additive Alternate Bid because temporary measures at the site are sufficiently mitigating the concerns at the site.

Eight bids were received by the advertised bid opening date and time of December 5, 2019 at 2:00 p.m. An additional bid was sent via Fed-Ex by Tri Valley Excavating Co., Inc.; however, no identification of the project number or title was provided on the envelope as specified in the Instruction to Bidders. As such, it was not identified as a bid by the City Clerk in time for the bid opening, City staff recommend rejection of the bid as non-responsive.

The following are the results of the responsive bids:

Name and Location of Bidder	Base Bid	Additive Alternate Bid
Ghilotti Bros. Inc.	\$ 299,331.00	\$ 97,815.00
Kerex Eng. Inc.	\$ 328,795.00	\$ 40,965.00
Grade Tech Inc.	\$ 336,224.00	\$ 81,014.00
Sposeto Eng. Inc.	\$ 339,906.00	\$ 70,935.00
Redgwick Const. Co.	\$ 347,633.00	\$ 70,975.00
Redwood Eng. & Const.	\$ 365,910.00	\$ 83,500.00
WR Forde Assoc. Inc.	\$ 388,100.00	\$ 85,250.00
CF Contracting Inc.	\$ 521,746.00	\$ 121,745.00
Engineer's Estimate	\$310,400.00	\$34,200.00

The Contract Documents stipulated that the low bidder was to be determined by the amount of the Base Bid. The Base Bid from Ghilotti Bros., Inc. of \$299,331.00 is three and half percent (3.5%) less than the Engineer's Estimate.

The Additive Alternate Bid amount from Ghilotti Bros., Inc. of \$97,815.00 is nearly three times the Engineer's Estimate and also the second highest of all the bidders.

Staff recommends that the City Council award a construction contract in the amount of \$299,331.00 to Ghilotti Bros., Inc as the lowest responsive and responsible bidder. The Additive Alternate Bid is not recommended for award at this time given its substantial amount over the Engineer's Estimate. City staff will explore options for bidding this work given different requirements at Site 3.

STRATEGIC PLAN CONSIDERATIONS

Award of the construction contract is consistent with the following El Cerrito Strategic Plan goals:

Goal D – Develop and rehabilitate public facilities as community focal points by addressing ongoing and deferred maintenance of facilities and infrastructure; and

Goal E – Ensure the public's health and safety by minimizing the risk of flooding and property damage.

ENVIRONMENTAL CONSIDERATIONS

The project is categorically exempt from review under the California Environmental Quality Act (CEQA) pursuant to Section 15301 (Existing Facilities) because the Project is a repair to an existing facility involving negligible or no expansion of use beyond that presently existing. More specifically, restoration or rehabilitation of deteriorated or damaged facilities to meet current standards of public health and safety, unless it is determined that the damage was substantial and resulted from an environmental hazard such as an earthquake, landslide, or flood, is exempt from CEQA.

FINANCIAL CONSIDERATIONS

The estimated expenditures for construction of the Project total \$379,331 as summarized below.

Construction	\$ 299,331.00
Construction Contingency	\$ 30,000.00
Construction Inspection/Testing	\$ 50,000.00
TOTAL	\$ 379,331.00

Funding of \$300,000 for the Storm Drain Program is included in the FY 2019-20 Adopted Budget and Capital Improvement Program. Of this amount, \$132,000 has been expensed, encumbered or reserved for the engineering and design efforts described above and emergency repairs at other locations. The remaining budget of

\$168,000 is for construction of the Project. This leaves a \$211,331 shortfall. As such, City staff is requesting a supplemental appropriation of this amount in the Storm Drain Fund from the existing fund balance to cover the estimated construction expenditures. An amendment to the FY 2019-20 Adopted Budget is required to appropriate this amount.

LEGAL CONSIDERATIONS

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

Reviewed by:



Karen Pinkos, City Manager

Attachments:

1. Resolution

RESOLUTION 2019-XX

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL CERRITO APPROVING PLANS AND SPECIFICATIONS FOR THE 2019 STORM DRAIN IMPROVEMENT PROJECT, CITY PROJECT NO. C5036.7 (PROJECT); REJECTING THE BID SUBMITTED BY TRI-VALLEY EXCAVATING CO., INC. AS NON-RESPONSIVE AND ACCEPTING THE OTHER EIGHT BIDS FOR THE PROJECT; AND; AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT IN THE AMOUNT OF \$299,331.00 WITH GHILOTTI BROS, INC. AND TO APPROVE CHANGE ORDERS IN AN AMOUNT NOT TO EXCEED \$30,000 FOR THE CONSTRUCTION OF THE PROJECT; AND AMENDING THE FISCAL YEAR (FY) 2019-20 ADOPTED BUDGET AND CAPITAL IMPROVEMENT PROGRAM TO APPROPRIATE AN ADDITIONAL \$211,331 IN THE STORM DRAIN FUND FOR THE PROJECT.

WHEREAS, the 2019 Storm Drain Improvement Project, City Project No. 5036.7, is a part of the Measure J Storm Drain Program in the FY 2019-20 Capital Improvement Program; and

WHEREAS, the Public Works Department is responsible for maintaining, repairing and improving the City's storm drain system; and

WHEREAS, the City's on-call civil engineering and geotechnical engineering consultants performed a geotechnical investigation and developed the design for the drainage repairs at the three sites located in mapped landslide areas in the El Cerrito including the 700 Block of Hancock Way (Site 1), 1000 Block of King Street (Site 2), and 1700 Block of Arlington Boulevard (Site 3); and

WHEREAS, the Notice Inviting Bids for the Project was advertised in the West County Times on November 14 and 21, 2019 and posted on the City's website; and

WHEREAS, the notice and complete set of Contract Documents were sent to eight Builder and Construction Exchanges and the Contract Documents were made available to contractors through an online planroom; and

WHEREAS, eight bids were received by the advertised bid opening date and time of December 5, 2019 at 2:00 p.m., and the bid from Tri-Valley Excavating Co., Inc. was not received by the City Clerk by the time of the bid opening making the bid non-responsive; and

WHEREAS, the Contract Documents stipulated that the low bidder was to be determined by the amount of the Base Bid; and

WHEREAS, Ghilotti Bros Inc. submitted the lowest responsible and responsive Base Bid in the amount of \$299,331.00, which is three and a half percent below the Engineer's Estimate; and

WHEREAS, the Additive Alternate Bid amount from Ghilotti Bros., Inc. of \$97,815.00 is nearly three times the Engineer's Estimate and, as such, is not recommended for award; and

WHEREAS, a remaining budget of \$168,000 from the Storm Drain Program in the FY 2019-20 Adopted Budget and Capital Improvement Program is for construction of the Project, and an additional amount of \$211,331 is needed to cover the estimated construction expenditures, including construction contract, contingency and construction inspection and testing; and

WHEREAS, an amendment to the FY 2019-20 Adopted Budget is required to appropriate this additional amount.

WHEREAS, the project is categorically exempt from review under the California Environmental Quality Act (CEQA) pursuant to Section 15301 (Existing Facilities) because the Project is a repair to an existing facility involving negligible or no expansion of use beyond that presently existing. More specifically, restoration or rehabilitation of deteriorated or damaged facilities to meet current standards of public health and safety, unless it is determined that the damage was substantial and resulted from an environmental hazard such as an earthquake, landslide, or flood, is exempt from CEQA.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of El Cerrito that it hereby:

- 1) Approves plans and specifications for the 2019 Storm Drain Improvement Project, City Project No. C5036.7 (Project);
- 2) Rejects the bid submitted by Tri-Valley Excavating Co., Inc. as non-responsive and accepting the other eight bids other submitted bids for the Project; and
- 3) Authorizes the City Manager to execute a contract in the amount of \$299,331.00 with Ghilotti Bros Inc. and to approve change orders in an amount not to exceed \$30,000 for the construction of the Project.
- 4) Amends the Fiscal Year (FY) 2019-20 Adopted Budget and Capital Improvement Program to appropriate an additional \$211,331 in the Storm Drain Fund for the Project.

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

I CERTIFY that at a regular meeting on December 17, 2019 the City Council of the City of El Cerrito passed this Resolution by the following vote:

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

IN WITNESS of this action, I sign this document and affix the corporate seal of the City of El Cerrito on December XX, 2019.

Holly M. Charl  ty, City Clerk

APPROVED:

Gregory B. Lyman, Mayor



AGENDA BILL

Agenda Item No. 6.A.

Date: December 17, 2019
To: El Cerrito City Council
From: Yvetteh Ortiz, Public Works Director/City Engineer, Public Works Department
Subject: Proposed East Bay Sanitary Garbage & Green Waste Collection and Post-Collection Rates and Integrated Waste Management Fees -- Effective January 1, 2020

ACTION PROPOSED

1. Conduct a public hearing and upon conclusion adopt a resolution establishing maximum allowable East Bay Sanitary (EBS) garbage and green waste collection, processing and disposal rates, effective January 1, 2020; and
2. conduct a public hearing and upon conclusion adopt a resolution fixing and setting Integrated Waste Management (IWM) Fees, effective January 1, 2020.

BACKGROUND

Each year the City Council approves the maximum allowable rates and fees charged to ratepayers in the City of El Cerrito for solid waste collection and post-collection (processing and disposal). These consist of three components as follows:

- A per service rate for the collection of garbage and green waste by the City's franchised waste hauler, East Bay Sanitary Company (EBS);
- A per ton rate by Republic Services for the processing and disposal of solid waste, green waste, household hazardous waste (HHW), and other waste types through the services and facilities of the Golden Bear Transfer Station, Keller Canyon Landfill, West Contra Costa Sanitary Landfill, and West County Resource Recovery; and
- An IWM fee which funds unlimited curbside recycling collection for El Cerrito residents and businesses, the daily operations and waste reduction and recycling services of the El Cerrito Recycling + Environmental Resource Center (RERC), and other solid waste collection, source reduction and integrated waste management services.

The rates and fees for these three components are based on the annual revenue required to run the operations that provide these services. Residential and commercial customers pay these rates on either a per cart (based on the size of their garbage container) or per bin (based on the cubic yards of a weekly service) basis. Industrial customers (those using debris boxes) pay on a per ton basis.

ANALYSIS

East Bay Sanitary Garbage and Green Waste Collection Rates

EBS sets and charges the rates for garbage and green waste collection (EBS Collection Rates) based upon maximum rates authorized by the City Council, pursuant to City of El Cerrito Municipal Code Chapter 8.12. In 2012, the City and EBS completed a Rate and Operations Review that culminated in the City Council adopting a Fifth Amendment to the East Bay Sanitary Franchise Agreement (Resolution 2012-89). Among other changes, the Amendment resulted in the development of an annual adjustment to EBS's annual rates via a Refuse Rate Index (RRI). The RRI is based upon a proscribed formula in which inflation indices for seven operational cost categories (e.g., fuel and labor) are weighted and calculated to provide an annual percentage adjustment to the revenue requirement. The RRI is lower than the Consumer Price Index (CPI) for the Bay Area.

The Fifth Amendment also established a Revenue Balancing Account, which provides for adjustments in the revenue requirement to account for any difference between the projected rate revenues and the actual rate revenues received in prior calendar years. The Revenue Balancing Account ensures that any over- or under-collection of revenues is captured in future years' rates--meaning that EBS is fairly compensated when revenues are lower than required by the agreement. Conversely, when revenues are higher than required, any over-collection of revenues is used to offset future rate adjustments.

Since 2016, the balancing account has shown a surplus and has thus been used to offset rates, including for this current rate setting. This over-collection is primarily a result of revenue coming from debris box orders, which are seasonal and for the most part due to increased demolition and construction activity in the City. An amount of \$102,763 in balancing account funds (from 2018) will be applied to offset rates in 2020.

EBS has calculated and proposed a 2020 RRI revenue adjustment of 3.72% over their 2019 revenue requirement. This results in a 2020 revenue requirement of \$4,867,115 for collection operations, an increase of \$174,563, which is offset by \$102,763 in the balancing account, for a total revenue requirement to be collected via the rates of \$4,764,353. With the assistance of R3 Consulting Group, a consulting firm that specializes in solid waste management, City staff has reviewed the RRI adjustment figures and the proposed 2020 collection revenue requirement and found it accurate, consistent, and reasonable.

The proposed 2020 EBS Collection Rates necessary to meet the revenue requirement are included in Attachment 3 (2020 Solid Waste Collection, Processing and Disposal Rates).

East Bay Sanitary Post-Collection (Processing and Disposal) Rates

The City Council also sets the maximum allowable Post-Collection Rates (Resolution 2013-64) to cover expenses for processing and disposal of waste. Effective January 1, 2014, the City Council approved a Post-Collection Agreement between the City and Republic Services for processing and disposal services (Resolution 2013-54) through the services and facilities of the Golden Bear Transfer Station, Keller Canyon Landfill, West Contra Costa Sanitary Landfill, and West County Resource Recovery.

Per the methodology set forth in the terms of the Post-Collection Agreement (PCA), Republic Services has calculated and proposed a 2020 Blended Rate of \$114.35 per ton of garbage, green waste, construction and demolition debris and commercial dry waste delivered by EBS to Republic's facilities. Unlike last year, this per ton rate also includes funding of El Cerrito's participation in the West Contra Costa Integrated Waste Management Authority (RecycleMore) which includes funding of State Law compliance activities undertaken by RecycleMore on behalf of its member agencies. RecycleMore assists the City with compliance with the following State laws: AB 939 California Integrated Waste Management Act reporting, AB 1826 Mandatory Commercial Organics Recycling and SB 1383 Short-Lived Climate Pollutants: Organic Waste Methane Emissions Reductions. The RecycleMore funding was previously included in the IWM fees, described below, but this year has been incorporated into the Post-Collection Rates (as done by the other RecycleMore member agencies) to limit expenses in the IWM Fund to those related to services directly operated or managed by the City.

The 2020 Blended Rate per ton also covers costs to provide Household Hazardous Waste (HHW) disposal services for El Cerrito residents both through Republic's satellite program on Tuesdays at the RERC and through the regional HHW Facility in Richmond. With the assistance of R3 Consulting Group and RecycleMore, the regional agency which oversees the HHW budget and post-collection revenue requirement in West County, City staff has reviewed the proposed 2020 Blended Rates and found them accurate, consistent, and reasonable. These disposal, processing, RecycleMore and HHW costs are paid by EBS to Republic Services as part of their disposal costs and are included in the rates that EBS collects. The proposed 2020 EBS Post-Collection Rates necessary to meet the revenue requirement for the 2020 Blended Rate per ton (\$1,450,187 calculated based on the per ton rate of \$114.35 times a projected 12,682 tons) are included in Attachment 3.

Integrated Waste Management Fees

In 1990, the City of El Cerrito established IWM Fees to cover integrated waste management services provided by the City including curbside collection of recyclable materials, operations of the El Cerrito Recycling + Environmental Resource Center (RERC), and other waste collection, reduction, recycling and related environmental programs operated by the City (such as illegal dumping abatement, technical assistance for businesses that must comply with state mandated recycling and composting laws, and collection of materials banned from landfills including electronics, batteries, and medical sharps).

The budget for the IWM Fund is approved as part of the City's budget setting process for each fiscal year, while the IWM Fees are approved as part of the solid waste rates on a calendar year basis. Thus, the IWM Fees considered as part of this public hearing provide IWM revenue for the last half of Fiscal Year (FY) 2019-20 (January through June) and the first half of Fiscal Year 2020-21 (July through December).

In order to fully fund IWM operations and move the City much closer to achieving and retaining a positive fund balance in the IWM Fund, City staff is projecting the need for a significant increase in IWM fee revenues, effective January 1, 2020. This increase is due to the unprecedented and continued declines in recycling revenues, increases in recyclables processing costs, the immediate need to plan for and implement actions necessary for compliance with State Laws AB 341, AB 1826 and SB 1383, and the need to more immediately reverse the negative Unrestricted Fund Balance, which results in an amount due to the General Fund.

As reported to the City Council and the public in multiple reports this past year, the Chinese government has placed increasingly tight restrictions and bans on the amount and type of recycled material Chinese manufacturers can accept. These restrictions have caused dramatic and volatile changes in the market for recycled materials. As a result, single-stream curbside recyclables have been commanding little or no revenue, and in many communities a surcharge which is comparable to a disposal fee. Since FY 2016-17, the City's Recycling Program has seen a loss of more than \$240,000 in recycling revenue and new recyclables processing and transport costs projected to be approximately \$324,000 in FY 2019-20 and FY 2020-21. These negative trends in the recycling markets are universally expected to worsen into future years. Additionally, the compliance requirements under the State Laws described above are increasing, with significant investments by local governments in infrastructure, programs, outreach and education, contamination monitoring, and City purchasing requirements being mandated in the next two to five years.

