

EL CERRITO CITY COUNCIL MINUTES

REGULAR CITY COUNCIL MEETING Tuesday, December 18, 2018 – 7:00 p.m. City Council Chambers

ROLL CALL

Present: Councilmembers Abelson, Fadelli, Lyman, Quinto and Mayor Pardue-Okimoto

CONVENE REGULAR CITY COUNCIL MEETING

Mayor Pardue-Okimoto convened the meeting at 7:00 p.m.

- 1. PLEDGE OF ALLEGIANCE TO THE FLAG OR OBSERVATION OF MOMENT OF SILENCE**
- 2. COUNCIL/STAFF COMMUNICATIONS**

Councilmember Fadelli announced that he attended the Mayor's Conference in Walnut Creek and the Chamber Luncheon. He said he also worked with Mayor Pro Tem Lyman in the setting up of the Shadi Holiday Display.

Mayor Pro Tem Lyman announced that on Saturday there was a memorial service for Michael Gonzalez, who had been the volunteer electrician for the Shadi Display for many years.

Mayor Pro Tem Lyman encouraged residents to apply for one of the upcoming vacancies on the City's commissions and committees.

Mayor Pardue-Okimoto reported that she participated in a press conference in conjunction with Berkeley's mayor regarding efforts to Save Alta Bates Hospital. She stated that the Health Impact Report has been released and shows that people in West County and people of color will be the most impacted by the closure of Alta Bates.

- 3. ORAL COMMUNICATIONS FROM THE PUBLIC**

Howdy Goudy thanked the City for its support for Item 4(E) and for KARO-ECHO, the volunteer organization that trains to provide emergency communications when there is a disaster.

Karen Fenton, Richmond, thanked the Council and the Fire Department for their support for KARO-ECHO as well as their support of the CERT Program. She provided background on what KARO-ECHO does in the way of organizing, training and testing emergency systems.

Robin Mitchell expressed concern for the City's financial situation based on the report presented by the City's auditor on November 20th. She stated she was

shocked to learn that the City's general fund is considered to have a \$1.8 million deficit because over the years the general fund has loaned monies to other special funds.

Susan Duncan raised the issue of allowing eucalyptus trees on private property and the need for the City to develop fire evacuation plans.

Donald Simon said that he is a communication specialist who has served during many forest fires and earthquakes. He testified to the many benefits of amateur radio communications when power, radio, cell phones and other conventional methods of communication are disrupted, overloaded or non-existent during disasters. He thanked the City for its support of KARO-ECHO.

4. ADOPTION OF THE CONSENT CALENDAR

Action: Moved, seconded (Abelson/Quinto) and carried unanimously to approve the Consent Calendar as indicated below.

A. Quarterly Investment Report

Receive and file the Quarterly Investment Report for the quarter ending September 30, 2018.

Action: Received and filed the report.

B. Annual Review of Investment Policy

Adopt a Resolution approving the Comprehensive Investment Policy and rescinding Resolution No. 2017-88.

Action: Adopted Resolution No. 2018-66 and rescinded Resolution No. 2017-88.

C. Reappointment to Economic Development Committee

Approve the Economic Development Committee's recommendation to reappoint members George Gager and Jean Shrem for terms expiring March 1, 2023

Action: Approved re-appointment of George Gager and Jean Shrem for terms expiring March 1, 2023.

D. Classification Plan Amendment

Adopt a Resolution amending the Classification Plan to revise and retitle the Human Resources Technician class specification to Human Resources Specialist.

Action: Adopted Resolution No. 2018-67.

E. Co-Sponsorship Application – Kensington Amateur Radio Operators – El Cerrito Ham Operators

Adopt a Resolution recognizing the Kensington Amateur Radio Operators – El Cerrito Ham Operators (KARO-ECHO) as a co-sponsored organization and authorizing the City Manager to grant the use of meeting rooms or clubhouses subject to availability, for the KARO-ECHO's monthly meetings at no charge.

