



Public Works Department

AGENDA

SPECIAL MEETING OF THE CITIZEN STREET OVERSIGHT COMMITTEE

Monday, November 04, 2013, 7:00 p.m.
El Cerrito City Hall
Hillside Conference Room
10890 San Pablo Avenue

- 1. Roll Call**
- 2. Comments from the Public**
(Each speaker is limited to a maximum of 2 minutes.)
- 3. Approval of Minutes**
Review and approve minutes from September 23, 2013 Meeting. *(Action Requested: Approval)*
- 4. Review Use of Measure A funds for Non-Pavement Projects**
Discuss the voter-approved ordinance for Measure A and applicability of funding for non-pavement projects such as traffic improvements and streetscapes. *(Attachments - no action requested)*
- 5. Staff Liaison Reports**
 - a. Committee Terms – clarification of member terms and eligibility to re-apply *(Attachment - Information only; No Action,)*
 - b. Distribution of Maddy Act List *(Attachment – Information only; No Action)*
- 6. Future Agenda Items and Meeting Schedule**
Set agenda for next meeting *(Action Requested: set agenda and confirm date)*
- 7. Adjournment**

Any writings or documents provided to a majority of the Citizen Street Oversight Committee regarding any item on this agenda will be made available for public inspection in the Public Works Department located at 10890 San Pablo Avenue during normal business hours.

COMMUNICATION ACCESS INFORMATION

To request a meeting agenda in large print, Braille, or on cassette, or to request a sign language interpreter for the meeting, call Jerry Bradshaw, Staff Liaison at 215-4382 (voice) at least FIVE (5) WORKING DAYS NOTICE PRIOR TO THE MEETING to ensure availability.

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Public Works Department

Draft Minutes
REGULAR MEETING
OF THE
CITIZEN STREET OVERSIGHT COMMITTEE

Monday, September 23, 2013, 7:00 p.m.

El Cerrito City Hall
Hillside Conference Room
10890 San Pablo Avenue

Call to Order at 7:00 p.m.

1. Roll Call

Present: Chair Al Miller, and Vice Chair Liz Ozselcuk, Committee Member Thomas Miller and Lynne Kessler

Absent: none (Aurelia Schultz has previously resigned)

Other Attendees: Staff Liaison Jerry Bradshaw, Public Works Director/City Engineer
Yvetteh Ortiz, Engineering Manager

2. Comments from the Public

None.

3. Approval of Minutes

Comment by Chair Al Miller – page 3-4, Item 7, second paragraph, the first appearance of the word “was” should be removed.

Committee Member Thomas Miller commented on Item #3 that, while the minutes are accurate, he is troubled with the allocation of funds to for things other than pavement, curbs and gutters was not consistent with the intent of the voters. The basic purpose of the Committee is to ensure that the public gets what they believed they were voting for. He would like to make a motion to that effect, although this was not the time. Al Miller would prefer to see a copy of the enabling ordinance before going along with any such motion. After some additional comments, Liaison Bradshaw noted that this topic was not agendized for this meeting and should be deferred until a meeting when it was put on the agenda per the Brown Act.

Action taken: M/S Ozselcuk/Thomas Miller to approve minutes as corrected. Approved unanimously.

4. Review Fiscal Year 2012-13 Revenues & Expenditures

Liaison Bradshaw described the revenues (page 4-1) and expenditures (page 4-2). The figures are preliminary (unaudited). If the final audited numbers are different, staff will go through all that at the January meeting.

Revenues are a little over \$1 million, which is quite a bit short of past years and less than expended. Staff believes that there be adjustments due to the City after the Board of Equalization has attempted to correct for several past years of sale tax dispute between the cities of Richmond and El Cerrito. However, that pertains only to the normal sales tax, and should not affect the Measure A sales tax.

The long list of revenues at the bottom of Page 4-1 are fees paid for street moratorium impacts when encroachment permit work must be done in streets that are under a no-dig moratorium. The negative amounts represent refunds made – usually pertaining to permits that get cancelled before the work is done.

Expenditures are just over \$1 million, too. The first two items on Page 4-2 are the annual debt service. The next three items are the amounts paid to the auditors. The remaining items are for work done on projects.