City staff has estimated that an IWM revenue increase from \$2,855,665 in 2019 to \$3,717,545 in 2020 is needed to maintain existing programs and services, overcome continued steep declines in recycling revenues and new recycling processing costs, and reverse prior year negative fund balance. The proposed 2020 IWM Fees necessary to generate the needed IWM revenue are included in Attachment 3.

Overall Rate Changes

Overall, the revenue requirement for the entire suite of solid waste services will increase by 14.32% (compared to July 1, 2019) for a total rate revenue requirement of \$9,932,084. When this revenue requirement is translated into the per container monthly service, solid waste rates for most customers will increase by an average of approximately 14.9% as described below.

All residential solid waste services are priced based on the garbage container size, regardless of how much a customer's reduction in garbage is shifted to recycling and green waste. Commercial customers also receive unlimited recycling service based on

the garbage container size. To a great extent, this has resulted in customers downsizing their garbage container. While downsizing containers and sending less garbage to the landfill is a testament to the success of El Cerrito's recycling and green waste programs, the fixed costs of providing these services, in conjunction with increased costs to accommodate significant increases in overall materials being diverted for recycling and organics recycling, does not decrease and therefore needs to be spread over the entire pool of customers. An instance of increasing amount of recycling materials is the "Amazon Effect," whereby consumer spending has shifted to items being delivered in a box, has resulted in more large bulky cardboard being diverted to recycling containers.

Adoption of the combined fees will result in total monthly cost increases (over rates adopted July 1, 2019) of \$6.11 for 20-gallon customers (44% of cart subscriptions), \$7.90 for 35-gallon customers (50% of cart subscriptions), and \$14.63 for 64-gallon customers (5% of cart subscriptions). Bulk commercial collection rates will increase by an average of 14.4%. The proposed EBS Collection and Post-Collection Rates and IWM Fees are included in Attachment 3.

It is important to note that many communities in California are similarly seeing significant increases in solid waste rates due to the downturn in recycling markets. Recent solid waste rate increases in Northern California include but are not limited to anticipated increases above 25% in West Marin County, 40 to 60% in Santa Clara, 8 to 12% in Santa Rosa, over 40% in Cotati, Healdsburg and Petaluma, and over 9% per year for three to five years in Los Altos and Los Altos Hills.

STRATEGIC PLAN CONSIDERATIONS

Adoption of the combined EBS Rates and IWM Fees help fulfill the following City of El Cerrito Strategic Plan goals and objectives:

- Goal A: Deliver Exemplary Government Services by maintaining an emphasis on providing excellent customer service.
- Goal B: Achieve long-term financial sustainability by ensuring the IWM Fund has balanced revenues and expenses.
- Goal F: Foster Environmental Sustainability Citywide (Implement the City's Climate Action Plan, including reducing the amount of waste generated in El Cerrito). Specifically, the proposed rates and fees will support high waste diversion rates.

ENVIRONMENTAL CONSIDERATIONS

All jurisdictions in California are required by law to provide recycling and organics recycling services for its residents and businesses through mandates established in AB 989, AB 341, and AB 1826. Recent legislation, SB 1383, mandates higher recycling and composting compliance rates by the year 2022. Reliable and proper disposal, processing, and diversion of solid waste is necessary to protect the health and welfare

of the community and environment. The services being funded by the proposed 2020 EBS Collection Rates and Post-Collection Rates and IWM Fees not only ensure compliance with State law and reliable solid waste collection, they also enable El Cerrito to reduce its environmental impact through strong solid waste diversion and HHW programs, while responding to the dramatic downturn in the recycling markets precipitated by the Chinese “National Sword” policy.

FINANCIAL CONSIDERATIONS

Adopting the EBS Rates and IWM Fees, as proposed, supports the revenue requirements of the entities that provide solid waste services in El Cerrito. Adoption of the proposed IWM Fees will result in higher IWM revenues than projected in the Adopted Budget for FY 2019-20, in order to address declines in recycling revenues and new recycling costs due to unprecedented changes in recycling markets, and more immediately reverse the negative Unrestricted Fund Balance and largely pay back the General Fund by the end of FY 2019-20. The estimated amount due to the General Fund as of the end of FY 2018-19 is approximately \$500,000, so the IWM revenue increase is designed to repay a large part of this in FY 2019-20 and the remainder in the following fiscal year. The amount due was largely the result of adjustments related to capital asset and liability accounting.

Despite the negative trends in the recycling markets, City staff is hopeful that the significant rate and fee increases over this last year will abate in 2021 as the amount due to the General Fund is eliminated. The City will also be retiring during the current fiscal year the debt service for both the recycling carts and the first generation of recycling trucks purchased when the City switched to single-stream recycling collection in 2009.

LEGAL CONSIDERATIONS

The City Attorney has reviewed the proposed actions and found that legal considerations have been addressed. The Notice of Public Hearing for the IWM and EBS fees were publicly posted on December 7, 2019 and published in the December 7 and December 13, 2019 editions of the West County Times.

Reviewed by:



Karen Pinkos, City Manager

Attachments:

1. Resolution (EBS Rates)
2. Resolution (IWM Fees)
3. 2020 Solid Waste Collection, Processing & Disposal Rates

RESOLUTION 2019-XX

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL CERRITO ESTABLISHING MAXIMUM ALLOWABLE RATES FOR THE COLLECTION, PROCESSING AND DISPOSAL OF GARBAGE AND GREEN WASTE EFFECTIVE JANUARY 1, 2020

WHEREAS, the City of El Cerrito and East Bay Sanitary Company ("the Company") have entered into that certain Franchise Agreement dated September 2, 1997 (as amended, the "Franchise Agreement"); and

WHEREAS, the Company has submitted a request for rate increases to be effective January 1, 2020, and such increases were calculated pursuant to the methodology established in the Fifth Amendment to the Franchise Agreement, dated December 14, 2012; and

WHEREAS, the rate adjustments submitted to the City have been reviewed for accuracy, consistency with the adjustment methodology, and reasonableness.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of El Cerrito that the maximum monthly rates, unless otherwise noted, that East Bay Sanitary Company may charge, effective January 1, 2020 are as follows:

Garbage Container Size	EBS Collection Rate (\$)	Post-Collection Rate (\$)
20 Gallon Cart	20.37	5.12
35 Gallon Cart	28.60	8.98
64 Gallon Cart	57.21	17.96
One Cubic Yard	194.96	51.96
Two Cubic Yards	373.69	103.91
One Cubic Yard Green Waste	180.27	51.96
35 Gallon Green Waste	28.96	0.00
64 Gallon Green Waste	55.84	0.00
Compacted Rates (per yard)	75.16	23.97
Roll-off (per ton)	NA – Market Rate	NA – Market Rate

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

I CERTIFY that at a regular meeting on December 17, 2019 the City Council of the City of El Cerrito passed this Resolution by the following vote:

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

IN WITNESS of this action, I sign this document and affix the corporate seal of the City of El Cerrito on December XX, 2019.

Holly M. Charléty, City Clerk

APPROVED:

Gregory B. Lyman, Mayor

RESOLUTION 2019-XX

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL CERRITO FIXING AND SETTING THE INTEGRATED WASTE MANAGEMENT FEES EFFECTIVE JANUARY 1, 2020

WHEREAS, the City of El Cerrito has established Integrated Waste Management Fees (IWM Fees) for Integrated Waste Management Services provided by the City including operation of the El Cerrito Recycling + Environmental Resource Center, curbside collection of recyclable materials, and other waste collection, reduction, recycling and related environmental programs; and

WHEREAS, the City Council of the City of El Cerrito sets and charges the IWM Fees, and the Fees are collected by East Bay Sanitary Company as part of the garbage bills and transferred in whole to the City of El Cerrito's Integrated Waste Management Fund; and

WHEREAS, major shifts in the recyclable materials marketplace arising from China's "National Sword" policy have changed the economics of processing recyclables from a net revenue generating activity to a net expense, wherein the cost of processing exceeds the revenue from the sale of recyclable materials; and

WHEREAS, the City has reviewed and considered financial information as a part of the regular budget process as well as more recent financial information, including but not limited to the declining revenues from the sale of recyclable materials, new costs incurred for processing of recyclable materials and the amount due to the General Fund, to determine whether increases to IWM Fees are warranted and justified; and

WHEREAS, the City Council intends to adopt IWM Fees to be effective January 1, 2020, thus keeping the City's Integrated Waste Management Services as an on-going concern.

NOW THEREFORE BE IT RESOLVED, by the City Council of the City of El Cerrito that the fees for each IWM service, which are monthly rates unless otherwise noted, shall be as follows, effective January 1, 2020:

Garbage Container Size	IWM Fee (\$)
20 Gallon Cart	19.23
35 Gallon Cart	21.02
64 Gallon Cart	41.20
One Cubic Yard	148.50
Two Cubic Yards	297.01
One Cubic Yard Green Waste	7.91
35 Gallon Green Waste	7.01
64 Gallon Green Waste	13.73
Compacted (per yard)	34.27
Roll-off (per load)	108.52

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

I CERTIFY that at a regular meeting on December 17, 2019 the City Council of the City of El Cerrito passed this Resolution by the following vote:

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

IN WITNESS of this action, I sign this document and affix the corporate seal of the City of El Cerrito on December XX, 2019.

Holly M. Charléty, City Clerk

APPROVED:

Gregory B. Lyman, Mayor

The City of El Cerrito



2020 Solid Waste Collection, Processing and Disposal Rates Effective January 1, 2020

Residential Rates | Single Family Homes and Multi-family Dwellings up to 4 units

Residential Solid Waste Services include weekly collection of recycling (grey), green waste (green), garbage (blue); limited free on-call collection of larger quantities from your home; free access to the regional Household Hazardous Waste (HHW) Facility, and free access to most services at the El Cerrito Recycling + Environmental Resource Center. Additional recycling carts are available at no extra cost.

Weekly Collection of Recycling, Green Waste, and Garbage						
<i>Monthly Cost based on garbage container size</i>						
Container Size	Collection	Post-Collection	IWM Fee	January 2020 Total Monthly Cost	July 2019 Total Monthly Cost	\$ Change in Monthly Cost
20 Gallon Cart	\$ 20.37	\$ 5.12	\$ 19.23	\$ 44.72	\$ 38.61	\$ 6.11
35 Gallon Cart	\$ 28.60	\$ 8.98	\$ 21.02	\$ 58.60	\$ 50.70	\$ 7.90
64 Gallon Cart	\$ 57.21	\$ 17.96	\$ 41.20	\$ 116.37	\$ 101.74	\$ 14.63
Weekly Collection of Additional Green Waste Containers (one 64 gallon container serviced weekly included in above rates)						
<i>Monthly Cost based on size of additional green waste container(s)</i>						
Container Size	Collection	Post-Collection	IWM Fee	January 2020 Total Monthly Cost	July 2019 Total Monthly Cost	\$ Change in Monthly Cost
35 Gallon Cart	\$ 28.96	Included	\$ 7.01	\$ 35.97	\$ 29.50	\$ 6.47
64 Gallon Cart	\$ 55.84	Included	\$ 13.73	\$ 69.57	\$ 57.00	\$ 12.57

Integrated Waste Management (IWM) Fee: The IWM Fee covers curbside recycling collection for El Cerrito residents and businesses and supports the daily operations of the El Cerrito Recycling + Environmental Resource Center. The Fee is set and assessed on each trash and extra greenwaste container collected by East Bay Sanitary Company, based on trash container size.

The City of El Cerrito

2020 Solid Waste Collection, Processing and Disposal Rates

Effective January 1, 2020



Commercial Rates | Businesses and Multi-family Dwellings over 4 units

Commercial Solid Waste Services include collection of recycling (grey), green waste (green), garbage (blue) and services for quantities equivalent to those of residential properties at the El Cerrito Recycling + Environmental Resource Center. Additional recycling carts are available at no extra cost.

Once Weekly Collection of Garbage						
Monthly Cost based on garbage container size						
Container Size	Collection	Post-Collection	IWM Fee	January 2020 Total Monthly Cost	July 2019 Total Monthly Cost	\$ Change in Monthly Cost
20 Gallon Cart	\$ 20.37	\$ 5.12	\$ 19.23	\$ 44.72	\$ 38.61	\$ 6.11
35 Gallon Cart	\$ 28.60	\$ 8.98	\$ 21.02	\$ 58.60	\$ 50.70	\$ 7.90
64 Gallon Cart	\$ 57.21	\$ 17.96	\$ 41.20	\$ 116.37	\$ 101.74	\$ 14.63
One Cubic Yard	\$ 194.96	\$ 51.96	\$ 148.50	\$ 395.42	\$ 346.06	\$ 49.36
Two Cubic Yards	\$ 373.69	\$ 103.91	\$ 297.01	\$ 774.61	\$ 675.89	\$ 98.72
One Cubic Yard (Green Waste)	\$ 180.27	\$ 51.96	\$ 7.91	\$ 266.50	\$ 254.31	\$ 12.19
Additional Green Waste:						
35 Gallon Cart	\$ 28.96	Included	\$ 7.01	\$ 35.97	\$ 29.50	\$ 6.47
64 Gallon Cart	\$ 55.84	Included	\$ 13.73	\$ 69.57	\$ 57.00	\$ 12.57
Multiple Weekly Collections of Garbage						
Monthly Cost based on garbage container size and number of pickups per week						
Container Size	Pickups per week					
	1	2	3	4	5	6
20 Gallon Cart	\$ 44.72	\$ 89.44	\$ 134.16	\$ 178.88	\$ 223.60	\$ 268.32
35 Gallon Cart	\$ 58.60	\$ 117.20	\$ 175.80	\$ 234.40	\$ 293.00	\$ 351.60
64 Gallon Cart	\$ 116.37	\$ 232.74	\$ 349.11	\$ 465.48	\$ 581.85	\$ 698.22
One Cubic Yard	\$ 395.42	\$ 758.72	\$ 1,122.03	\$ 1,485.34	\$ 1,848.64	\$ 2,211.95
Two Cubic Yards	\$ 774.61	\$ 1,501.23	\$ 2,227.84	\$ 2,954.45	\$ 3,681.07	\$ 4,407.68
Green Waste Collection						
Monthly Cost based on green waste container size and number of pickups per week						
Container Size	Pickups per week					
	1	2	3	4	5	
35 Gallon Cart	\$ 35.97	\$ 71.94	\$ 107.91	\$ 143.88	\$ 179.85	
64 Gallon Cart	\$ 69.57	\$ 139.14	\$ 208.71	\$ 278.28	\$ 347.85	
One Cubic Yard	\$ 266.50	\$ 500.88	\$ 735.26	\$ 969.64	\$ 1,204.03	
On-Call Bulk Collection (Debris Boxes and Compactors)						
Rates listed are per pickup, and are not inclusive of all charges for these services. Please call East Bay Sanitary for complete rates and fees at 510-237-4321.						
Container Type	Collection	Post-Collection	IWM Fee	Total		
Compacted Rates (per yard)	\$ 75.16	\$ 23.97	\$ 34.27	\$ 133.40		
Roll-off (Debris Box)	Market Rate (per load)	Market Rate (per ton)	\$108.52 (per load)	Varies - Call East Bay Sanitary at 510-237-4321 for price quote.		

Integrated Waste Management (IWM) Fee: The IWM Fee covers curbside recycling collection for El Cerrito residents and businesses and supports the daily operations of the El Cerrito Recycling + Environmental Resource Center. The Fee is set and assessed on each trash and greenwaste container collected by East Bay Sanitary Company, based on trash container size.



AGENDA BILL

Agenda Item No. 6.B.

Date: December 17, 2019
To: El Cerrito City Council
From: Jeff Ballantine, Senior Planner; Sean Moss, Planning Manager,
Community Development Department
Subject: Urgency Ordinance to Amend Accessory Dwelling Unit Regulations

ACTION PROPOSED

Conduct a public hearing and upon conclusion adopt an interim ordinance repealing and replacing Section 19.20.190 (Accessory Dwelling Units), adding Section 19.20.195 (Junior Accessory Dwelling Units), and approving amendments to Section 19.46.030 (Residential Use Classifications), Chapter 19.47 (Terms and Definitions), and Section 19.24.040 (Required Off-Street Parking Spaces) of the El Cerrito Municipal Code as an urgency measure. A four-fifths vote of the City Council is necessary to adopt an interim urgency ordinance.