Action: Adopted Resolution No. 2018-68.

F. Shelter Crisis

Adopt a Resolution declaring a Shelter Crisis in Contra Costa County in order to receive emergency funding support to expand and improve homelessness

services for individuals and families across the County.

Action: Adopted Resolution No. 2018-69.

5. PRESENTATIONS

A. Presentation of Citizens Street Oversight Committee's Annual Reports

Receive a presentation from Chair Matthew Kelly of the Citizens Street Oversight Committee's Annual Reports for FY 2015-16 and FY 2016-17.

Presentation: Chair Kelly presented the Committee's findings for FY 2015-16 and FY 2016-17. He stated that it was determined funds were expended in the manner required by law.

Action: Received presentation.

6. PUBLIC HEARINGS -

A. Establishment of Transportation Impact Fee Program and Amendment of Master Fee Schedule

Conduct a Public Hearing and upon conclusion, consider taking the following actions related to establishment of a Transportation Impact Fee:

1. Introduce by title, waive any further reading, and adopt first reading of an Ordinance adding Chapter 4.54 – Transportation Impact Fee to the Municipal Code, Title 4 – Revenue and Finance; and

2. Adopt a Resolution adopting a Transportation Impact Fee and amending the Master Fee Schedule to include the new Transportation Impact Fee.

Presentation: Yvetteh Ortiz, Public Works Director/City Engineer, presented the staff report, along with Robert Spencer, Urban Economics, and answered questions raised by members of the Council.

Public Hearing: Mayor Pardue-Okimoto opened the public hearing. There being no one wishing to speak to this matter, it was moved, seconded (Lyman/Abelson) and carried unanimously to close the public hearing.

Actions: Moved, seconded (Lyman/Quinto) and carried unanimously to approve by title and waive first reading of an Ordinance adding Chapter 4.54 – Transportation Impact Fee to the Municipal Code, Title 4 – Revenue and Finance. Second reading is scheduled for January 15, 2019.

Moved, seconded (Quinto/Abelson) and carried unanimously to adopt Resolution No. 2018-70.

7. POLICY MATTERS

A. Tenant Protection Ordinances and Human Relations Commission Resolution

1. Introduce by title and waive any further reading of the following Ordinances being added to the Municipal Code, Chapter 10:

1. An Ordinance adding Chapter 10.100 - Rent Review Program
2. An Ordinance adding Chapter 10.200 – Minimum Lease Terms
3. An Ordinance adding Chapter 10.300 – Termination of Tenancy
4. An Ordinance adding Chapter 10.400 – Tenant Relocation

2. Receive a presentation from the Human Relations Commission regarding an Human Relations Commission Resolution recommending Tenant Protections.

Presentations: Aissia Ashoori, Affordable Housing Analyst, presented the staff report and answered questions raised by members of the Council.

Jessica Laird, Human Relations Commission, stated that the commission believes that housing is a human rights issue. She said that the commission has heard from renters in the community and it is their belief that the proposals presented by staff are inadequate in addressing the issues that renters face. She stated that tenants have expressed fear of retaliation if they seek a rent review without the City putting into place a just cause for eviction ordinance.

Commissioner Laird reported that the HRC resolution was adopted by a five/one vote. This resolution asks the Council to immediately establish: 1) just cause for eviction policies; 2) a temporary measure limiting rent increases to be within a certain percentage to protect tenants from rent gouging, pending the adoption of a rent control ordinance; 3) a permanent citizen board or commission equally represented by renters, landlords and homeowners to advise the Council on matters of housing; and 4) a citizen-led task force specific to the topic of tenant protections to be in existence for the full duration of time while the City is researching, developing and implementing the Affordable Housing Strategy, to work alongside the City to provide a direct and consistent access point for citizen input and advisory on matters of tenants' rights and protections.