Planning and Engineering funds are for part-time staff and Avila Project Management charges.

The 2012 Pavement Rehabilitation Project was for some miscellaneous work – some slurry areas and a storm drain failure under Cutting Blvd. Committee Member Thomas Miller noted that storm drain work steps outside the pavement-curb-gutter scope that he mentioned earlier. Committee Member Al Miller asked whether the City had dedicated funds for storm drain repairs. Liaison Bradshaw explained that those funds are otherwise committed for a large debt service on the storm drain bonds. It was also questioned whether the City Council approved the expenditure on storm drain work. This particular item was not large enough to require Council action; however the 2009 project that the Council approved included storm drain work thereby setting a precedent. Committee Member Al Miller requested a future agenda item on using Measure A money on non-pavement work include the process for approving such projects by Council or staff.

Central Liberty Streetscape Project – the expenditures represent two transfers to the CIP fund for Council-approved use of Measure A. Committee Member Thomas Miller asked what a streetscape was. It was explained that they are typically projects to make the street areas more livable or walkable as in this case. Committee Member Thomas Miller reiterated his objection to this type of use of Measure A money.

Traffic Safety & Management Program was another program specifically authorized by Council. Only \$40 thousand was spent last year.

The last two projects are straight forward paving projects using state and federal grants with Measure A funds as local match. Work was just beginning last fiscal year.

Committee Member Al Miller asked when we expect to have the answers on the Board of Equalization corrections? Hopefully before the January meeting.

5. Staff Liaison Report

- a. Review of work plan for FY 2013-14: Liaison Bradshaw distributed a 3-page handout (attached). It included an excerpt of the FY 2013-14 Capital Improvement Budget that showed the Street Improvement Capital Fund (211 – Measure A 2008) and described the five projects listed there.
 - o Arlington Curve at Brewster Drive Safety lists \$50,000 of matching funds for a state grant.
 - o The Traffic Safety & Management Program was described earlier in Item #4.
 - o The last two projects are grant-funded paving projects that include local matching funds from Measure A.
 - For example, the State Paving – Prop 1B shows \$354,000 under the “Inter-gov’l” column; this is the funding from Prop 1B. The \$478,000 amount under the “Interest & Other Revenue” column shows the Measure A local match. Page 3 of the handout shows the list of streets included in this project. Leneve and Ivy will be deleted.
 - Page 2 of the handout is a photocopy of the cover page of the plans for the Federal Project and shows the list of streets and a map. As a federal project it will require several approvals from Caltrans that may delay the actual construction well into next year.
 - o The annual Paving Project has not been scoped out yet.
- b. Review of Brown Act: Liaison Ortiz passed out a 23-slide printout (attached) that was presented to City staff a few weeks earlier. She only went over a few slides that were of interest to the Committee.
- c. Review of Project Approval and Allocation Process: Liaison Bradshaw presented a slide show (handouts attached). Reviewed Section 4.60.150 of the EC Municipal Code that sets the authorized uses of Measure A and requires an Expenditure plan. The Expenditure Plan is modified annually through the adoption of the Capital Improvement Program (CIP) budget, which lists specific projects and programs. Reviewed the CIP page that lists the Measure A projects and programs, and described the detail pages that show the scope for each. For major projects, the Council sees the scope of work in the CIP adoption, and again when awarding the contract. Staff is given discretion for modest changes in scope. For minor projects may be awarded by City Manager or PW Director (instead of Council). The final step in the process is the financial closure and audit that the Committee sees at its January meeting.
- d. Review of Committee Members Terms and Limits: Liaison Bradshaw handed out a table summarizing the Committee roster and member’s terms. The top table showed the most recent data from the City Clerk and revealed a discrepancy between Committee Members Thomas Miller and Oszelcuk term beginning yet both ending in 2014.

Liaison Bradshaw will work with City Clerk to clarify the discrepancy and get back to the Committee.

6. Review of Committee Standing Rules

This is a standing item and no action is requested by Staff. Committee Member Al Miller had a question on Rule #7, what is a "source document"? Liaison Bradshaw recalled that it referenced the documents from the State reporting the revenues (as opposed to City finance documents reporting the same information.) The Auditor receives independent documentation from the State that reports revenues and confirms that the City's records matches. Committee Member Al Miller felt that paper trail is adequate at present.