BACKGROUND

Over the past two decades, the State of California has adopted a number of laws that encourage the development of Accessory Dwelling Units (ADUs) and limit the requirements that cities and other local agencies may impose on them. On June 6, 2017 the El Cerrito City Council adopted Ordinance 2017-04 amending various section of the El Cerrito Municipal Code related to ADUs in order to comply with two California legislature bills, SB1069 and AB2299.

In the fall of 2019, the Governor signed several bills that amend California Government Code 65852.2 and 65852.22 that provide greater allowance for ADUs and Junior Accessory Dwelling Units (JADUs) and limit the requirements that cities can impose on their development. These bills include SB 13 and ABs: 68, 587, 670, 670, 671, and 881. The bills become effective January 1, 2020 and the El Cerrito Municipal Code (ECMC) must be amended for consistency with them. The Legislative Counsel's Digest of these bills is provided in Attachment 3.

An ADU is a secondary dwelling unit with complete independent living facilities for one or more persons and is generally a detached unit separated from the primary structure or an attached unit that is attached to or included in the primary structure. A Junior ADU is no more than 500 square feet in size and contained entirely within a single family residence. A Junior ADU may include separate sanitation facilities or may share sanitation facilities with the primary residence. A Junior ADU shall also include an efficiency kitchen with a cooking facility and a counter and cabinets of reasonable size in relation to the size of the Junior ADU. ADUs are currently regulated by Section 19.20.190 of the El Cerrito Municipal Code.

Although Junior ADUs are permitted pursuant to State law, the Municipal Code does not currently contain specific standards for JADUs. ADUs and JADUs are an effective way to increase housing options within the framework of existing neighborhoods. They can provide affordable housing for renters, a source of income for homeowners, and a housing resource for extended families, seniors, college students, and others. ADUs represent a form of infill development that can be relatively affordable to construct and/or rent and offer innovative housing choices within existing neighborhoods. Since the City Council last amended Section 19.20.190 in 2017, there has been a significant increase in the construction of ADUs in the City. So far, in 2019, 22 building permits for ADUs have been issued. In 2018, there were eighteen building permits for ADUs issued. There was one ADU building permit issued in 2017; four in 2016; and four in 2015.

Ordinance Process

California Government Code Section 65852.2(a)(4), as recently amended, provides that any existing local ADU ordinance failing to meet the requirements of the new state laws shall be null and void unless and until the local agency adopts a new ordinance complying with the new legislation. In the absence of a valid local ordinance, the new state law instead provides a set of default standards governing local agencies' regulation and approval of ADUs. This goes into effect on January 1, 2020.

The City's ADU regulations are part of the City's Zoning Ordinance. The process of adopting or amending a zoning ordinance can differ from the process for most other local ordinances. In particular, zoning ordinances require duly noticed public hearings before both the Planning Commission and the City Council. However, when there's an immediate need to protect public health, safety and welfare, a City Council may adopt an interim urgency ordinance, to prevent conflicting land uses or regulations, without following the notice and hearing procedures otherwise required before the adoption of a zoning ordinance.

As stated, the new state legislation becomes effective on January 1, 2020. At that time the City's current ADU ordinance will become null and void, and the City would have to follow the state's default standards. To prevent this, and to ensure that the City has appropriate ADU regulations in effect on January 1, 2020, staff recommends that the City Council adopt the proposed ordinance as an interim urgency ordinance. Interim urgency ordinances require a 4/5th vote to pass. If passed, the interim urgency ordinance would become effective immediately, as a necessary interim measure, while the City proceeds to permanently adopt the proposed ADU regulations through the zoning ordinance adoption process. The regulatory structure and amendments in the proposed interim urgency ordinance and the current draft of the proposed zoning ordinance are exactly the same.

Interim urgency ordinances are effective for 45 days, unless extended pursuant to the Government Code. Interim urgency ordinances may be extended for up to 22 months and 15 days. Staff anticipates recommending an extension of this interim urgency ordinance in January, but only for the period until the zoning ordinance becomes effective.

ANALYSIS

To comply with the changes in State law, the proposed ordinance would repeal and replace Section 19.20.190 (Accessory Dwelling Units); add Section 19.20.195 (Junior Accessory Dwelling Units); and approve amendments to Section 19.46.030 (Residential Use Classifications), Chapter 19.47 (Terms and Definitions), and Section 19.24.040 (Required Off-Street Parking Spaces) of the El Cerrito Municipal Code.

The following is an analysis of primary changes which are proposed as part of this ordinance:

1. Automatic approval of certain ADUs/JADUs

Consistent with the requirements of AB 881, certain types of ADUs and JADUs would be permitted without any type of zoning permit. These ADUs and JADUs could proceed directly to the building permit process. These categories include:

On lots with an existing or proposed single family dwelling:

- One Interior ADU or JADU located entirely within an existing primary dwelling or existing accessory structure.
- One ADU that is detached from the primary dwelling unit with no more than 800 square feet, at least 4 foot rear and side setbacks, and no more than 16 feet tall.

On lots with an existing multifamily dwelling or duplex:

- At least one ADU within the portion of an existing multifamily dwelling structure not used as livable space. The number of ADUs allowed on a lot shall not exceed twenty-five percent of the existing multifamily dwellings on a lot.
- Two ADUs detached from the primary dwelling units with at least 4 foot rear and side setbacks and no more than 16 feet tall.

ADUs not included in these categories would be subject to the development standards of the proposed ordinance.

2. Maximum floor area

The current ordinance allows a maximum floor area for ADUs of up to fifty percent of the habitable floor area of the primary residence or 1,200 square feet, whichever is less. The proposed ordinance contains the following floor area provisions, as required by AB 881:

- Studio and one-bedroom ADUs may be a maximum of 850 square feet
- ADUs with more than one bedroom may be a maximum of 1,000 square feet

- Attached ADUs are subject to the above standards or may be up to 50% of the floor area of the existing primary dwelling unit, whichever is less.

3. Minimum Setbacks and Maximum Height

As required by AB 881, the proposed ordinance permits a minimum side and rear setbacks of 4 feet for detached and attached ADUs and a maximum height of 16 feet for detached ADUs. This is a reduction from the standards in the existing ordinance, which permit a maximum height of 15 feet for ADUs and require setbacks consistent with requirements of the applicable zoning district (5- to 6-foot side setbacks and 15- to 25-foot rear setbacks).

Additionally, pursuant to AB 881, the City may not consider unit size, lot size, lot coverage, or open space for ADUs that meet these standards and are no larger than 800 square feet.

4. Replacement Parking

Although local jurisdictions may require off-street parking spaces for ADUs in certain instances, at the City Council's request, the ADU ordinance adopted in 2017 does not require any parking spaces for ADUs. This provision is also included in the proposed ordinance. In addition, consistent with the requirements of AB 881, the proposed ordinance eliminates the existing requirement that off-street parking spaces be replaced when a garage, carport, or covered parking is converted to an ADU or is demolished in conjunction with the construction of an ADU. Similarly, no parking spaces nor replacement parking shall be required for JADUs.

5. Deed Restriction – Owner Occupancy Requirement

Consistent with the requirements of AB 881, the proposed ordinance removes requirement for owner occupancy of a property for ADUs and JADUs developed between January 1, 2020 and December 31, 2024. This provision allows both the primary residence and any ADU and/or JADU to be rented.

6. Short term rentals

Pursuant to the requirements of AB 881, the proposed ordinance provides that the ADUs and Junior ADUs that require automatic approval shall not be rented for a term less than 30 days.

7. Windows

Although not required by State legislation, in order to address potential impacts to adjacent properties, staff has included a development standard related to windows on ADUs. The proposed ordinance would require all Accessory Dwelling Unit windows facing a side yard or rear yard of an adjacent property and located closer than 5 feet to the shared property line shall be clerestory (minimum of 6.5 feet above the finished floor height). City staff recommend this requirement to minimize privacy impacts of proposed ADUs upon neighboring properties.

STRATEGIC PLAN CONSIDERATIONS

This action is consistent with the El Cerrito Strategic Plan Goal A - Deliver exemplary government services by allowing additional design flexibility, lower cost and swifter service to community members that would like to construct an ADU or JADU.

ENVIRONMENTAL CONSIDERATIONS

Pursuant to Public Resources Code Section 21080.17 and CEQA Guidelines Section 15282(h), the adoption of an ordinance regarding accessory dwelling units and junior accessory dwelling units in a residential or mixed-use zone by a city to implement the provisions of Sections 65852.1, 65852.2, and 65852.22 of the Government Code is statutorily exempt from the requirements of CEQA. Similarly, the ministerial approval of ADUs would not be a “project” for CEQA purposes, and environmental review would not be required prior to approving individual applications. (Individual ADU and JADU applications would be categorically exempt under Existing Facilities (Sec. 15301), Replacement or Reconstruction (Sec. 15302), or Construction or Conversion of Small Structures (Sec. 15303).)

FINANCIAL CONSIDERATIONS

The costs of implementing the proposed ordinance would be recovered through existing application fees. ADUs and JADUs subject to automatic approval would no longer require zoning permits and the City would not collect fees to review ADUs outside of the building permit process.

LEGAL CONSIDERATIONS

The City Attorney has reviewed the ordinance and found that legal considerations have been addressed.

Reviewed by:



Karen Pinkos, City Manager

Attachments:

1. Ordinance
2. Legislative Digests

ORDINANCE NO. 2019–XX

AN URGENCY ORDINANCE OF THE CITY OF EL CERRITO AMENDING TITLE 19 OF THE EL CERRITO MUNICIPAL TO AMEND SECTION 19.20.190, 19.46.030, 19.47 and 19.24.040 REGARDING ACCESSORY DWELLING UNITS AND TO ADD SECTION 19.20.195 REGARDING JUNIOR ACCESSORY DWELLING UNITS

WHEREAS, the California Constitution, Article XI, Section 7, provides cities and counties with the authority to enact ordinances to protect the health, safety, and general welfare, of their citizens; and

WHEREAS, a severe housing crisis exists in the State of California; and

WHEREAS, accessory dwelling units (ADUs) are an effective way to increase housing options without changing neighborhood character; they can provide affordable housing for renters, a source of income for homeowners, and a housing resource for extended families, seniors, college students, and others; they represent a form of infill development that can be relatively affordable to construct and/or rent and offer innovative housing choices within existing neighborhoods; and

WHEREAS, Senate Bill (SB) 1069 and Assembly Bill (AB) 2299 became effective on January 1, 2017, adding sections 65852.1 and 65852.2 to the Government Code and modifying the requirements for second units or ADUs related to unit size, parking, and fees; and

WHEREAS, on June 6, 2017, the El Cerrito City Council adopted Resolution 2017-04 amending various section of the El Cerrito Municipal Code related to ADUs in order to comply with SB 1069 and AB 2299; and

WHEREAS, the 2017 amendments resulted in an increase in ADU applications, as the number of applications went from four in 2015, four in 2016 and one in 2017, to eighteen in 2018 and twenty-two in 2019 (thus far); and

WHEREAS, on October 9, 2019, Governor Newsom signed into law a series of bills intended to further increase the state's supply of affordable housing by facilitating the construction of ADUs (AB 68, AB 587, AB 670, AB 671, AB 881 and SB 13) (the "new ADU laws"); and

WHEREAS, effective January 1, 2020, California Government Code Section 65852.2(a)(4), as amended, provides that any existing local ADU ordinance failing to meet the requirements of the new ADU laws shall be null and void unless and until the local agency adopts a new ordinance complying with the new ADU laws; and

WHEREAS, in the absence of a valid local ordinance, the new ADU laws instead provide a set of default standards governing local agencies' regulation and approval of ADUs; and

WHEREAS, the new ADU laws are expected to trigger an increase in the number of inquiries related to the permitting of ADUs and the number of applications for ADU permits; and

WHEREAS, the City's current ordinance does not fully comply with the new ADU laws and would thus become void on January 1, 2020, and as a result, the City would be required to approve ADUs meeting the state's minimal default standards, which would create a conflicting regulatory environment and substantially reduce the City's ability to maintain the livable neighborhoods goals and policies of the General Plan, the San Pablo Avenue Specific Plan, and existing development standards; and

WHEREAS, to ensure that the City's current ordinance does not become null and void on January 1, 2020, the City Council desires to adopt an urgency interim ordinance to regulate ADU uses in the City in a manner that mitigates potential negative impacts, preserves public health and safety, protects the environment, and implements the City's policies and standards including the General Plan and the San Pablo Avenue Specific Plan; and

WHEREAS, notice of a public hearing was duly published on December 7, 2019 and the City Council held a duly noticed hearing on December 17, 2019; and

WHEREAS, California Government Code Section 65858 authorizes a city to adopt an interim urgency measure by a four-fifths (4/5ths) vote where necessary to protect the public health, safety, and welfare without following the procedures otherwise required prior to adoption of a zoning ordinance; and

WHEREAS, any interim urgency measure adopted pursuant to Government Code Section 65858 shall be of no further force and effect forty-five (45) days from its date of adoption unless extended by the City Council.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF EL CERRITO DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. **Incorporation of Recitals.** The City Council finds that the above Recitals are true and correct and are incorporated herein by reference.

Section 2. **Amendment of the El Cerrito Municipal Code.** Section 19.46.030(A) of the El Cerrito Municipal Code is amended to read in full as follows:

Section 19.46.030 Residential Use Classifications

A. Residential Housing Types

1. ***Single Family Dwelling.*** One dwelling unit, attached or detached, located on a single lot. This use includes manufactured housing but not mobile homes

2. **Accessory Dwelling Unit.** An Attached, Detached, or Interior residential dwelling unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary dwelling, and/or as otherwise defined in California Government Code Section 65852.2, as amended from time to time.
 - (a) **Attached Accessory Dwelling Unit or Attached ADU.** An Accessory Dwelling Unit that is constructed as a physical expansion (i.e. addition) of a proposed or existing primary dwelling and shares a common wall with the primary dwelling .
 - (b) **Detached Accessory Dwelling Unit or Detached ADU.** An Accessory Dwelling Unit that is constructed as a separate structure and fully detached from a proposed or existing primary dwelling.
 - (c) **Interior Accessory Dwelling Unit or Interior ADU.** An Accessory Dwelling Unit located within an existing structure. An existing structure means an existing permitted or otherwise legal dwelling unit, including all fully enclosed areas such as a partial basement, an attached garage, or an accessory structure that can be made safety habitable under building codes.
2. **Junior Accessory Dwelling Unit or JADU.** A unit that is no more than 500 square feet in size and contained entirely within a single family residence, and may include separate sanitation facilities or share sanitation facilities with the existing structure, or as otherwise defined in California Government Code Section 65852.22, as amended from time to time.
3. **Duplex - Two-Family Dwelling.** A single building that contains two primary dwelling units, or a single lot with two freestanding buildings, each of which is designed for occupancy by one household.
4. **Multiple Family Residential.** Three or more dwelling units on a single lot. Types of multiple-family dwellings include: townhouses, garden apartments, and other apartment buildings.

Section 3. Amendment of the El Cerrito Municipal Code. The terms Efficiency Unit, Living Area, and Passageway and their corresponding definitions shall be added to Sections 19.47.010 and 19.47.020 of the El Cerrito Municipal Code as follows:

Section 19.47.010 List of Terms

Efficiency Unit

Living Area

Passageway

Section 19.47.020 Definitions

Efficiency Unit. Shall have the same meaning as defined in Section 17958.1 of the Health and Safety Code, as amended from time to time.

Living Area. Shall have the same meaning as defined in California Government Code Section 65852.2, as amended from time to time.

Passageway. Shall have the same meaning as defined in California Government Code Section 65852.2, as amended from time to time.