Gabrielle Guenette, Vice Chair of the Human Relations Commission, reported that he voted no on the HRC resolution because: 1) he does not believe the issue of housing and rent control is within the scope or mission of the commission and 2) he does not believe that either the proposals presented by the staff or the commission address the housing issues in the City.

Commissioner Guenette stated he could support policies that included some form of income means test. He also expressed support for the City doing what it can to get more affordable and transient oriented housing built in the City.

Makalia Aga, Human Relations Commissioner, expressed her support for the

HRC resolution. She stated that if nothing is done, there will be more poverty and homelessness in the City.

Speakers:

Janet Galvin informed the Council that the building she has been living in has been flipped twice and that tenants need to be protected against continual rent increases. She also stated that there needs to be more affordable senior housing.

Sherry Drobner read a letter from a renter that said her rent has been raised 57% in the last three years and she has been forced to cut back on other necessities to pay rent. Ms. Drobner asked that the Council adopt a just cause for eviction ordinance and put a cap on rents while the City works through the process of developing programs.

Howdy Goudy stated his belief that the proposed non-binding rent review program will not address the problems facing tenants. He stated that the other three staff proposed ordinances are small; but are something. He urged the Council to consider the HRC's recommendations and to adopt an anti-gouging ordinance with a rent increase cap while the Council works through this process.

Zach Lou stated that the City of Concord's non-binding rental program does not protect tenants. He felt that the landlord organizations are not representing an accurate picture of the situation and that they promote programs that benefit landlords and not tenants. It was his opinion that rent stabilization ordinances do allow for a fair return on the property owners' investments.

Eric Meyers informed the Council that he practices real estate law representing both landlords and tenants and that he is also a realtor and a landlord, managing property for others and property that he owns. He stated mediation works, education works and communication works. He expressed support for the programs presented by the staff. He noted that the programs will result in the collection of data that will be useful in determining what works and what doesn't.

Peter Campbell informed the Council that he lives in Albany, but has rental property in El Cerrito, which supplements his fixed income. He stated that what the City needs is more affordable housing; but that the City does not provide incentives for developers to build affordable housing. He suggested the City hold workshops for tenants and landlords.

Robin Mitchell expressed her belief that it is the government's role to speak for those that can't speak for themselves, including tenants and not landlord associations. She urged the Council to immediately put in place a moratorium on rent increases and a just cause for eviction ordinance while the City works through the details of a complete program.

Peter Pan reported that he is a small landlord that charges below market rents, because he has good tenants and wants to keep them. He stated he has a negative cash flow of over \$500 a month, and if the City places a lot of bureaucracy on him, he will not be able to afford to continue as a landlord without raising the rents.

Jane Lundin said that she is a small property owner and that she has great sympathy for tenants that get a 50% rent increase; but doesn't believe this is a regular occurrence or that landlords are evicting tenants for no reason. She stated that the eviction process is very costly and sane landlords would not evict good tenants. She pointed out that when the City of Richmond adopted a just cause for eviction ordinance, rental housing was taken off the market.

Richard Bell stated his belief that the staff proposed ordinances are not sufficient to protect tenants.

Meina Young reported that San Francisco has very strict rent control measures; but also has the highest rents in the area. She asked the Council to work on providing more affordable housing and to not pass these ordinances.

Marline George asked the Council to take more time to study this issue before passing any ordinances. She expressed concern that some of the requirements in the proposed ordinances would be very onerous to landlords,

Bill Kuhlman stated that he served on the Planning Commissioner for eight years and during that time, the commission only approved one housing project. He said that the problem is that there is not enough housing inventory. He cautioned that the proposed ordinances may hurt the mom and pop property owners because they feel the burden of regulations more than larger property owners. He asked the Council to consider reducing the impact of regulations on the small property owners, many who are seniors and need the rental income to supplement their fixed incomes. He suggested that the Council consider increasing the rent review threshold to 10% to minimize the burden on small property owners.