Action taken: no action taken.

7. Future Agenda Items and Meeting Schedule

The next regular meeting is scheduled for November 11th, which is a City holiday (Veterans Day). By consensus the Committee decided to have a November meeting, not on November 11th, but rather on November 4th at the normal time and location.

The November 11th meeting will be cancelled. The next regular meeting will be on January 27, 2014.

Desired items for the November 4th agenda include:

- Discussion of the practice of allocating Measure A money to non-pavement/curb/gutter projects.

8. Adjourned at approximately 8:50 p.m.

Attachments:

- 3-page handout for Item 5a
- 12-page handout for Item 5b
- 6-page handout for Item 5c
- 1-page handout for Item 5d



STAFF REPORT

Date: November 4, 2013
To: El Cerrito Citizen Street Oversight Committee
From: Jerry Bradshaw, Public Works Engineer, Staff Liaison
Yvetteh Ortiz, Public Works Director/City Engineer, Staff Liaison
Subject: Discussion of Measure A Funds Used for Non-Pavement Projects

The Committee has requested an agenda item to discuss the use of Measure A Funds for non-pavement items such as traffic and safety improvements and streetscapes. On the following pages are various documents that provide background on the appropriate use of Measure A funds.

Measure A was an ordinance put before the voters in February 2008. The ballot asked the following question:

"The El Cerrito Pothole Repair, Local Street Improvement and Maintenance Measure. To improve neighborhood streets; enhance road safety citywide by fixing potholes; maintaining, repairing and repaving streets; sealing cracks; improving handicap ramps, crosswalks, bicycle lanes; and maintaining road markings and signage, shall the City of El Cerrito incur debt to immediately begin and accelerate street improvements, paid by establishing a dedicated one-half cent sales tax used exclusively for street improvements, with citizens' oversight and independent audits of expenditure?"

Attached documents are as follows:

1. Ordinance (pages 4-3 to 4-11) – This ordinance modified two sections of the El Cerrito Municipal Code:
 - a. Section 4.60 was added establishing the sales tax, describing the mechanisms for its collection (sub-sections 010 through 140), detailing how the proceeds could be used (sub-section 150), and requiring an independent audit;
 - b. Section 2.04.320 as added establishing a Citizen Street Oversight Committee.
2. Measure A Expenditure Plan as required by the Ordinance. (pages 4-12 to 4-14)

3. Agenda Bill from the August 21, 2012 City Council Agenda (Item 5(D)) – an item authorizing the use of Measure A funds for the Traffic Safety and Management Program. (pages 4-15 to 4-20)
4. Agenda Bill from the November 5, 2007 City Council Agenda (Item 6(B)) – the Council’s action approving the Ordinance and placing it on the February 2008 ballot. (pages 4-21 to 4-26)

Item 3 above states the case for the allocation of Measure A funds to projects and programs that are not directly pavement-related. However at the bottom of the second page it reiterates pavement improvements as the City’s number one priority for Measure A funds.

EXHIBIT A

ORDINANCE NO. _____

AN ORDINANCE OF THE VOTERS OF THE CITY OF EL CERRITO AMENDING THE EL CERRITO MUNICIPAL CODE, IMPOSING A 1/2 CENT TRANSACTIONS AND USE TAX FOR THE REPAIR AND MAINTENANCE OF CITY STREETS TO BE ADMINISTERED BY THE STATE BOARD OF EQUALIZATION AND AUTHORIZING THE INCURRENCE BY THE CITY OF INDEBTEDNESS PAYABLE SOLELY FROM SUCH TAX

THE PEOPLE OF THE CITY OF EL CERRITO DO HEREBY ORDAIN AS FOLLOWS:

SECTION 1. A new Chapter 4.60 is hereby added to Title 4 ("Revenue and Finance") of the El Cerrito Municipal Code, to read as follows:

"Chapter 4.60 Pothole Repair and Local Street Improvement and Maintenance Transactions and Use Tax

4.60.010. TITLE. This ordinance shall be known as the "El Cerrito Pothole Repair and Local Street Improvement and Maintenance" Transactions and Use Tax Ordinance. The City of El Cerrito hereinafter shall be called "City." This ordinance shall be applicable in the incorporated territory of the City.