Section 4. Amendment of the El Cerrito Municipal Code. Section 19.20.190 of the El Cerrito Municipal Code is amended to read in full as follows:

Section 19.20.190 Accessory Dwelling Units

- A. Purpose. The following regulations are intended to comply with Government Code Sections 65852.150 and 65852.2 (or as otherwise amended), and implement the General Plan by allowing Accessory Dwelling Units subject to the standards and requirements herein.
- B. Applicability. An Accessory Dwelling Unit Permit shall be required for all Accessory Dwelling Units, subject to the following exceptions:
 - 1. ADUs on Single-Family Dwelling Lots. The following Accessory Dwelling Units shall be allowed on a parcel with a proposed or existing single family dwelling, consistent with state law:
 - (a) One Interior ADU or Junior ADU subject to the following standards:

- (i) The Interior ADU or JADU shall have exterior access.
 - (ii) The Interior ADU or JADU shall have side and rear setbacks sufficient for fire safety as determined by the Fire Marshal.
 - (iii) A Junior ADU shall be consistent with Section 19.20.195.
 - (iv) The Interior ADU or JADU shall not be rented for a term less than 30 days.
 - (b) One Detached ADU subject to the following standards:
 - (i) The Detached ADU shall not exceed 800 square feet in size.
 - (ii) The side and rear setbacks of the Detached ADU shall be a minimum of four feet.
 - (iii) The height of the Detached ADU shall not exceed 16 feet.
 - (iv) The Detached ADU shall not be rented for a term less than 30 days.
2. ADUs on Multifamily Dwelling and Duplex Lots. The following Accessory Dwelling Units shall be allowed on a parcel with an existing multifamily dwelling or a duplex, consistent with state law.
- (a) At least one ADU within the portion of an existing multifamily dwelling structure or a duplex not used as livable space subject to the following standards:
 - (i) The number of ADUs allowed on a lot shall not exceed twenty-five percent of the existing multifamily dwellings on a lot.
 - (ii) The space includes, but is not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, if each unit complies with state building standards for dwellings.
 - (iii) The ADU shall not be rented for a term less than 30 days.
 - (b) Two Detached ADUs subject to the following standards:
 - (i) The height of the Detached ADU shall not exceed 16 feet.
 - (ii) The side and rear setbacks of the Detached ADU shall be a minimum of four feet.

- (iii) The Detached ADU(s) shall not be rented for a term less than 30 days.

C. Where Allowed

1. Accessory Dwelling Units may be established on any lot in a RS, RD or RM zoning district, as identified in Chapter 19.06, or any lot in the TOHIMU or TOMIMU district as identified in San Pablo Avenue Specific Plan, incorporated by reference in Section 19.15.020.

D. General Requirements. Accessory Dwelling Units shall conform to the following:

1. Architectural Compatibility. The architectural design, exterior materials and colors, roof pitch and style, type of windows, and trim details of an Accessory Dwelling Unit shall be substantially the same as, and visually harmonious and or compatible with the primary dwelling, as determined by the Zoning Administrator.
2. Windows. All Accessory Dwelling Unit windows facing a side yard or rear yard of an adjacent property and located less than 5 feet from the shared property line shall be clerestory (minimum of 6.5 feet above the finished floor height).
3. Parking. No parking spaces shall be required. When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an Accessory Dwelling Unit or converted to an Accessory Dwelling Unit, replacement off-street parking spaces shall not be required.
4. Building Code Compliance. Notwithstanding any other provision of this section, Accessory Dwelling Units shall be developed in compliance with Title 16, Buildings and Construction, of the El Cerrito Municipal Code.
5. Owner Occupancy. A legal owner of the property shall occupy either the primary dwelling or the Accessory Dwelling Unit, as the owner's primary residence, except that owner occupancy shall not be required for any Accessory Dwelling Unit permitted between January 1, 2020 and December 31, 2024, in accordance with Government Code section 65852.2(a)(6) or as otherwise amended.

6. Sale Prohibited. An Accessory Dwelling Unit may be rented, but shall not be sold or otherwise conveyed separately from the primary dwelling.
7. Deed Restriction. Before obtaining a building permit for an Accessory Dwelling Unit, the owner of the lot or parcel shall file with the County Recorder a declaration or agreement of restrictions that has been approved by the City Attorney as to its form and content, containing a reference to the deed under which the property was acquired by the owner and stating that:
 - (a) The Accessory Dwelling Unit shall not be sold separately.
 - (b) Accessory Dwelling Unit shall be considered legal only as long as either the Primary Dwelling or the Accessory Dwelling Unit is occupied by an owner of record of the property.
 - (i) This section shall only be required in accordance with Government Code section 65852.2(a)(6).
 - (c) An Accessory Dwelling Unit shall be maintained as a separate living unit and shall not be converted as an addition to a primary dwelling unit.
 - (d) The restrictions shall be binding upon any successor in ownership of the property and lack of compliance may result in legal action against the property owner.

E. Development Standards

1. Setbacks.
 - (a) Detached ADUs and Attached ADUs. Side and rear setbacks shall be no less than 4 feet. Detached and Attached ADUs shall comply with the front setback requirements applicable to the primary dwelling unit(s) in the zoning district where the respective ADU is proposed, and with the Lot Location requirements below.
 - (b) Interior ADUs. No setback shall be required for an existing living area or accessory structure or a structure constructed in the same location and to the same dimensions as an existing structure that is converted or partially converted to an Accessory Dwelling Unit.

2. Floor Area.

- (a) Accessory Dwelling Units shall be subject to the following maximum floor area:

Studio or One Bedroom	850 square feet
More than One Bedroom	1000 square feet

- (b) An Accessory Dwelling Unit must have a floor area of at least 150 square feet and shall not preclude an Efficiency Unit.
- (c) Attached ADU. The total floor area of an Attached ADU shall not exceed 50% of the existing primary dwelling unit(s). In the event of a conflict between this subsection and the maximum floor areas in subsection (a), the Attached ADU shall be subject to the lower square footage requirement.

3. Height.

- (a) The maximum height of a Detached ADU shall be 16 feet.
- (b) The maximum height of an Attached ADU shall comply with daylight plane, building height, and any other provisions relevant to building height applicable to the primary dwelling unit in the zoning district where the Accessory Dwelling Unit is proposed.

4. Entries/Access. An Accessory Dwelling Unit shall have exterior access that is independent from that of the primary dwelling unit. No specific path or passageway shall be required in conjunction with the construction of an ADU, but the unit must meet the requirements of Title 16, Buildings and Construction, of the El Cerrito Municipal Code.

- (a) Attached ADUs. The exterior access to an Attached ADU shall be located at least 10 feet behind the exterior access to the primary unit, or shall be located on the side or rear of the dwelling.

5. Lot Location.

- (a) Detached ADUs - Interior Lots. A Detached ADU shall be located behind the primary dwelling(s) in relation to the front lot line. For the

purpose of this regulation, "behind" shall mean that at least one of the following criteria is met:

- (i) All portions of the ADU are located behind all portions of the primary unit(s).
- (ii) The ADU is located partially behind the primary dwelling unit(s), and the front façade of the ADU is at least 20 feet farther from the front lot line than is the front facade of the primary unit(s).
- (iii) The ADU is located entirely in the rear half of the lot.

- (b) Detached ADUs - Corner Lots. On corner lots, the Interior Lot standard of Subsection (a) above shall be met on the front of the property. In addition, a Detached ADU shall not be located closer than the primary dwelling unit(s) to the street-facing side lot line.
- (c) Attached Units. If an Attached ADU is created through an addition to an existing single-family dwelling at the second or higher story of the dwelling, such ADU shall be located in the rear half of the structure.

- 6. Exceptions. Exceptions to the above standards shall require an Administrative Use Permit, according to the procedures of Chapter 19.34, Use Permits. In addition to the findings for approval of Section 19.34.040, the decision-making authority shall only grant approval if it finds the Accessory Dwelling Unit is compatible with, and preserves, the applicable residential character of the primary dwelling and the surrounding neighborhood. Additionally:

- (a) The hearing shall be publicly noticed not less than twenty-one days in the local newspaper and to all property owners located within a three hundred-foot radius.
- (b) Any decision of the Zoning Administrator may be appealed directly to the Planning Commission.

- 7. Limitations. Notwithstanding any local development standards pertaining to unit size, lot size, lot coverage, floor area ratio, and/or open space; an

Accessory Dwelling Unit that is no more than 800 square feet with minimum four-foot side and rear yard setbacks, and a maximum height of 16 feet, shall be allowed provided the unit will be constructed in compliance with all other local development standards.

Section 5. Amendment of the El Cerrito Municipal Code. Section 19.20.195 of the El Cerrito Municipal Code is added to read in full as follows:

Section 19.20.195 Junior Accessory Dwelling Units

- A. Applicability. This section applies to Junior Accessory Dwelling Units. Junior Accessory Dwelling Units in compliance with this section shall be allowed pursuant to Section 19.20.190(B)(1)(a).
- B. Where Allowed. Junior Accessory Dwelling Units may be established on any lot in a RS zoning district, as identified in Chapter 19.06, with a proposed or existing primary single-family dwelling. Only one Junior Accessory Dwelling Unit is permitted per lot.
- C. General Requirements. Junior Accessory Dwelling Units shall conform to the following:
 - 1. Parking. No parking spaces shall be required. When a garage, carport, or covered parking structure is demolished in conjunction with the construction of a Junior Accessory Dwelling Unit or converted to a Junior Accessory Dwelling Unit, replacement off-street parking spaces shall not be required.
 - 2. Short-term Rentals. Junior Accessory Dwelling Units may not be rented for less than 30 days.
 - 3. Building Code Compliance. Notwithstanding any other provision of this section, Junior Accessory Dwelling Units shall be developed in compliance with Title 16, Buildings and Construction, of the El Cerrito Municipal Code.
 - 4. Owner Occupancy. A legal owner of the property shall occupy either the primary dwelling or the Junior Accessory Dwelling Unit, as the owner's primary residence. Prior to the issuance of a building permit for a Junior

Accessory Dwelling Unit, the applicant shall record notice of this requirement as a deed restriction.

(a) Exception. This section shall not apply if the owner is a governmental agency, land trust, or housing organization.

5. Sale Prohibited. A Junior Accessory Dwelling Unit shall not be sold, transferred, or assigned separately from the primary dwelling.

6. Deed Restriction. Before obtaining a building permit for a Junior Accessory Dwelling Unit, the owner of the lot or parcel shall file with the County Recorder a declaration or agreement of restrictions that has been approved by the City Attorney as to its form and content, containing a reference to the deed under which the property was acquired by the owner and stating that:

(a) The Junior Accessory Dwelling Unit shall not be sold separately; and

(b) The Junior Accessory Dwelling Unit shall be considered legal only as long as either the Primary Dwelling or the Accessory Dwelling Unit is occupied by an owner of record of the property; and

(c) The restrictions shall be binding upon any successor in ownership of the property and lack of compliance may result in legal action against any property owner; and

(d) The Junior Accessory Dwelling Unit shall be restricted to the size and attributes in accordance with this section.

D. Development Standards

1. Location. A Junior Accessory Dwelling Unit shall be constructed entirely within the walls of the proposed or existing single-family residence.

2. Entries/Access. A Junior Accessory Dwelling Unit shall have exterior access that is independent from that of the primary dwelling unit. No specific path or passageway is required in conjunction with the construction of a JADU, but the unit must meet the requirements of Title 16, Buildings and Construction, of the El Cerrito Municipal Code.

3. Efficiency Kitchen. A Junior Accessory Dwelling Unit shall include an efficiency kitchen, which shall include all of the following:
 - (a) A cooking facility with appliances; and
 - (b) A food preparation counter and storage cabinets that are of reasonable size in relation to the size of the Junior Accessory Dwelling Unit.

Section 6. Amendment of the El Cerrito Municipal Code. The Required Off-Street Parking Spaces for Accessory Dwelling Unit in Table 19.24-A within Section 19.24.040 of the El Cerrito Municipal Code is amended as follows: No parking spaces are required for ADUs.

Section 7. Urgency Findings. The City Council finds and determines pursuant to California Government Code Section 65858 that adoption of this urgency ordinance is necessary for the immediate preservation of the public health, safety, and welfare, and to prohibit uses in conflict with zoning regulations pertaining to ADUs currently being considered by the City.

Section 8. Compliance with the California Environmental Quality Act. The proposed amendment is exempt from CEQA pursuant to CEQA Guidelines Section 15282(h), which states that the adoption of an ordinance regarding second units in a single-family or multifamily residential zone by a city or county to implement the provisions of Sections 65852.1 and 65852.2 of the Government Code is statutorily exempt from the requirements of CEQA.

Section 9. Severability. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the Ordinance, including the application of such part or provision to other persons or circumstances shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this Ordinance are severable. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be held unconstitutional, invalid, or unenforceable.

Section 10. Publication and Effective Date. Within fifteen (15) days from and after adoption, this Ordinance or a summary thereof shall be published in accordance with California Government Code Section 36933.

Following adoption by at least a four-fifths vote of the City Council, this Ordinance shall take effect and be enforced immediately and shall remain in effect for forty-five (45) days from its date of adoption unless extended by the City Council as provided for in the Government Code.

THE FOREGOING ORDINANCE was introduced, adopted, and ordered published at a regular meeting of the City Council on December 17, 2019 and passed by the following vote:

AYES:	Councilmembers
NOES:	Councilmembers
ABSENT:	Councilmembers
ABSTAIN:	Councilmembers

APPROVED:

Gregory B. Lyman, Mayor

ATTEST:

Holly M. Charléty, City Clerk

ORDINANCE CERTIFICATION

I, Holly M. Charléty, City Clerk of the City of El Cerrito, do hereby certify that this Ordinance is the true and correct original Ordinance No. 2019–XX of the City of El Cerrito; that said Ordinance was duly enacted and adopted by the City Council of the City of El Cerrito at a meeting of the City Council held on the 17 day of December, 2019; and that said Ordinance has been published and/or posted in the manner required by law.

WITNESS my hand and the Official Seal of the City of El Cerrito, California, this XX day of December, 2019.

Holly M. Charléty, City Clerk

Senate Bill No. 13
CHAPTER 653

An act to amend, repeal, and add Section 65852.2 of the Government Code, and to add and repeal Section 17980.12 of the Health and Safety Code, relating to land use.

[Approved by Governor October 09, 2019. Filed with Secretary of State October 09, 2019.]

LEGISLATIVE COUNSEL'S DIGEST

SB 13, Wieckowski. Accessory dwelling units.

(1) The Planning and Zoning Law authorizes a local agency, by ordinance, or, if a local agency has not adopted an ordinance, by ministerial approval, to provide for the creation of accessory dwelling units in single-family and multifamily residential zones in accordance with specified standards and conditions. Existing law requires any ordinance adopted by a local agency to comply with certain criteria, including that it require accessory dwelling units to be either attached to, or located within, the proposed or existing primary dwelling or detached if located within the same lot, and that it does not exceed a specified amount of total area of floor space.

This bill would, instead, authorize the creation of accessory dwelling units in areas zoned to allow single-family or multifamily dwelling residential use. The bill would also revise the requirements for an accessory dwelling unit by providing that the accessory dwelling unit may be attached to, or located within, an attached garage, storage area, or other structure, and that it does not exceed a specified amount of total floor area.

(2) Existing law generally authorizes a local agency to include in the ordinance parking standards for accessory dwelling units, including authorizing a local agency to require the replacement of parking spaces if a garage, carport, or covered parking is demolished to construct an accessory dwelling unit. Existing law also prohibits a local agency from imposing parking standards on an accessory dwelling unit if it is located within one-half mile of public transit.

This bill would, instead, prohibit a local agency from requiring the replacement of parking spaces if a garage, carport, or covered parking is demolished to construct an accessory dwelling unit. The bill would also prohibit a local agency from imposing parking standards on an accessory dwelling unit that is located within one-half mile walking distance of public transit, and would define the term “public transit” for those purposes.

(3) Existing law authorizes a local agency to establish minimum and maximum unit size limitations on accessory dwelling units, provided that the ordinance permits an efficiency unit to be constructed in compliance with local development standards.

This bill would prohibit a local agency from establishing a minimum square footage requirement for either an attached or detached accessory dwelling unit that prohibits an efficiency unit, as defined. The bill would also prohibit a local agency from establishing a maximum square footage requirement for either an attached or detached accessory dwelling unit that is less than 850 square feet, and 1,000 square feet if the accessory dwelling unit contains more than one bedroom. The bill would also instead prohibit a local agency from establishing any other minimum or maximum size for an accessory dwelling unit, size based upon a percentage of the proposed or existing primary dwelling, or limits on lot coverage, floor area ratio, open space, and minimum lot size for either attached or detached dwelling units that prohibit at least an 800

square foot accessory dwelling unit that is at least 16 feet in height and with a 4-foot side and rear yard setbacks.

(4) Existing law prohibits a local agency from utilizing standards to evaluate a proposed accessory dwelling unit on a lot that is zoned for residential use that includes a proposed or existing single-family dwelling other than the criteria described above, except that, among one other exception, a local agency may require an applicant for a permit to be an owner-occupant of either the primary or accessory dwelling unit as a condition of issuing a permit.

This bill, until January 1, 2025, would instead prohibit a local agency from imposing an owner-occupant requirement as described above.

(5) Existing law requires a local agency that has not adopted an ordinance governing accessory dwelling units to approve or disapprove the application ministerially and without discretionary review within 120 days after receiving the application.

The bill would require a local agency, whether or not it has adopted an ordinance, to consider and approve an application, ministerially and without discretionary review, within 60 days after receiving a completed application. The bill would also provide that, if a local agency does not act on the application within that time period, the application shall be deemed approved.