Judith Tannenbaum suggested that the City needs to come up with programs that don't allow bad landlords to get away with unfair practices and doesn't punish good landlords and tenants. She said that she appreciated the work that staff has done on this; but believes non-binding mediation will not protect the tenants and will end up penalizing good landlords with more fees and paperwork. She asked that the Council consider the resolution adopted by the Human Relations Commission.

Steve Barton said he is the co-author of "*Opening the Door for Rent Control*" published by UC Berkeley Haas Institute, and is on the Board of the Bay Area Community Land Trust, which has some rental properties that are being

converted to cooperatives. He noted that rental rates in El Cerrito are typical of others in the Bay Area; but nearly double those in the rest of the U.S. He stated that the longer the City delays in providing some security for tenants, the more gentrification will take place and people will continue to be displaced. Mr. Barton stated his belief that what is needed is rent control with just cause for eviction, along with tenant relocation protections for those properties exempt from Costa-Hawkins.

Nicholas Galloro said that property owners have a lot of legal rights and tenants have very few. He questioned how people are expected to prosper when they spend more than 50% of their income for rent.

Wendy Louie said that a lot of the City's property owners are elderly and depend on their rental income to subsidize their income. She pointed out that a lot of the tenants are also elderly, and the City needs to consider both sides. She stated that property owners also need to be allowed to have family members move into their property. She referred to the City of Berkeley's rental program where there are tenants who have lived in the same place for years, no matter what their income is. As a result, some owners have had to sell their property rather than be able to allow their family members to move into the property because of their rent control laws.

Jeff Nalle said he is in favor of the Human Relations Commission recommendations. He said he supports a fair rate of return for property owners and just cause for eviction of tenants.

Eva Chao reported that she owns a duplex in the City and provides below market rents to her tenants. She felt that the proposed ordinances will create extra expenses for landlords and will reduce good will between tenants and property owners. She asked that the City not impose a minimum one-year lease and that the City not implement additional regulations. She noted that in San Francisco many properties have been removed from the rental market because of their rent control laws.

Amy Chiang told the Council that she has worked hard all of her life and as a result she is able to own a rental property. She stated that she has a lot of expenses to cover including a high mortgage payment, taxes, utilities, and improvements to her property. She said that she has a good relationship with her tenants and asked the City to consider small property owners.

Jeffrey Levin stated that tenant protections are only part of a solution to the housing crisis, and the production of more affordable housing is needed to help solve this crisis. He noted that in the meantime the City needs to protect the most vulnerable by reducing the risk of displacement. He said that he doesn't believe the staff's proposals will do that. He urged the Council to put in place a temporary moratorium on excessive rent increases and just cause for eviction

while the City works on developing a comprehensive program.

Johanna Valle informed the Council that she paid \$2,000 for a fixer up, and her rent has been increased to \$3,000 over the past two years. She stated that she continues to struggle to find housing for her family that she can afford and may need to move and relocate her children from their school and friends. She asked that the Council include single family homes as part of any regulations as her landlord owns multiple properties.

Jeff Bloomfield said that he would like to see the City hold workshops so that tenants can come forward and provide information. He stated his belief that non-binding mediation only works with property owners that are willing to work with their tenants.

Ronnie Polonsky questioned how the City plans on monitoring and enforcing some of the provisions in the proposed ordinances. He said that he doesn't believe non-binding mediation will work because there is a tremendous imbalance of power between landlords and tenants. He said that no one wants to stop property owners from making a reasonable return on their investments.

Michele Manzone informed the Council that he is a realtor, property manager and landlord, and is here representing the mom and pop landlords. He stated that the City has a lot of mom and pop landlords. He offered to provide the City will rental data and stated that there isn't as much price gouging going on as you would think.