4.60.020. OPERATIVE DATE. "Operative Date" means the first day of the first calendar quarter commencing more than 110 days after the adoption of this ordinance, the date of such adoption being as set forth below.

4.60.030. PURPOSE. This ordinance is adopted to achieve the following, among other purposes, and directs that the provisions hereof be interpreted in order to accomplish those purposes:

- A. To impose a retail transactions and use tax in accordance with the provisions of Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code and Section 7285.91 of Part 1.7 of Division 2 which authorizes the City to adopt this tax ordinance which shall be operative if two-thirds of the electors voting on the measure vote to approve the imposition of the tax at an election called for that purpose.
- B. To adopt a retail transactions and use tax ordinance that incorporates provisions identical to those of the Sales and Use Tax Law of the State of California insofar as those provisions are not inconsistent with the requirements and limitations contained in Part 1.6 of Division 2 of the Revenue and Taxation Code.
- C. To adopt a retail transactions and use tax ordinance that imposes a tax and provides a measure therefore that can be administered and collected by the State Board of Equalization in a manner that adapts itself as fully as practicable to, and requires the least possible deviation from, the existing statutory and

administrative procedures followed by the State Board of Equalization in administering and collecting the California State Sales and Use Taxes.

- D. To adopt a retail transactions and use tax ordinance that can be administered in a manner that will be, to the greatest degree possible, consistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, minimize the cost of collecting the transactions and use taxes, and at the same time, minimize the burden of record keeping upon persons subject to taxation under the provisions of this ordinance.

4.60.040. CONTRACT WITH STATE. Prior to the Operative Date, the City shall contract with the State Board of Equalization to perform all functions incident to the administration and operation of this transactions and use tax ordinance; provided, that if the City shall not have contracted with the State Board of Equalization prior to the operative date, it shall nevertheless so contract and in such a case the operative date shall be the first day of the first calendar quarter following the execution of such a contract.

4.60.050. TRANSACTIONS TAX RATE. For the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers in the incorporated territory of the City at the rate of 0.50% of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in said territory on and after the operative date of this ordinance. Such tax shall be in addition to any other transactions tax imposed by this Code or applicable State law.

4.60.060. PLACE OF SALE. For the purposes of this ordinance, all retail sales are consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or his agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination. The gross receipts from such sales shall include delivery charges, when such charges are subject to the state sales and use tax, regardless of the place to which delivery is made. In the event a retailer has no permanent place of business in the State or has more than one place of business, the place or places at which the retail sales are consummated shall be determined under rules and regulations to be prescribed and adopted by the State Board of Equalization.

4.60.070. USE TAX RATE. An excise tax is hereby imposed on the storage, use or other consumption in the City of tangible personal property purchased from any retailer on and after the operative date of this ordinance for storage, use or other consumption in said territory at the rate of 0.50% of the sales price of the property. The sales price shall include delivery charges when such charges are subject to state sales or use tax regardless of the place to which delivery is made. Such tax shall be in addition to any other use tax imposed by this Code or applicable State law.

4.60.080. ADOPTION OF PROVISIONS OF STATE LAW. Except as otherwise provided in this ordinance and except insofar as they are inconsistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, all of the provisions of Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code are hereby adopted and made a part of this ordinance as though fully set forth herein.

4.60.090. LIMITATIONS ON ADOPTION OF STATE LAW AND COLLECTION OF USE TAXES. In adopting the provisions of Part 1 of Division 2 of the Revenue and Taxation Code:

- A. Wherever the State of California is named or referred to as the taxing agency, the name of this City shall be substituted therefore. However, the substitution shall not be made when:
1. The word "State" is used as a part of the title of the State Controller, State Treasurer, State Board of Control, State Board of Equalization, State Treasury, or the Constitution of the State of California;
 2. The result of that substitution would require action to be taken by or against this City or any agency, officer, or employee thereof rather than by or against the State Board of Equalization, in performing the functions incident to the administration or operation of this Ordinance.
 3. In those sections, including, but not necessarily limited to sections referring to the exterior boundaries of the State of California, where the result of the substitution would be to:
 - a. Provide an exemption from this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not otherwise be exempt from this tax while such sales, storage, use or other consumption remain subject to tax by the State under the provisions of Part 1 of Division 2 of the Revenue and Taxation Code, or;
 - b. Impose this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not be subject to tax by the state under the said provision of that code.
 4. In Sections 6701, 6702 (except in the last sentence thereof), 6711, 6715, 6737, 6797 or 6828 of the Revenue and Taxation Code.
- B. The word "City" shall be substituted for the word "State" in the phrase "retailer engaged in business in this State" in Section 6203 and in the definition of that phrase in Section 6203.