(6) Existing law requires fees for an accessory dwelling unit to be determined in accordance with the Mitigation Fee Act. Existing law also requires the connection fee or capacity charge for an accessory dwelling unit requiring a new or separate utility connection to be based on either the accessory dwelling unit's size or the number of its plumbing fixtures.

This bill would prohibit a local agency, special district, or water corporation from imposing any impact fee, as specified, upon the development of an accessory dwelling unit less than 750 square feet, and would require any impact fees to be charged for an accessory dwelling unit of 750 square feet or more to be proportional to the square footage of the primary dwelling unit. The bill would revise the basis for calculating the connection fee or capacity charge specified above to either the accessory dwelling unit's square feet or the number of its drainage fixture unit values, as specified.

(7) Existing law, for purposes of these provisions, defines "living area" as the interior habitable area of a dwelling unit including basements and attics, but not a garage or accessory structure.

This bill would define "accessory structure" to mean a structure that is accessory and incidental to a dwelling located on the same lot.

(8) Existing law requires a local agency to submit a copy of the adopted ordinance to the Department of Housing and Community Development and authorizes the department to review and comment on the ordinance.

This bill would instead authorize the department to submit written findings to the local agency as to whether the ordinance complies with the statute authorizing the creation of an accessory dwelling unit, and, if the department finds that the local agency's ordinance does not comply with those provisions, would require the department to notify the local agency within a reasonable time. The bill would require the local agency to consider the department's findings and either amend its ordinance to comply with those provisions or adopt it without changes and include specified findings. If the local agency does not amend its ordinance or does not adopt those findings, the bill would require the department to notify the local agency and authorize it to notify the Attorney General that the local agency is in violation of state law, as provided. The bill would authorize the department to adopt guidelines to implement uniform standards or criteria to supplement or clarify the provisions authorizing accessory dwelling units.

(9) Existing law requires the planning agency of each city and county to adopt a general plan that includes a housing element that identifies adequate sites for housing. Existing law authorizes the department to allow a city or county to do so by a variety of methods and also authorizes the department to allow a city or county to identify sites for accessory dwelling units, as specified.

This bill would state that a local agency may count an accessory dwelling unit for purposes of identifying adequate sites for housing in accordance with those provisions.

(10) Existing law, the State Housing Law, a violation of which is a crime, establishes statewide construction and occupancy standards for buildings used for human habitation. Existing law requires, for those purposes, that any building, including any dwelling unit, be deemed to be a substandard building when a health officer determines that any one of specified listed conditions exists to the extent that it endangers the life, limb, health, property, safety, or welfare of the public or its occupants.

This bill would authorize the owner of an accessory dwelling unit built before January 1, 2020, or built on or after January 1, 2020, under specified circumstances, that receives a notice to correct violations or abate nuisances to request that the enforcement of the violation be delayed for 5 years if correcting the violation is not necessary to protect health and safety, as determined by the enforcement agency, subject to specified requirements. The bill would make conforming and other changes relating to the creation of accessory dwelling units.

By increasing the duties of local agencies with respect to land use regulations, and because the bill would expand the scope of a crime under the State Housing Law, the bill would impose a state-mandated local program.

(11) This bill would incorporate additional changes to Section 65852.2 of the Government Code proposed by AB 68 and AB 881 to be operative only if this bill and either or both AB 68 and AB 881 are enacted and this bill is enacted last.

(12) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

DIGEST KEY

Vote: MAJORITY Appropriation: NO Fiscal Committee: YES Local Program: YES

Assembly Bill No. 68
CHAPTER 655

An act to amend Sections 65852.2 and 65852.22 of the Government Code, relating to land use.

[Approved by Governor October 09, 2019. Filed with Secretary of State October 09, 2019.]

LEGISLATIVE COUNSEL'S DIGEST

AB 68, Ting. Land use: accessory dwelling units.

(1) The Planning and Zoning Law authorizes a local agency to provide, by ordinance, for the creation of accessory dwelling units in single-family and multifamily residential zones and requires such an ordinance to impose standards on accessory dwelling units, including, among others, lot coverage. Existing law also requires such an ordinance to require the accessory dwelling units to be either attached to, or located within, the living area of the proposed or existing primary dwelling, or detached from the proposed or existing primary dwelling and located on the same lot as the proposed or existing primary dwelling.

This bill would delete the provision authorizing the imposition of standards on lot coverage and would prohibit an ordinance from imposing requirements on minimum lot size. The bill would revise the requirements for an accessory dwelling unit by providing that the accessory dwelling unit may be attached to, or located within, an attached garage, storage area, or an accessory structure, as defined.

(2) Existing law requires a local agency to ministerially approve or deny a permit application for the creation of an accessory dwelling unit or a junior accessory dwelling unit within 120 days of receiving the application.

This bill would instead require a local agency to ministerially approve or deny a permit application for the creation of an accessory dwelling unit or junior accessory dwelling unit within 60 days from the date the local agency receives a completed application if there is an existing single-family or multifamily dwelling on the lot, and would authorize the permitting agency to delay acting on the permit application if the permit application is submitted with a permit application to create a new single-family or multifamily dwelling on the lot, as specified.

(3) Existing law prohibits the establishment by ordinance of minimum or maximum size for an accessory dwelling unit, or size based upon a percentage of the proposed or existing primary dwelling, if the limitations do not permit at least an efficiency unit to be constructed.

This bill would instead prohibit the imposition of those limitations if they do not permit at least an 800 square foot accessory dwelling unit that is at least 16 feet in height with 4-foot side and rear yard setbacks to be constructed. This bill would additionally prohibit the imposition of limits on lot coverage, floor area ratio, open space, and minimum lot size if they prohibit the construction of an accessory dwelling unit meeting those specifications.

(4) Existing law requires ministerial approval of a building permit to create within a zone for single-family use one accessory dwelling unit per single-family lot, subject to specified conditions and requirements.

This bill would instead require ministerial approval of an application for a building permit within a residential or mixed-use zone to create the following: (1) one accessory dwelling unit and one junior accessory dwelling unit per lot with a proposed or existing single-family dwelling if certain requirements are met; (2) a detached, new construction accessory dwelling unit that meets certain requirements and would

authorize a local agency to impose specified conditions relating to floor area and height on that unit; (3) multiple accessory dwelling units within the portions of an existing multifamily dwelling structure provided those units meet certain requirements; or (4) not more than two accessory dwelling units that are located on a lot that has an existing multifamily dwelling, but are detached from that multifamily dwelling and are subject to certain height and rear yard and side setback requirements.

(5) Existing law requires a local agency to submit its accessory dwelling unit ordinance to the Department of Housing and Community Development within 60 days after adoption and authorizes the department to review and comment on the ordinance.

This bill would instead authorize the department to submit written findings to a local agency as to whether the local ordinance complies with state law, and would require the local agency to consider the department's findings and to amend its ordinance to comply with state law or adopt a resolution with specified findings. The bill would require the department to notify the Attorney General that the local agency is in violation of state law if the local agency does not amend its ordinance or adopt a resolution with specified findings.

(6) This bill would also prohibit a local agency from issuing a certificate of occupancy for an accessory dwelling unit before issuing a certificate of occupancy for the primary residence.

(7) This bill would require a local agency that has not adopted an ordinance for the creation of junior accessory dwelling units to apply the same standards established by this bill for local agencies with ordinances.

(8) This bill would make other conforming changes, including revising definitions and changes clarifying that the above-specified provisions regulating accessory dwelling units and junior accessory dwelling units also apply to the creation of accessory dwelling units and junior accessory dwelling units on proposed structures to be constructed.

(9) This bill would incorporate additional changes to Section 65852.2 of the Government Code proposed by AB 881 and SB 13 to be operative only if this bill and either or both AB 881 and SB 13 are enacted and this bill is enacted last.

(10) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

DIGEST KEY

Vote: MAJORITY Appropriation: NO Fiscal Committee: YES Local Program: YES

Assembly Bill No. 587
CHAPTER 657

An act to add Section 65852.26 to the Government Code, relating to land use.

[Approved by Governor October 09, 2019. Filed with Secretary of State October 09, 2019.]

LEGISLATIVE COUNSEL'S DIGEST

AB 587, Friedman. Accessory dwelling units: sale or separate conveyance.

The Planning and Zoning Law authorizes a local agency to provide, by ordinance, for the creation of accessory dwelling units in single-family and multifamily residential zones and requires a local agency that has not adopted an ordinance to ministerially approve an application for an accessory dwelling unit, and sets forth required ordinance standards, including that the ordinance prohibit the sale or conveyance of the accessory dwelling unit separately from the primary residence.

Existing property tax law establishes a welfare exemption under which property is exempt from taxation if the property is owned and operated by a nonprofit corporation that is organized and operated for the purpose of building and rehabilitating single-family or multifamily residences for sale, as provided, at cost to low-income families.

This bill would authorize a local agency to allow, by ordinance, an accessory dwelling unit that was created pursuant to the process described above to be sold or conveyed separately from the primary residence to a qualified buyer if certain conditions are met. Those conditions include, among others, that the property was built or developed by a qualified nonprofit corporation that is receiving the above-described welfare exemption, a recorded contract exists between the qualified buyer and the qualified nonprofit corporation that imposes an enforceable restriction upon the sale and conveyance of the property that ensures the property will be preserved for affordable housing, and that the property is held pursuant to a recorded tenancy in common agreement that includes specified provisions.

DIGEST KEY

Vote: MAJORITY Appropriation: NO Fiscal Committee: NO Local Program: NO

Assembly Bill No. 670
CHAPTER 178

An act to add Section 4751 to the Civil Code, relating to common interest developments.

[Approved by Governor August 30, 2019. Filed with Secretary of State August 30, 2019.]

LEGISLATIVE COUNSEL'S DIGEST

AB 670, Friedman. Common interest developments: accessory dwelling units.

The Planning and Zoning Law authorizes a local agency to provide for the creation of accessory dwelling units in single-family and multifamily residential zones by ordinance, and sets forth standards the ordinance is required to impose with respect to certain matters, including, among others, maximum unit size, parking, and height standards. Existing law authorizes a local agency to provide by ordinance for the creation of junior accessory dwelling units, as defined, in single-family residential zones and requires the ordinance to include, among other things, standards for the creation of a junior accessory dwelling unit, required deed restrictions, and occupancy requirements.

Existing law, the Davis-Stirling Common Interest Development Act, governs the management and operation of common interest developments. Existing law prohibits the governing document of a common interest development from prohibiting the rental or leasing of any separate interest in the common interest development, unless that governing document was effective prior to the date the owner acquired title to their separate interest.

This bill would make void and unenforceable any covenant, restriction, or condition contained in any deed, contract, security instrument, or other instrument affecting the transfer or sale of any interest in a planned development, and any provision of a governing document, that effectively prohibits or unreasonably restricts the construction or use of an accessory dwelling unit or junior accessory dwelling unit on a lot zoned for single-family residential use that meets the above-described minimum standards established for those units. However, the bill would permit reasonable restrictions that do not unreasonably increase the cost to construct, effectively prohibit the construction of, or extinguish the ability to otherwise construct, an accessory dwelling unit or junior accessory dwelling unit consistent with those aforementioned minimum standards provisions.

DIGEST KEY

Vote: MAJORITY Appropriation: NO Fiscal Committee: NO Local Program: NO

Assembly Bill No. 671
CHAPTER 658

An act to amend Section 65583 of the Government Code, and to add Section 50504.5 to the Health and Safety Code, relating to land use.

[Approved by Governor October 09, 2019. Filed with Secretary of State October 09, 2019.]

LEGISLATIVE COUNSEL'S DIGEST

AB 671, Friedman. Accessory dwelling units: incentives.

The Planning and Zoning Law requires a city or county to adopt a general plan for land use development within its boundaries that includes, among other things, a housing element. Existing law provides for various incentives intended to facilitate and expedite the construction of affordable housing. Existing law authorizes a local agency to provide, by ordinance, for the creation of accessory dwelling units in single-family and multifamily residential zones and sets forth standards the ordinance is required to impose on accessory dwelling units.

This bill would require a local agency to include a plan that incentivizes and promotes the creation of accessory dwelling units that can be offered at affordable rent for very low, low-, or moderate-income households in its housing element. The bill would require the Department of Housing and Community Development to develop a list of existing state grants and financial incentives for operating, administrative, and other expenses in connection with the planning, construction, and operation of accessory dwelling units with affordable rent, as specified. The bill would require the department to post that list on its internet website by December 31, 2020.

By requiring a local agency to prepare an additional plan in the housing element, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

This bill would incorporate additional changes in Section 65583 of the Government Code proposed by AB 139, to be operative if this bill and AB 139 are enacted and become effective on or before January 1, 2020, and this bill is enacted last.

DIGEST KEY

Vote: MAJORITY Appropriation: NO Fiscal Committee: YES Local Program: YES

Assembly Bill No. 881
CHAPTER 659

An act to amend, repeal, and add Section 65852.2 of the Government Code, relating to housing.

[Approved by Governor October 09, 2019. Filed with Secretary of State October 09, 2019.]

LEGISLATIVE COUNSEL'S DIGEST

AB 881, Bloom. Accessory dwelling units.

(1) The Planning and Zoning Law provides for the creation of accessory dwelling units by local ordinance, or, if a local agency has not adopted an ordinance, by ministerial approval, in accordance with specified standards and conditions. Existing law requires the ordinance to designate areas where accessory dwelling units may be permitted and authorizes the designated areas to be based on criteria that includes, but is not limited to, the adequacy of water and sewer services and the impact of accessory dwelling units on traffic flow and public safety.

This bill would instead require a local agency to designate these areas based on the adequacy of water and sewer services and the impact of accessory dwelling units on traffic flow and public safety. The bill would also prohibit a local agency from issuing a certificate of occupancy for an accessory dwelling unit before issuing a certificate of occupancy for the primary residence.

(2) Existing law requires an ordinance providing for the creation of accessory dwelling units, as described above, to impose standards on accessory dwelling units, including, among other things, lot coverage. Existing law also requires such an ordinance to require that the accessory dwelling units be either attached to, or located within, the living area of the proposed or existing primary dwelling, or detached from the proposed or existing primary dwelling and located on the same lot as the proposed or existing primary dwelling.

This bill would delete the provision authorizing the imposition of standards on lot coverage and would prohibit an ordinance from imposing requirements on minimum lot size. The bill would revise the requirements for an accessory dwelling unit by providing that the accessory dwelling unit may be attached to, or located within, an attached garage, storage area, or an accessory structure, as defined.

(3) Existing law prohibits a local agency from requiring a setback for an existing garage that is converted to an accessory dwelling unit or to a portion of an accessory dwelling unit. Existing law requires that an accessory dwelling unit that is constructed above a garage have a setback of no more than 5 feet.

This bill would instead prohibit a setback requirement for an existing living area or accessory structure or a structure constructed in the same location and to the same dimensions as an existing structure that is converted to an accessory dwelling unit or to a portion of an accessory dwelling unit. The bill would also instead require a setback of no more than 4 feet for an accessory dwelling unit that is not converted from an existing structure or a new structure constructed in the same location and to the same dimensions as an existing structure.

(4) Existing law provides that replacement offstreet parking spaces, required by a local agency when a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit or converted to an accessory dwelling unit, may be located in any configuration on the same lot as the accessory dwelling unit, except as provided.

This bill would instead prohibit a local agency from requiring the replacement of offstreet parking spaces when a garage, carport, or covered parking structure is demolished or converted, as described above.

(5) Existing law requires a local agency to ministerially approve or deny a permit application for the creation of an accessory dwelling unit or a junior accessory dwelling unit within 120 days of receiving the application.

This bill would instead require a local agency to ministerially approve or deny a permit application for the creation of an accessory dwelling unit or junior accessory dwelling unit within 60 days from the date the local agency receives a completed application if there is an existing single-family or multifamily dwelling on the lot. The bill would authorize the permitting agency to delay acting on the permit application if the permit application is submitted with a permit application to create a new single-family or multifamily dwelling on the lot, as specified.

(6) Existing law prohibits a local agency from utilizing standards to evaluate a proposed accessory dwelling unit on a lot that is zoned for residential use that includes a proposed or existing single-family dwelling other than the criteria described above, except, among one other exception, a local agency may require an applicant for a permit to be an owner-occupant of either the primary or accessory dwelling unit as a condition of issuing a permit.

This bill, until January 1, 2025, would prohibit a local agency from imposing an owner-occupant requirement, as described above.