Lori Wickliff, Richmond, said rent control has divided landlords and tenants in the City of Richmond. She stated that she is property owner with senior tenants. She stated that she has been charging below market rates but due to rent control she must either raise the rental rates even when she doesn't want to or lose more money over time. She said that landlords in Richmond are now afraid to take a chance on renting to a tenant who may not be perfect because of the difficulty in being able to evict a bad tenant. She suggested the Council take its time and listen to both landlords and tenants. She stated her belief that the proposals before the Council won't address the issue of bad landlords who overcharge or require tenants to pay extra charges.

Ralph Baniello spoke in support of the City adopting a just cause for eviction ordinance and more tenant protections as recommended in the Human Relations Commission resolution. He stated that he pays more than 50% of his income for housing.

Rhovy Lyn Antonio, California Apartment Association, stated their support for the proposed ordinances as being reasonable measures. She stated these ordinances will allow the City to gather data, verify it, and determine if the data warrants further regulations. She stated that the Association recommends the

City consider increasing the rent review threshold to 10% to be consistent with programs in other cities and that the City provide safeguards, such as a phase in period and time to adjust rent rates, for mom and pop property owners, who are 80% of the landlords in El Cerrito. She stated the Association does not support rent control or just cause for eviction.

Council Discussion:

Members of the Council questioned staff about various aspects of each of the proposed ordinances including: 1) penalties and enforcement; 2) data collection; 3) a rent registry; 4) protections for mom and pop landlords with limited incomes; 5) workshops for landlords and tenants; 6) relocation expenses; 7) just cause for eviction; and 8) non-binding mediation.

Actions: Moved, seconded (Lyman/Fadelli) and carried unanimously to waive first reading and introduce an Ordinance adding Chapter 10.200 - Minimum Lease Terms to the Municipal Code.

Moved, seconded (Lyman/Quinto) and carried unanimously to waive first reading and introduce an Ordinance adding Chapter 10.400 - Tenant Relocation to the Municipal Code with a revision offered by Mayor Pro Tem Lyman to add Section 10.400.020(F)(4) "associated accumulated rent increase greater than 20% over two (2) years" and to revise Section 10.400.040(4) to read " Special-Circumstances Household will be paid two (2) additional months of rent for a maximum of five (5) months' rent."

Moved, seconded (Fadelli/Lyman) and carried unanimously to waive first reading and introduce an Ordinance adding Chapter 10.300 – Termination of Tenancy to the Municipal Code with a revision offered by Mayor Pro Tem Lyman that the language under Section 10.300.030(D) be standardized with the Rental Unit definition similar to the language in the other two ordinances and reorder where the exemptions are listed to appear in the definitions section.

Moved, seconded (Lyman/Fadell) and carried (Ayes – Fadelli, Quinto, Lyman; Pardue-Okimoto; Noes – None; Abstain – Abelson) to acknowledge there is a housing shortage in the City of El Cerrito that does require an emphasis on production, preservation, and protection of housing, and as a result we direct staff to move forward with preparation of a just cause for eviction ordinance and a rental registry program.

There was no motion or action taken on adding Chapter 10.100 – Rent Review Program to the Municipal Code.

8. CITY COUNCIL LOCAL & REGIONAL LIAISON ASSIGNMENTS

A. 2019 City Council Liaison Assignments

Review and approve the 2019 City Council Liaison Assignments.

Action: Moved/seconded (Abelson/Quinto) and carried unanimously to approve

the 2019 assignments.

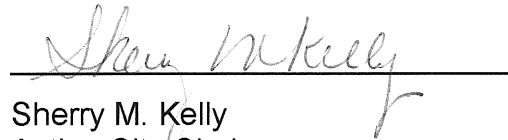
9. ADJOURN REGULAR CITY COUNCIL MEETING

The meeting adjourned at 11:30 p.m.



Rochelle Pardue-Okimoto, Mayor

This is to certify that the foregoing is a true and correct copy of the minutes of the regular City Council meeting of December 18, 2018 as approved by the El Cerrito City Council.



Sherry M. Kelly
Acting City Clerk