4.60.100. PERMIT NOT REQUIRED. If a seller's permit has been issued to a retailer under Section 6067 of the Revenue and Taxation Code, an additional transactor's permit shall not be required by this ordinance.

4.60.110. EXEMPTIONS AND EXCLUSIONS.

- A. There shall be excluded from the measure of the transactions tax and the use tax the amount of any sales tax or use tax imposed by the State of California or by any city, city and county, or county pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law or the amount of any state-administered transactions or use tax.
- B. There are exempted from the computation of the amount of transactions tax the gross receipts from:
1. Sales of tangible personal property, other than fuel or petroleum products, to operators of aircraft to be used or consumed principally outside the county in which the sale is made and directly and exclusively in the use of such aircraft as common carriers of persons or property under the

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authority of the laws of this State, the United States, or any foreign government.

2. Sales of property to be used outside the City which is shipped to a point outside the City, pursuant to the contract of sale, by delivery to such point by the retailer or his agent, or by delivery by the retailer to a carrier for shipment to a consignee at such point. For the purposes of this paragraph, delivery to a point outside the City shall be satisfied:
 - a. With respect to vehicles (other than commercial vehicles) subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, and undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Vehicle Code by registration to an out-of-City address and by a declaration under penalty of perjury, signed by the buyer, stating that such address is, in fact, his or her principal place of residence; and
 - b. With respect to commercial vehicles, by registration to a place of business out-of-City and declaration under penalty of perjury, signed by the buyer, that the vehicle will be operated from that address.
 3. The sale of tangible personal property if the seller is obligated to furnish the property for a fixed price pursuant to a contract entered into prior to the operative date of this ordinance.
 4. A lease of tangible personal property which is a continuing sale of such property, for any period of time for which the lessor is obligated to lease the property for an amount fixed by the lease prior to the operative date of this ordinance.
 5. For the purposes of subparagraphs (3) and (4) of this section, the sale or lease of tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.
- C. There are exempted from the use tax imposed by this ordinance, the storage, use or other consumption in this City of tangible personal property:
1. The gross receipts from the sale of which have been subject to a transactions tax under any state-administered transactions and use tax ordinance.
 2. Other than fuel or petroleum products purchased by operators of aircraft and used or consumed by such operators directly and exclusively in the use of such aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of this State, the United States, or any foreign government. This exemption is in addition to the exemptions provided in Sections 6366 and 6366.1 of the Revenue and Taxation Code of the State of California.

3. If the purchaser is obligated to purchase the property for a fixed price pursuant to a contract entered into prior to the operative date of this ordinance.
 4. If the possession of, or the exercise of any right or power over, the tangible personal property arises under a lease which is a continuing purchase of such property for any period of time for which the lessee is obligated to lease the property for an amount fixed by a lease prior to the operative date of this ordinance.
 5. For the purposes of subparagraphs (3) and (4) of this section, storage, use, or other consumption, or possession of, or exercise of any right or power over, tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.
 6. Except as provided in subparagraph (7), a retailer engaged in business in the City shall not be required to collect use tax from the purchaser of tangible personal property, unless the retailer ships or delivers the property into the City or participates within the City in making the sale of the property, including, but not limited to, soliciting or receiving the order, either directly or indirectly, at a place of business of the retailer in the City or through any representative, agent, canvasser, solicitor, subsidiary, or person in the City under the authority of the retailer.
 7. "A retailer engaged in business in the City" shall also include any retailer of any of the following: vehicles subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, or undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Vehicle Code. That retailer shall be required to collect use tax from any purchaser who registers or licenses the vehicle, vessel, or aircraft at an address in the City.
- D. Any person subject to use tax under this ordinance may credit against that tax any transactions tax or reimbursement for transactions tax paid to a district imposing, or retailer liable for a transactions tax pursuant to Part 1.6 of Division 2 of the Revenue and Taxation Code with respect to the sale to the person of the property the storage, use or other consumption of which is subject to the use tax.