(7) Existing law authorizes a local agency to establish minimum and maximum unit size limitations on accessory dwelling units, provided that the ordinance permits an efficiency unit to be constructed in compliance with local development standards.

This bill would prohibit a local agency from establishing a minimum square footage requirement for either an attached or detached accessory dwelling unit that prohibits an efficiency unit, as defined. The bill would also prohibit a local agency from establishing a maximum square footage requirement for either an attached or detached accessory dwelling unit that is less than 850 square feet, and 1,000 square feet if the accessory dwelling unit contains more than one bedroom. The bill would also instead prohibit a local agency from establishing any other minimum or maximum size for an accessory dwelling unit, size based upon a percentage of the proposed or existing primary dwelling, or limits on lot coverage, floor area ratio, open space, and minimum lot size for either attached or detached dwelling units that prohibits at least an 800 square foot accessory dwelling unit that is at least 16 feet in height and with a 4-foot side and rear yard setbacks.

(8) Existing law prohibits a local agency from imposing parking standards for an accessory dwelling unit if, among other conditions, the accessory dwelling unit is located within $\frac{1}{2}$ mile of public transit.

This bill would make that prohibition applicable if the accessory dwelling unit is located within $\frac{1}{2}$ mile walking distance of public transit, and would define public transit for those purposes.

(9) Existing law requires a local agency to ministerially approve an application for a building permit to create within a zone for single-family use one accessory dwelling unit per single family lot of the unit that is contained within the existing space of a single-family residence or accessory structure when specified conditions are met, including that the side and rear setbacks are sufficient for fire safety.

This bill would instead require ministerial approval of an application for a building permit within a residential or mixed-use zone to create the following: (1) one accessory dwelling unit and one junior accessory dwelling unit per lot with a proposed or existing single-family dwelling if certain requirements are met; (2) a detached, new construction accessory dwelling unit that meets certain requirements and would authorize a local agency to impose specified conditions relating to floor area and height on that

unit; (3) multiple accessory dwelling units within the portions of an existing multifamily dwelling structure provided those units meet certain requirements; or (4) not more than 2 accessory dwelling units that are located on a lot that has an existing multifamily dwelling, but are detached from that multifamily dwelling and are subject to certain height and rear yard and side setback requirements.

(10) Existing law prohibits a local agency, special district, or water corporation from considering an accessory dwelling unit to be a new residential use for purposes of calculating fees or capacity charges.

This bill would establish an exception from the above-described prohibition in the case of an accessory dwelling unit that was constructed with a new single-family home.

(11) Existing law requires a local agency to submit a copy of the adopted ordinance to the Department of Housing and Community Development and authorizes the department to review and comment on the ordinance.

This bill would instead authorize the department to submit written findings to the local agency as to whether the ordinance complies with the statute authorizing the creation of an accessory dwelling unit, and, if the department finds that the local agency's ordinance does not comply with those provisions, would require the department to notify the local agency within a reasonable time. The bill would require the local agency to consider the department's findings and either amend its ordinance to comply with those provisions or adopt it without changes and include specified findings. If the local agency does not amend its ordinance or does not adopt those findings, the bill would require the department to notify the local agency and authorize it to notify the Attorney General that the local agency is in violation of state law, as provided. The bill would authorize the department to adopt guidelines to implement uniform standards or criteria to supplement or clarify the provisions authorizing accessory dwelling units.

(12) Existing law defines the term "accessory dwelling unit" for these purposes to mean an attached or a detached residential dwelling unit which provides complete independent living facilities for one or more persons.

This bill would revise the definition to additionally require an accessory dwelling unit be located on a lot with a proposed or existing primary residence in order for the provisions described above to apply.

(13) This bill would incorporate additional changes to Section 65852.2 of the Government Code proposed by SB 13 to be operative only if this bill and SB 13 are enacted and this bill is enacted last.

(14) By increasing the duties of local agencies with respect to land use regulations, this bill would impose a state-mandated local program.

(15) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

(16) This bill would include findings that the changes proposed by this bill address a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities, including charter cities.

DIGEST KEY

Vote: MAJORITY Appropriation: NO Fiscal Committee: YES Local Program: YES

2020 CITY COUNCIL LIAISON ASSIGNMENTS

LEGISLATIVE BODY	Meeting Schedule Meeting Location	2019 Appointee Alternate	2020 Appointee Alternate
Association of Bay Area Governments (ABAG), General Assembly	April (Annually) Various Bay Area Cities	Pardue-Okimoto Abelson	Pardue-Okimoto Abelson
League of California Cities East Bay Division (Delegate) <i>(Includes League Annual Conf.)</i>	4th Thurs at 7:00 pm (most months) Various East Bay Cities	Quinto Pardue-Okimoto	Quinto Pardue-Okimoto
Contra Costa Mayors' Conference (Delegate)	1st Thursday at 6:30 p.m. (Monthly) Various Contra Costa County Cities	Pardue-Okimoto Lyman	Mayor Mayor Pro Tem
West County Mayors' & Supervisors' Association	4th Thursday at 8:30 a.m. (Monthly) Hercules Jan-June, Richmond July - Dec	Pardue-Okimoto Lyman	Mayor Mayor Pro Tem
Marin Clean Energy Board (Delegate)	3rd Thursday at 7:00 p.m. (Quarterly) San Rafael	Lyman Fadelli	Lyman Fadelli
West Contra Costa Transportation Advisory Committee (Delegate) <i>(Makes appointment to CCTA)</i>	4th Friday at 8:00 a.m. (Monthly) Council Chambers	Abelson Fadelli	Fadelli* Abelson*
Contra Costa Transportation Auth. Board Member <i>(appointment made by WCCTAC or Mayors' Conference)</i>	3rd Wednesday at 6:00 p.m. (Monthly) Walnut Creek	Abelson	Appointment Expires 1/31/20
East Bay Green Corridor Principal <i>(ideally 2 successive terms)</i>	As Needed Berkeley	Quinto (2nd Term)	Abelson
Save Alta Bates Subcommittee	As Needed Berkeley	Pardue-Okimoto	Pardue-Okimoto
Tom Bates Regional Sports Field JPA	2nd Wednesday p.m. (Quarterly) Albany	Fadelli Lyman	Lyman Pardue-Okimoto
West County Integrated Waste Management Authority (Delegate) <i>RecycleMore</i>	2nd Thursday at 7:00 p.m. (Monthly) San Pablo	Lyman Quinto	Quinto* Lyman*
Arts & Culture Commission	4th Monday at 7:00 p.m. (Monthly) Council Chambers	Abelson	Fadelli
Committee on Aging	3rd Wednesday at 3:00 p.m. (Monthly) Council Chambers	Abelson	Abelson
Crime Prevention Committee	2nd Wednesday at 7:00 p.m. (Monthly) Hillside Conference Room	Lyman	Quinto
Design Review Board	1st Wednesday at 7:30 p.m. (Monthly) Council Chambers	Fadelli	Quinto
Economic Development Committee	3rd Monday at 7:00 p.m. (Monthly) Hillside Conference Room	Fadelli	Quinto
Environmental Quality Committee	2nd Tuesday at 7:00 p.m. (Monthly) Council Chambers	Fadelli	Abelson
Financial Advisory Board	2nd Tuesday at 7:00 p.m. (Monthly) Hillside Conference Room	Lyman	Pardue-Okimoto
Human Relations Commission	1st Wednesday at 7:00 p.m. (Monthly) Hillside Conference Room	Quinto	Pardue-Okimoto
Park and Recreation Commission	4th Wednesday at 7:00 p.m. (Monthly) Council Chambers	Pardue-Okimoto	Lyman
Planning Commission	3rd Wednesday at 7:30 p.m. (Monthly) Council Chambers	Quinto	Fadelli
Urban Forest Committee	2nd Monday at 7:00 p.m. (Monthly) Hillside Conference Room	Quinto	Abelson
Municipal Services Corporation Chair/Vice Chair <i>(Per bylaws)</i>	As needed Council Chambers	Pardue-Okimoto/Lyman	Mayor Mayor Pro Tem
Pension Board Chair/ <i>(Meets same as Council)</i>	As needed Council Chambers	Pardue-Okimoto Lyman	Mayor Mayor Pro Tem
Successor Agency to the Former Redevelopment Agency Chair/Vice Chair <i>(Per bylaws)</i>	As needed Council Chambers	Pardue-Okimoto/Lyman	Mayor Mayor Pro Tem

* Appointment effective 2/1/2020



SUPPLEMENTAL AGENDA MATERIALS

CITY COUNCIL MEETING December 17, 2019

ORAL COMMUNICATIONS FROM THE PUBLIC

1. Public Comments

AGENDA ITEM 4(A) – Approval of Minutes

1. Revised Draft Minutes for November 19, 2019
2. Revised Draft Minutes for December 3, 2019

AGENDA ITEM 4(C) – Transportation Impact Fee Annual Report

1. List of Properties Impact Fee was Collected from

AGENDA ITEM 4(D) – Storm Drain Improvement Project - Award

1. Additional Financial Information

AGENDA ITEM 6(A) - Proposed East Bay Sanitary Garbage & Green Waste Collection and Post-Collection Rates and Integrated Waste Management Fees

1. Presentation

AGENDA ITEM 6(B) - Urgency Ordinance to Amend Accessory Dwelling Unit Regulations

1. Presentation

DEC 17 2019

CITY OF EL CERRITO
CITY CLERK

12/17/2019

Mayor and City Council Members

I am on the Urban Forest Committee, and we just had 2 of our most senior and knowledgeable members, Steve Price and Michael Srago, term out of our committee.

Both Steve and Mikel are experts in trees and urban forest issues.

Losing these two members is a big blow to some of the recent projects we are trying to undertake, one of which is to try to form a Tree Corps to help plant and maintain our city street trees. Steve was a vital member of the ad hoc subcommittee that is working on that project. Without him, the project may fail.

I was told that term limits were set up for committees in 2013 by the City Council. And that is now part of the city's municipal code. I understood that there were term limits on Commissions and Boards, but didn't think it applied to Committees, which apparently it does.

While I can see that in some cases, there might be a reason to have term limits, such as the case where the committee has full membership.

However, in the case of the Urban Forest Committee, we now only have 5 members.

So we do not have a full membership, and while we still have several members who have expertise in forestry, losing these two experts will hurt our ability to fulfill our mandate.

I have a few requests.

- The short term request is that the City Council (in a future meeting, possibly in January) reinstate Steve Price and Michael Srago as members of the Urban Forest Committee, so that we can have a functioning committee
- The longer term request is for the City Council to review the term limits for committees and make a provision for committees that require subject matter expertise, and do not have a full membership. It seems that would require changing the municipal code, so I understand it may take a bit longer, but I think it is something that should be considered.

This second request could potentially apply to Commissions and Boards also, if there is a lack of essential subject matter experts in the membership. One example is the loss of Maggie Leighly on the Design Review Board. She was the only landscape architect on the DRB and provided a wealth of landscape design and plant selection feedback to developers. The expertise of a landscape architect has not been replaced on the DRB since she left.

Thank you for consideration of these requests.



Robin Mitchell

EL CERRITO CITY COUNCIL DRAFT MINUTES **(REVISED 12/17/2019)**

SPECIAL CITY COUNCIL MEETING (not televised)
NOVEMBER 19, 2019 – 6:00 p.m.
Hillside Conference Room

REGULAR CITY COUNCIL MEETING
NOVEMBER 19, 2019 – 7:00 p.m.
City Council Chambers

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

Members:
Mayor Rochelle Pardue-Okimoto

Mayor Pro Tem Greg Lyman	Councilmember Janet Abelson
Councilmember Paul Fadelli	Councilmember Gabriel Quinto

6:00 P.M. ROLL CALL - CONVENE SPECIAL CITY COUNCIL MEETING
Mayor Pardue-Okimoto called the meeting to order at 06:05 PM.
Present: Mayor Pardue-Okimoto, Mayor Pro Tem Lyman, Councilmember Abelson, Councilmember Fadelli, Councilmember Quinto **Absent:** None

- 1. ORAL COMMUNICATIONS FROM THE PUBLIC**
Cordell Hindler - spoke on need for more youth engagement on boards and labor negotiations hearing both sides and coming to a conclusion.
- 2. COMMISSION INTERVIEWS, STATUS AND APPOINTMENTS**

Action Proposed: Discuss and consider for appointment applicants previously interviewed for the Human Relations Commission.

Contact: Holly M. Charl  ty, City Clerk, City Management

Moved/Seconded: Mayor Pro Tem Lyman/Councilmember Abelson

Action: Approved the following appointments: 1) Buddy Akaci   to Human Relations Commission for a partial term of 11/19/2019-3/1/2021; and 2) Walter Williams III to Human Relations Commission for a partial term of 11/19/2019-3/1/2022. **Ayes:** Mayor Pardue-Okimoto, Mayor Pro Tem Lyman, Councilmember Abelson, Councilmember Fadelli, **Noes:** Councilmember Quinto

Moved/Seconded: Mayor Pro Tem Lyman/Councilmember Abelson

Action: Approved motion for reconsideration. **Ayes:** Mayor Pardue-Okimoto, Mayor Pro Tem Lyman, Councilmember Abelson, Councilmember Fadelli, Councilmember Quinto **Noes:** None

Moved/Seconded: Mayor Pro Tem Lyman/Councilmember Abelson
Action: Approved the appointment of Buddy Akacić to the Human Relations Commission for a partial term of 11/19/2019-3/1/2021, with the direction to recuse himself from voting on any tenant protection issues brought to the Commission due to his appointment on the Tenant Protections Taskforce. **Ayes:** Mayor Pardue-Okimoto, Mayor Pro Tem Lyman, Councilmember Abelson, Councilmember Fadelli, **Noes:** Councilmember Quinto

Moved/Seconded: Mayor Pro Tem Lyman/Councilmember Quinto
Action: Approved the appointment of Walter Williams III to a partial term of 11/19/2019-3/1/2022. **Ayes:** Mayor Pardue-Okimoto, Mayor Pro Tem Lyman, Councilmember Abelson, Councilmember Fadelli, Councilmember Quinto **Noes:** None

3. CLOSED SESSION CONFERENCE WITH LEGAL COUNSEL- ANTICIPATED LITIGATION

Initiation of Litigation Pursuant to Government Code Section 54956.9(d)(4): One Potential Case

No reportable action.

4. CLOSED SESSION CONFERENCE WITH LABOR NEGOTIATORS

Pursuant to Government Code Section 54957.6

Agency Designated Representatives: Karen Pinkos, City Manager; Glenn Berkheimer, Labor Negotiator; Sky Woodruff, City Attorney; Alexandra Orologas, Assistant City Manager; and Kristen Cunningham, Human Resources Manager.

Employee Organizations: El Cerrito Police Employees Association and Public Safety Management Association - Battalion Chief Unit

Contact: Sky Woodruff, City Attorney, City Management

No reportable action.

5. ADJOURN SPECIAL CITY COUNCIL MEETING

The special meeting adjourned at 07:03 PM

7:00 P.M. ROLL CALL – CONVENE REGULAR CITY COUNCIL MEETING

Mayor Pardue-Okimoto called the meeting to order at 07:11 PM.

Present: Mayor Pardue-Okimoto, Mayor Pro Tem Lyman, Councilmember Abelson, Councilmember Fadelli, Councilmember Quinto **Absent:** None

1. PLEDGE OF ALLEGIANCE TO THE FLAG OR OBSERVATION OF MOMENT OF SILENCE - COUNCILMEMBER FADELLI

2. COUNCIL/STAFF COMMUNICATIONS

City Manager Pinkos - spoke regarding the launch of state auditor website on cities financial health and the work the city has been and will be doing in response.

Mayor Pardue-Okimoto - expressed appreciation for the feedback from the public regarding the auditor's website and encouraged the public to contact her directly; reported the appointment of Buddy Akacić and Walter Williams III to the Human Relations Commission.

Councilmember Quinto - reported attendance at a meeting with state lobbyist to discuss SB54 and AB1080 related to recycling.

Councilmember Abelson - reported attendance at Self Help Counties conference as the Contra Costa Transportation Authority representative.

Councilmember Fadelli - thanked voters for the passage of Measure H; reported attendance at a meeting with state lobbyist to discuss SB54 and AB1080 related to recycling, 85th anniversary celebration for the East Bay Regional Parks District, emergency room conference in Richmond, Environmental Quality Committee meeting, 67th birthday celebration for St. Peters Church; announced annual pancake breakfast on the 1st Saturday of December at ~~St. Peters Church~~the community center.

Mayor Pro Tem Lyman- announced current and upcoming vacancies for boards, commissions, and committees with a deadline to apply of December 18, 2019; reported attendance at ribbon cutting for Bright Now Dental, St. Peters Church celebration, and Financial Advisory Board meeting.