4.60.120. AMENDMENTS.

- A. All amendments subsequent to the effective date of this ordinance to Part 1 of Division 2 of the Revenue and Taxation Code relating to sales and use taxes and which are not inconsistent with Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, and all amendments to Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, shall automatically become a part of this ordinance, provided however, that no such amendment shall operate so as to affect the rate of tax imposed by this ordinance unless any increase in the rate of this tax is first approved by 2/3 of the voters of the City of El Cerrito voting on such question.

B. Pursuant to California Elections Code Section 9217 or any successor statute, the City Council of the City of El Cerrito may amend or repeal this ordinance and any of its exhibits, provided that written notification is submitted to the State Board of Equalization 110 days prior to the operative date of the amendment or repeal, but not increase or extend the rate of tax imposed herein, or the indebtedness authorized hereunder, without the approval of 2/3 of the voters of the City of El Cerrito voting on such question..

4.60.130. ENJOINING COLLECTION FORBIDDEN. No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action or proceeding in any court against the State or the City, or against any officer of the State or the City, to prevent or enjoin the collection under this ordinance, or Part 1.6 of Division 2 of the Revenue and Taxation Code, of any tax or any amount of tax required to be collected.

4.60.140. SEVERABILITY. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the ordinance and the application of such provision to other persons or circumstances shall not be affected thereby.

4.60.150. USE OF TAX PROCEEDS AND EXPENDITURE PLAN.

(a) All proceeds of the tax levied and imposed hereunder shall be accounted for and paid into a special fund designated for use by the City of El Cerrito only for the Pothole Repair and Street Improvement and Maintenance Services set forth in the Expenditure Plan for the administration and expenditure of the tax proceeds, attached to this ordinance as Exhibit "1". The Expenditure Plan may be amended from time to time by a majority vote of the City Council, so long as the funds are utilized for pothole repair and street improvement and maintenance services. For the purposes of this Part, "Pothole Repair and Street Improvement and Maintenance Services" means (1) all aspects of street repair and maintenance including repair, reconstruction and sealing of city streets; repair, maintenance and reconstruction of curbs and ramps adjacent to City streets; crosswalk and pedestrian improvements on or adjacent to City streets; other related services such as lane line, crosswalk and bicycle lane striping and other necessary pavement markings; and other such improvements as are deemed necessary by the City Council for the benefit of the residents of the City; (2) No revenues collected pursuant to the tax levied hereby may be spent on department administrators' salaries, General Fund operating expenses in effect at the time this ordinance becomes effective, or projects not a part of the Expenditure Plan. It is the intent of the People that revenues collected hereunder shall supplement, rather than supplant, existing City expenditures for Street Repair and Maintenance.

(b) The City is hereby authorized to incur indebtedness in the form of bonds, notes, contractual obligations or other evidences of indebtedness authorized by law to finance or refinance costs described in subsection (a) above, and to pay any and all costs of issuing or incurring such indebtedness, to fund reserve funds, capitalized interest, costs of credit enhancement, costs of interest rate hedging arrangements or any other financing costs associated with such indebtedness. Such indebtedness shall be solely payable from, and may be secured by a pledge and lien on, the proceeds of the tax levied and imposed hereunder. Such indebtedness shall be limited in amount such that the annual debt

service in each year is not in excess of 75% of the amount of tax proceeds projected by the City to be received in each year.

4.60.160. ANNUAL AUDIT.

By no later than December 31st of each year, the City's independent auditors shall complete a Streets Repair and Maintenance Tax Ordinance Compliance and Internal Control Audit Report. Such report shall review whether the Tax revenue is collected, managed and expended in accordance with this Chapter."