Mayor Pardue-Okimoto - reported discussions on addressing reserves for the city; reported hosting Save Alta Bates community forum in El Cerrito; announced city holiday lighting event at the Plaza on Thursday in front of Elevation 66.

3. ORAL COMMUNICATIONS FROM THE PUBLIC

Cordell Hindler - invitation to Its a Wonderful Life event, spoke regarding the price of commercial rent in the city.

Dodi Marosi - spoke in hopes to see replacement and cost neutral parking at El Cerrito Plaza, and alternate modes of transportation.

Nick Zamorano - thanked the city and council for working with Make El Cerrito Fire Safe, and reviewed city actions taken in 2019.

Marlene George - commented on fire prevention work still needed, cited other jurisdictions and their actions related to wildfire prevention, and intention to advocate prevention priorities.

Gary Prost - spoke regarding lack of cell phone communications during power outages and requested providers be required to have additional towers available and backup for power outages.

Buddy Akacić - thanked the council for appointment to Human Relations Commission, spoke regarding empty newspaper stands, suggested murals on the boxes, and desire to bring comedy and soul music to the city.

Elizabeth Bashor - spoke regarding a new library and fiscal challenges, shared concern about potential site at El Cerrito Plaza Bart.

Susan Duncan - spoke about recent removal of eucalyptus trees, requested city properties be brought up to vegetation standards.

Joshua Arijar - with Contra Costa Central Labor Council spoke in support of the

proclamation supporting protections against deportation.

Claudia Lainez - recipient of Temporary Protected Status (TPS) spoke in support of the proclamation supporting protections against deportation

Sherry Drobner - spoke in support of the proclamation supporting protections against deportation; thanked the Mayor for the Save Alta Bates forum.

Blanca Galeas - recipient of TPS spoke in support of the proclamation supporting protections against deportation.

Carlos Porras - member of the San Francisco Labor Council and director of We Rise San Francisco Labor Center for Immigrant Justice spoke in support of the proclamation supporting protections against deportation.

Rosa Carranza - recipient of TPS spoke in support of the proclamation supporting protections against deportation.

Gabriel Castillo - spoke in support of the proclamation supporting protections against deportation.

Manuel DiPaz - with East Bay Sanctuary Covenant spoke in support of the proclamation supporting protections against deportation.

Blanca Rodriguez - recipient of TPS spoke in support of the proclamation supporting protections against deportation.

Pablo Rodriguez - former TPS recipient, spoke in support of the proclamation supporting protections against deportation.

Crista Ramos - part of TPS Committee for Permanent Residency Bay area and daughter of a TPS recipient spoke in support of the proclamation supporting protections against deportation.

Christina Morales - recipient of TPS spoke in support of the proclamation supporting protections against deportation.

4. **ADOPTION OF THE CONSENT CALENDAR**

Moved/Seconded: Councilmember Abelson/Councilmember Quinto

Action: Approved the consent calendar as indicated below. **Ayes:** Mayor Pardue-Okimoto, Mayor Pro Tem Lyman, Councilmember Abelson, Councilmember Fadelli, Councilmember Quinto **Noes:** None

A. Approval of Minutes

Action Proposed: Pass a motion to approve the minutes from the meeting of October 1 and October 15, 2019.

Contact: Holly M. Charl  ty, City Clerk, City Management

Action: Approved minutes

B. Proclamation in Support of Protections from Deportation

Action Proposed: At the request of Mayor Pardue-Okimoto, pass a motion to approve a proclamation in Support of Protections from Deportation and a Path to Permanent Residency for Beneficiaries of DACA, TPS and DED

Contact: Holly M. Charléty, City Clerk, City Management

Action: Approved proclamation and authorized the Mayor to send correspondence in support of the item.

C. Proclamation upon Retirement of Whitney Dotson

Action Proposed: Pass a motion to approve a proclamation in recognition upon the retirement of Whitney Dotson of the East Bay Regional Park District

Contact: Karen Pinkos, City Manager, City Management

Action: Approved proclamation

D. Proclamation designating "United Against Hate Week"

Action Proposed: Pass a motion to approve a proclamation designating November 17 - 23, 2019 as "United Against Hate Week". **Contact:** Kristen Cunningham, Human Resources Manager, City Management

Action: Approved proclamation

E. Appointment of Members to the Economic Development Committee

Action Proposed: Approve an Economic Development Committee recommendation to appoint Minh-Hoa Ta and Jonathan Zazove to the Economic Development Committee, effective November 19, 2019.

Contact: Jennifer Peat, Management Assistant/EDC Staff Liaison Melanie Mintz, Community Development Director, Community Development Department

Action: Approved appointments

5. PRESENTATIONS

6. PUBLIC HEARINGS

A. Adoption of Building and Fire Code Updates

Notice Published 11/09/2019

Action Proposed: Conduct a public hearing, and upon conclusion 1) Adopt a Resolution which makes findings justifying changes or modifications due to local climatic, geologic and topographic conditions in the 2019 California Building Standards Code, which includes the California Green Building Standards Code, Building Code, Fire Code, Residential Code, Existing Building Code, and related Construction Codes; and 2) Introduce by title, waive the first reading of an Ordinance and set the second hearing for

December 3, 2019 which adopts the 2019 California Green Code, Administrative, Building, Fire, Plumbing, Mechanical, Electrical, Energy, Residential, Existing Building Code, 2018 International Property Maintenance Code and related Construction Codes as applicable to all construction within the City of El Cerrito, with local modifications as outlined in the Ordinance.

Contact: Mark Soltes, Community Development David Gibson, Fire Department

Presentation and Discussion: Presenters and staff responded to comments and questions raised by members of the council regarding process for future changes, determination for amendments, fire chief as a peace officer, noticing, cost of changes, Christmas tree lots, timing for changes on permit applications, and electrification.

Public Hearing: Mayor Pardue-Okimoto opened the public hearing.

Public Comments:

Barbara Chan - shared importance of integrating a climate emergency declaration in updates.

Howdy Goudey - spoke about strong building codes in the state and need for stronger requirements in regard to climate emergency.

Moved/Seconded: Councilmember Quinto/Councilmember Abelson

Action: Approved the close of the public hearing. **Ayes:** Mayor Pardue-Okimoto, Mayor Pro Tem Lyman, Councilmember Abelson, Councilmember Fadelli, Councilmember Quinto **Noes:** None

Moved/Seconded: Mayor Pro Tem Lyman/Councilmember Abelson

Action: Approved Resolution 2019-65. **Ayes:** Mayor Pardue-Okimoto, Mayor Pro Tem Lyman, Councilmember Abelson, Councilmember Fadelli, Councilmember Quinto **Noes:** None

Moved/Seconded: Mayor Pro Tem Lyman/Councilmember Quinto

Action: Introduced by title and waived the first reading of Ordinance 2019-09. **Ayes:** Mayor Pardue-Okimoto, Mayor Pro Tem Lyman, Councilmember Abelson, Councilmember Fadelli, Councilmember Quinto **Noes:** None

7. POLICY MATTERS

A. El Cerrito Plaza BART Transit Oriented Development (TOD)

Action Proposed: 1) Receive a presentation regarding BART's Transit Oriented Development process for El Cerrito Plaza BART, provide feedback on the draft TOD goals and objectives; and 2) Adopt a resolution authorizing evaluation of a potential library to be included for study in the Request for Qualifications, and support BART's inclusion of Sustainable Access Studies and Strategies in the Request for Qualifications.

Contact: Melanie Mintz, Community Development Director, Community Development Department

Presentation and Discussion: Presenters and staff responded to comments and questions raised by members of the council regarding zoning of lot A which is not in the specific plan, alternate transit options not being disrupted, increased costs for development on BART land, addressing increase in ridership, clarification of AB 2923 and SB 35, parking plans, demand response service options, library funding, impact on economics, communication with the Regency and the Plaza, and impacts of cost and management strategy for use of street parking.

Moved/Seconded: Mayor Pro Tem Lyman/Councilmember Quinto

Action: Extended the meeting until 11:00 PM **Ayes:** Mayor Pardue-Okimoto, Mayor Pro Tem Lyman, Councilmember Abelson, Councilmember Fadelli, Councilmember Quinto **Noes:** None

Public Comments:

Mary-Louise Hansen - shared concerns about removal of parking making the station inaccessible for residents and need for equitable access.

Gary Pokorny - spoke in support of consideration for a library as part of the project.

Al Miller - thanked the council for early engagement with BART and how it will help get others involved in the conversation about a new library.

Jeffrey Levin - spoke in support of transit-oriented development and desire to see maximization of affordable housing.

Gail Feldman - expressed concern about access to parking, limited bus access directly to the station from Kensington, late return to vehicles, and encouraged parking on BART property not city streets.

Steve Price - spoke regarding the Ohlone Greenway, bike lockers at the station, and the increase in the use for accessing the station.

Moved/Seconded: Councilmember Quinto/Mayor Pro Tem Lyman

Action: Extended the meeting until 11:30 PM **Ayes:** Mayor Pardue-Okimoto, Mayor Pro Tem Lyman, Councilmember Abelson, Councilmember Fadelli, Councilmember Quinto **Noes:** None

Moved/Seconded: Mayor Pro Tem Lyman/Councilmember Quinto

Action: Approved Resolution 2019-66 with the following changes: Change "Authorizing" to "Requesting" in the title; insert "2014" to the second whereas clause, before San Pablo Avenue Specific Plan; remove the first "on" in the ninth whereas clause; revise the thirteenth whereas clause to read "WHEREAS, the RFQ will require that the developer fund development of Sustainable Access Studies and Strategies that maintain station access for at least the number of customers affected by the reduced number of commuter parking spaces, which shall include special consideration for customers that live further than one-half mile from the station."; and change "authorizes" to "requests" in the first resolved clause. **Ayes:** Mayor Pardue-Okimoto, Mayor Pro Tem Lyman, Councilmember Fadelli,

Councilmember Quinto **Noes:** Councilmember Abelson

B. Proposal for Police Services in the Community of Kensington

Action Proposed: Adopt a resolution authorizing the City Manager or designee to present a proposal in response to a Request for Proposals from the Kensington Police Protection and Community Services District to provide police services in the Community of Kensington.

Contact: Paul Keith, Chief of Police, Police Department

Presentation and Discussion: Presenters and staff responded to comments and questions raised by members of the council regarding reasons Kensington is looking for contract services, existing ordinance that requires a public vote on any contract, number of proposed positions versus number requested in the Request for Proposals (RFP), effect on city financials, public safety building maintenance and responsibility, salaries and union agreements, effects on personnel if contract approved and subsequently cancelled, and length of contract.

Moved/Seconded: Councilmember Abelson/Councilmember Quinto

Action: Extended the meeting until 12:00 AM **Ayes:** Mayor Pardue-Okimoto, Mayor Pro Tem Lyman, Councilmember Abelson, Councilmember Fadelli, Councilmember Quinto **Noes:** None

Public Comments:

Dakota McKenzie - stated eight times Kensington residents have made a move for local governance and independence, spoke regarding running for office and limited conversations with residents in favor of contracting out.

Anthony Knight - spoke regarding perception that the Kensington Board has harassed and undermined the police department, and in support of not contracting out.

Paul Dorrah - spoke regarding controversy in the community on the topic of contracting out and that contracting out does not save Kensington money.

Lynn Walter - spoke on special taxes approved for the purpose of supporting an independent police department.

Kevin Pedian - spoke against approval of a full-service contract and support of the hybrid model option and commented on the condition of the public safety building.

Linda Lipscomb - cited government code language regarding providing police services, and authorization specifically cited for the Kensington district to have authority to provide services.

Moved/Seconded: Mayor Pro Tem Lyman/Councilmember Quinto

Action: Authorized the Police Chief to write a letter in response to the RFP stating the general information provided at the meeting, and that Kensington would need to resolve their ordinance requiring a public vote on a contract, prior to the city submitting a full response. **Ayes:** Mayor Pardue-Okimoto, Mayor Pro Tem Lyman, Councilmember Abelson, Councilmember Fadelli,

Councilmember Quinto **Noes:** None

8. CITY COUNCIL LOCAL & REGIONAL LIAISON ASSIGNMENTS

Mayor Pro Tem Lyman - reported that RecycleMore will be setting new rates and has hired Peter Holtzclaw as the new executive director.

9. ADJOURN REGULAR CITY COUNCIL MEETING

The regular meeting adjourned at 11:58 PM

Gregory B. Lyman, Mayor

This is to certify that the foregoing is a true and correct copy of the minutes of the City Council meeting(s) of November 19, 2019 as approved by the El Cerrito City Council.

Holly M. Charl  ty, MMC, City Clerk

EL CERRITO CITY COUNCIL DRAFT MINUTES

(Revised 12/17/2019)

REGULAR CITY COUNCIL MEETING DECEMBER 3, 2019 – 7:00 p.m. City Council Chambers

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

Members:
Mayor Rochelle Pardue-Okimoto

Mayor Pro Tem Greg Lyman
Councilmember Paul Fadelli

Councilmember Janet Abelson
Councilmember Gabriel Quinto

7:00 P.M. ROLL CALL – CONVENE REGULAR CITY COUNCIL MEETING
Mayor Pardue-Okimoto called the meeting to order at 07:03 PM.
Present: Mayor Pardue-Okimoto, Mayor Pro Tem Lyman,
Councilmember Abelson, Councilmember Fadelli, Councilmember
Quinto **Absent:** None

**1. PLEDGE OF ALLEGIANCE TO THE FLAG OR OBSERVATION OF
MOMENT OF SILENCE - Councilmember Lyman**

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 and staff.*
Councilmember Quinto - reported attendance at retreat with east bay division.

Councilmember Fadelli - reported attendance at Wildcat Canyon Fire
Prevention group.

Mayor Pardue-Okimoto - reported attendance at tree lighting ceremony.

3. ORAL COMMUNICATIONS FROM THE PUBLIC
Rose Stramm - shared comments from Ira Shareno and Judith Frank regarding
the city's budget and lack of reserves, requested access to un-audited
financials and additional financial details provided on the city's website.

Denny Christner - spoke regarding the state auditor report, lack of reserves,
and concerns regarding the financial status of the city.

Kay Starkweather - spoke regarding fire safety, thanked city for work
completed, spoke regarding fires that occurred in October and blocked access,
requested guidance on evacuation routes prior to the next fire season and
weekly nixle reports during the fire season on activity.

4. **ADOPTION OF THE CONSENT CALENDAR**

Moved/Seconded: Mayor Greg Lyman/Councilmember Gabe Quinto **Action:** Approved items A, D, and E on the consent calendar as indicated below.
Ayes: Mayor Pardue-Okimoto, Mayor Pro Tem Lyman, Councilmember Abelson, Councilmember Fadelli, Councilmember Quinto **Noes:** None

A. **Proclamation in recognition of 20 years of service to the West Contra Costa Transportation Advisory Committee (WCCTAC)**

Action Proposed: Pass a motion to approve a proclamation in recognition of Councilmember Abelson's 20 years of dedicated service to the West Contra Costa Transportation Advisory Committee.

Contact: Holly M. Charl  ty, City Clerk, City Management

Action: Approved proclamation

B. **Proclamation upon Retirement of Detective Jeff Albrandt**

Action Proposed: Pass motion to approve a proclamation in recognition upon the retirement of Detective Jeff Albrandt of the El Cerrito Police Department.

Contact: Paul Keith, Chief of Police, Police Department

Moved/Seconded: Mayor Pro Tem Lyman/Councilmember Fadelli

Action: Pulled from consent by Mayor Pro Tem Lyman. Approved proclamation. **Ayes:** Mayor Pardue-Okimoto, Mayor Lyman, Councilmember Abelson, Councilmember Fadelli, Councilmember Quinto **Noes:** None

C. **Proclamation for 70th anniversary of Sundar Shadi Holiday Display**

Action Proposed: At the request of Mayor Pro Tem Lyman, pass a motion to approve a proclamation in recognition of the 70th anniversary of the Sundar Shadi holiday display.

Contact: Holly M. Charl  ty, City Clerk, City Management

Public Comments:

Jane Bartke - thanked volunteers and steering committee who help with continuing to put up the display.

Michelle Fadelli - shared details of Mr. Shadi's life and history of display, as well as upcoming events.

Rich Bartke - shared that Mr. Shadi was also a member of Park and Recreation Commission, President of the Historical Society, and donated funds to help build city hall.

Moved/Seconded: Mayor Pro Tem Lyman/Councilmember Quinto

Action: Pulled from consent by Mayor Pro Tem Lyman. Approved proclamation. **Ayes:** Mayor Pardue-Okimoto, Mayor Pro Tem Lyman, Councilmember Abelson, Councilmember Fadelli, Councilmember

Quinto **Noes:** None

D. Declare and Certify the Results of the November 5, 2019 Special Election and adopt a special tax on Real Property Located in El Cerrito

Action Proposed: 1) Adopt a resolution confirming the results of the November 5, 2019 Special Election and declaring the passage of Measure H; and 2) Adopt Ordinance No. 2019-06, authorizing a Special Tax on Real Property Located in El Cerrito to Fund Parks and Recreation Facilities Maintenance and Enhancement and Amending and Restating Chapter 4.56 of the El Cerrito Municipal Code as Approved by the Voters at the November 5, 2019 Special Election.

Contact: Holly M. Charléty, City Clerk, City Management

Action: Adopted Resolution 2019-67 and Ordinance 2019-06

E. Co-Sponsorship Application - Friends of Ravenscliff

Action Proposed: Adopt a resolution recognizing the Friends of Ravenscliff as a City Co-Sponsored organization and authorizing the City Manager or designee to grant the use of City Facilities utilizing the co-sponsored rates in the Master Fee Schedule.

Contact: Taylor Melton, Recreation Supervisor, Recreation Department

Action: Adopted Resolution 2019-68

5. PRESENTATIONS

6. PUBLIC HEARINGS

A. 2nd Read and Adoption of Building and Fire Code Ordinance -
Notice Published 11/23/2019, 1st Public Hearing and Reading Held 11/19/2019

Action Proposed: Conduct a public hearing, and upon conclusion waive the second reading and adopt Ordinance 2019-09 which adopts the 2019 California Green Code, Administrative, Building, Fire, Plumbing, Mechanical, Electrical, Energy, Residential, Existing Building Code and related Construction Codes as applicable to all construction within the City of El Cerrito, with local modifications as outlined in the ordinance.

Contact: Mark Soltes, Building Official, Community Development
David Gibson, Fire Marshal, Fire Department

Public Hearing: Mayor Pardue-Okimoto opened the public hearing.

Public Comments: None

Moved/Seconded: Mayor Pro Tem Lyman/Councilmember Quinto

Action: Closed the public hearing. **Ayes:** Mayor Pardue-Okimoto, Mayor Pro Tem Lyman, Councilmember Abelson, Councilmember Fadelli, Councilmember Quinto **Noes:** None

Moved/Seconded: Mayor Pro Tem Lyman/Councilmember Quinto
Action: Waived the second reading and adopted Ordinance 2019-09.
Ayes: Mayor Pardue-Okimoto, Mayor Pro Tem Lyman, Councilmember Abelson, Councilmember Fadelli, Councilmember Quinto **Noes:** None

7. POLICY MATTERS

A. CITY COUNCIL REORGANIZATION

The City Council will elect a Mayor and Mayor Pro-Tempore to serve a term of one year.

Contact: Holly M. Charléty, City Clerk, City Management
Mayor Pardue-Okimoto shared reflections of her year, her goals from when she took office, and accomplishments from 2019.

The City Clerk declared the offices of Mayor and Mayor Pro Tempore open. Councilmember Fadelli nominated Councilmember Lyman for the office of Mayor.

Moved/Seconded: Councilmember Lyman/Councilmember Quinto
Action: Selected Councilmember Lyman as Mayor. **Ayes:** Councilmember Pardue-Okimoto, Councilmember Lyman, Councilmember Abelson, Councilmember Fadelli, Councilmember Quinto **Noes:** None

Mayor Lyman was sworn and shared comments on his plans and goals for the upcoming year.

Councilmember Quinto nominated Councilmember Fadelli for the office of Mayor Pro Tempore.

Moved/Seconded: Councilmember Pardue-Okimoto/Councilmember Abelson **Action:** Selected Councilmember Fadelli as Mayor Pro Tempore. **Ayes:** Mayor Lyman, Councilmember Abelson, Councilmember Fadelli, Councilmember Pardue-Okimoto, Councilmember Quinto **Noes:** None

Mayor Pro Tempore Fadelli shared comments on his plans and goals for the upcoming year.

8. CITY COUNCIL LOCAL & REGIONAL LIAISON ASSIGNMENTS

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

Councilmember Pardue-Okimoto - reported that the Park and Recreation Commission is planning to bring forward names for trails in the Hillside Natural Area.

Mayor Lyman - announced that the Environmental Ad Hoc Committee is meeting and plans to bring a recommendation to the full in the new year.

9. ADJOURN REGULAR CITY COUNCIL MEETING

The regular meeting adjourned at 8:22 PM

Gregory B. Lyman, Mayor

This is to certify that the foregoing is a true and correct copy of the minutes of the City Council meeting(s) of December 3, 2019 as approved by the El Cerrito City Council.

Holly M. Charléty, MMC, City Clerk



SUPPLEMENTAL INFORMATION

Agenda Item No. 4.C.

Date: December 17, 2019
To: El Cerrito City Council
From: Yvetteh Ortiz, Public Works Director/City Engineer
Subject: Supplemental information on Transportation Impact Fee Annual Report for Fiscal Year 2018-19

During Fiscal Year 2018-19, the Transportation Impact Fee was collected from the building permits and corresponding property addresses listed below.

12/17/2019
3:19:36PM

City of El Cerrito
Acct Activity for PERMITS - Selected Account(s)
For the Period 2/1/2019 thru 6/30/2019

Account Number 4000

Permit Number	Site Address	Parcel Number	Subdivision, Lot, and Block	Amount Pd	Date
BD19-0116	213 POMONA AVE	504231027		\$2,325.00	3/21/2019
BD19-0066	1020 KING DR	505212002		\$2,325.00	4/11/2019
BD18-0494	10963 SAN PABLO AVE	509110015		\$116,250.00	4/29/2019
BD18-0494	10963 SAN PABLO AVE	509110015		\$11,916.80	4/29/2019
BD18-0747	10300 SAN PABLO AVE	503392028		\$74,400.00	5/20/2019
Total Payments for 4000				\$207,216.80	
Grand Total				\$207,216.80	

From: [Karen Pinkos](#)
To: [Janet Abelson](#); [Paul Fadelli](#); [Greg Lyman](#); [Gabe Quinto](#); [Rochelle Pardue-Okimoto](#)
Cc: [Yvetteh Ortiz](#); [Alexandra Orologas](#); [Holly Charléty](#)
Subject: Agenda Item 4D Storm Drain
Date: Tuesday, December 17, 2019 2:28:27 PM
Attachments: [image001.png](#)

Hello Councilmembers,

A few of you have asked similar questions regarding Agenda Item 4D, so I am summarizing them here. Yvetteh will be at the meeting to answer any questions you may have if any of you decide to pull this item.

- The funding for this item is from the Measure J Storm Drain Fund. We will have just under \$464K remaining in the fund following the appropriation, as shown in the attached table. The Finance Department has signed off on this as well. In the future, we will be sure to include this information in our Financial Considerations section so that it is clear.

FY 2019-20	
Fund 205-9050 Measure J Storm Drain	
Estimated Fund Balance Year End 6/30/2019	675,000
Approved Budget	300,000
Expenses/Encumbrances to Date:	
Eng & Design	85,000
Minor Repairs	17,000
Reserves	30,000
Expense Total	132,000
Remaining Budget	168,000
Project Construction Expenses	
Construction Contract	299,331
Contract Contingency	30,000
Testing & Inspection Support	50,000
Total	379,331
Requested Appropriation 12/17/2019	(211,331)
Remaining Fund Balance	463,669

- We realize that this amount for two sites does seem like a high cost. This is the case because large sections of both King Drive and Hancock Way are basically being reconstructed due to the major displacements caused by landslide movement (in some cases about 1 to 2 feet).
- For the site that was rejected, we think we can get a more competitive bid for that site and we will have enough fund balance to be able to complete it. We have built up the relatively

large balance as we develop the Storm Drain Master Plan and identify priorities and financial plan (i.e. do we bond for a certain amount or pay as you go). We anticipate completing the plan in February.

Please let me know if you have any additional questions, so that we may address them tonight.

Thanks,
Karen

Karen Pinkos, ICMA-CM
City Manager
City of El Cerrito
10890 San Pablo Avenue
El Cerrito CA 94530
(510) 215-4301
www.el-cerrito.org
[@kepinkos](https://twitter.com/kepinkos)

Follow El Cerrito on Twitter! [www.twitter.com/cityofelcerrito](https://twitter.com/cityofelcerrito)

The City of El Cerrito serves, leads and supports our diverse community by providing exemplary and innovative services, public places and infrastructure, ensuring public safety and creating an economically and environmentally sustainable future.



Public Hearings: Proposed EBS Rates & IWM Fees Effective January 1, 2020

Presentation to City Council
December 17, 2019



R3

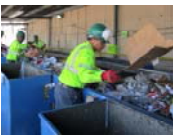
CONSULTING
GROUP, INC.

1

El Cerrito's Solid Waste Services

Integrated Waste Management:
Curbside Recycling & Recycling Center



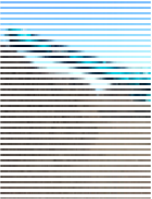


East Bay Sanitary:
Garbage and Green Waste Collection




RecycleMore and Republic: Post-Collection Services



2

EBS Collection Rate Adjustment

- EBS receives compensation for Garbage and Green Waste Collection Services exclusively from rates charged to residents and businesses
- Compensation is set at an annual rate revenue amount
- EBS annual rate revenue is adjusted via RRI (Refuse Rate Index) per the Franchise Agreement (2012 Amendment)
- For 2020, the RRI calculates a 3.72% increase to EBS's compensation
- Proposed 2020 customer rates set to meet EBS's 2020 compensation

3

EBS Post-Collection Rate Adjustment

- EBS pays for "post-collection" pass-through costs to Republic Services per Post-Collection Agreement (PCA) set at \$114.35/ton for 2020
- Post-collection costs are adjusted annually per PCA and include the City's costs for Household Hazardous Waste (HWW) services, and the City's costs for membership in the RecycleMore JPA
- Post-collection costs also include City's costs for RecycleMore JPA compliance with State Laws (AB 1826 and SB 1383)
- Proposed 2020 customer rates set to compensate EBS for these post-collection costs pass-through costs

4

Proposed January 1, 2020 EBS Collection and Post Collection Rates (Per Container Per Month)

Garbage Container Size	EBS Collection (2020)	Post-Collection (2020)	EBS Total (2020)	EBS Total (2019)	Monthly Change
20 Gallon Cart	20.37	5.12	25.49	24.01	1.48
35 Gallon Cart	28.60	8.98	37.58	34.74	2.84
64 Gallon Cart	57.21	17.96	75.17	70.46	4.71
One Cubic Yard	194.96	51.96	246.92	233.31	13.61
Two Cubic Yards	373.69	103.91	477.60	450.39	27.21
One Cubic Yard (Green Waste)	180.27	51.96	232.23	224.31	7.92

5

Integrated Waste Management Fee Adjustment

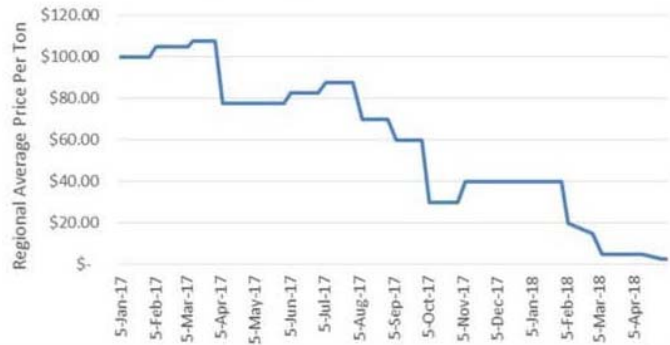
- City's Integrated Waste Management (IWM) Fees fund City costs for recycling collection (incl. processing and marketing) and RERC
- City also responsible for current and future compliance with unfunded mandates via State Law (AB 341, AB 1826 and SB 1383)
- Revenues from sale of recyclables have plummeted, costs for processing increased, prompting rare 2019 mid-year increase in Fees
- IWM Fees will need to increase in order to maintain current recycling programs and services and comply with unfunded State Laws
- Largely pay back the General Fund by the end of FY 2019-20 and the remainder in the following fiscal year

6

Decline in Commodity Market Values

Southwest (California and Nevada)

Mixed Paper Market Trend



Source: recyclingmarkets.net

7

SB 1383 (Short-Lived Climate Pollutants: Organic Waste Methane Emissions Reductions)



8

Proposed January 1, 2020 IWM Fees (Per Container Per Month)

Garbage Container Size	IWM (2020)	IWM (July 2019)	Monthly Change
20 Gallon Cart	19.23	14.60	4.63
35 Gallon Cart	21.02	15.96	5.06
64 Gallon Cart	41.20	31.28	9.92
One Cubic Yard	148.50	112.75	35.75
Two Cubic Yards	297.01	225.47	71.54
One Cubic Yard (Green Waste)	7.91	6.92	0.99

9

Proposed January 1, 2020 Total Customer Rates (Per Container Per Month)

Garbage Container Size	EBS Collection (2020)	Post-Collection (2020)	IWM Fee (2020)	TOTAL Monthly 2020	Monthly Change	Weekly Change
20 Gallon Cart	20.37	5.12	19.23	44.72	6.11	1.41
35 Gallon Cart	28.60	8.98	21.02	58.60	7.90	1.82
64 Gallon Cart	57.21	17.96	41.20	116.37	14.63	3.38
One Cubic Yard	194.96	51.96	148.50	395.42	49.36	11.39
Two Cubic Yards	373.69	103.91	297.01	774.61	98.72	22.78
One Cubic Yard (Green Waste)	180.27	51.96	7.91	266.50	12.19	2.81

10

El Cerrito's 2020 Weekly Residential Rates

20 and 35-gallon
service

**Curbside Recycling &
Recycling Center**
\$4.44 to \$4.85 per
week



**Garbage and Green Waste
Collection**

\$ 4.70 to \$6.60 per week

Post-Collection Services \$1.18 to \$2.07 per week



ADU URGENCY ORDINANCE

El Cerrito City Council
December 17, 2019

1

BACKGROUND

- 2017: Updated ADU Ordinance to comply with State laws
- New State laws require another update by January 2020
 - SB 13 and ABs: 68, 587, 670, 670, 671, and 881

2

2

ORDINANCE UPDATE OVERVIEW

- Repeal and replace Section 19.20.190 (ADUs)
- Add Section 19.20.195 (Junior ADUs)
- Amendments to:
 - Section 19.46.030 (Residential Use Classifications)
 - Chapter 19.47 (Terms and Definitions)
 - Section 19.24.040 (Off-Street Parking)

3

3

JUNIOR ADUs

- No more than 500 square feet
- Contained entirely within a single-family residence
- Separate or shared sanitation facilities
- Efficiency Kitchen

4

4

AUTOMATIC PLANNING APPROVAL

- Single Family Dwelling
 - 1 Interior ADU or JADU
 - 1 Detached ADU (800 sf max/4' setbacks/16' tall)
- Multifamily Dwelling/Duplex
 - At least 1 Interior ADU
 - Two Detached ADUs

5

5

MAXIMUM FLOOR AREA

- Current Ordinance: 50% of primary dwelling or 1,200 sf
- Proposed Ordinance
 - Studio/1 bedroom: 850 square feet
 - 2+ bedrooms: 1,000 square feet
 - Attached ADUs: the above standards or 50% primary dwelling, whichever is less

6

6

MINIMUM SETBACKS AND MAXIMUM HEIGHT

- Current Ordinance: 5' to 6' side; 15' to 25' rear (depending on Zoning District)
- Proposed Ordinance: 4' side and rear setback
- Detached ADUs: 16' tall

7

REPLACEMENT PARKING

- Current Ordinance: No parking ADU requirements
- Proposed Ordinance: No ADU parking requirements & no replacement parking for garage conversions

8

ADDITIONAL ITEMS

- Owner Occupancy Requirement
 - Not enforceable until 2025
- Short Term Rentals
 - Not permitted for units subject to automatic approval
- Windows
 - Clerestory required close to rear and side property lines

9

9

ANTICIPATED SCHEDULE

- Interim Urgency Ordinance
 - First Adoption: 12/17/19
 - Extension: 1/21/20
- Permanent ADU Ordinance Update
 - Planning Commission: 1/15/20
 - City Council First Reading: 2/4/20
 - City Council Second Reading: 2/18/20
 - Effective date: 3/19/20

10

10

QUESTIONS AND COMMENTS

11

11