SECTION 2, Chapter 2.04 ("City Council") of Title 2 ("Administration") of the El Cerrito Municipal Code is hereby amended by adding a new Section 2.04.320, to read as follows:

2.04.320. CITIZENS' OVERSIGHT COMMITTEE.

A. Committee Established. There is hereby established in the City of El Cerrito a Citizens' Oversight Committee to monitor the expenditures of revenue collected pursuant to Chapter 4.60 (the "Pothole Repair and Local Street Improvement and Maintenance Transactions and Use Tax") only and report to the People and the City Council. The title of this Committee shall be the "Street Repair and Maintenance Citizens' Oversight Committee" (hereinafter the "Citizens' Oversight Committee" or the "Committee").

B. Selection of Members.

1. Members of the Citizens' Oversight Committee shall be appointed by majority vote of the City Council. The Committee shall consist of five members. The Citizens' Oversight Committee members shall not be current City of El Cerrito employees, officials, contractors or vendors of the City. Past employees, officials or vendors shall be eligible to serve on the Committee, provided that such service would not be a violation of law, as determined by the City Attorney.
2. Of the members of the Committee first appointed, three shall be appointed for terms of four years and two for terms of three years. Their successors shall be appointed for terms of four years. No member may serve more than two consecutive four-year terms.
3. The City Council shall solicit Citizens' Oversight Committee members through an open application process that is promoted through the City's normal recruiting process. Any El Cerrito resident is eligible to apply for Committee membership, subject to the limitations specified above. All applications will be reviewed by the City Council, which will have the authority to make all final decisions on Committee representation, subject to these guidelines.

C. Purpose and Jurisdiction.

1. The Citizens' Oversight Committee shall review expenditures of revenue collected pursuant to this Chapter only to determine whether such funds are expended for the purposes specified in the then-current Street Repair and Maintenance Expenditure Plan, and issuing reports on their findings to the City Council and public at least annually. The Committee may also

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review the annual financial or performance audits performed by an independent auditor. The Committee shall confine its oversight specifically to revenues generated under Chapter 4.60. Revenue generated through other sources shall be outside the jurisdiction of the Street Repair and Maintenance Citizens' Oversight Committee.

2. In order to preserve the integrity and independence of the oversight process, Committee members will not play a formal role in contracting, project management, or any other aspect of the Street Repair and Maintenance Measure funding.
 3. The Committee is not charged with decision-making on spending priorities, schedules, project details, funding source decisions (e.g. leveraged funds, developer fees, etc.), financing plans, or tax rate assumptions. The Committee shall serve in an advisory-only role to the City Council. The Committee shall have no jurisdiction other than that delegated to it by the People pursuant to this Ordinance. The failure of the Committee to carry out any of its duties under this Section shall not affect the validity of any of the provisions of Chapter 4.60.
 4. The City of El Cerrito City Manager or his designee shall provide any reasonable administrative or technical assistance required by the Committee to fulfill its responsibilities or publicize its findings.
- D. Meetings. The Citizens' Oversight Committee shall meet semi-annually (or as otherwise provided for in approved or amended by-laws) with specific meeting dates to be determined by the Committee. Citizens' Oversight Committee meetings are subject to the requirements of the Ralph M. Brown Act (Government Code § 54950 et seq., as may be amended from time to time). Meetings must be noticed and open to the public. Additional meetings may be scheduled by the Committee as necessary. All Committee members shall attend a training and orientation session upon commencing their duties.
- E. Attendance. Committee members are expected to attend all regular meetings.
- F. Committee Operations. At the first meeting of each calendar year, the Citizens' Oversight Committee will select members to serve as Chair and Vice Chair of the Committee. A City staff person will be appointed by the City Manager or his designee to serve as Secretary. The Secretary will be responsible for preparing, posting and distributing agendas and taking minutes at each meeting. Approved minutes shall be made available to the public. Committee decisions, positions, findings and procedures shall require a simple majority of those Members voting.
- G. Vacancies. In the event of removal, resignation, or death, the City Council shall appoint a person to fill the vacant seat.
- H. Miscellaneous. With the exception of those items specifically addressed in this ordinance, the Committee may draft and adopt its own standard procedures and by-laws by majority vote. All Citizens' Oversight Committee procedures and by-laws remain subject to review and approval by the City Council. Citizens' Oversight Committee reports and audits are subject to review and approval of the City Council.”

AGENDA ITEM 6(B)
ATTACHMENT 2

SECTION 3. EFFECTIVE DATE. This ordinance relates to the levying and collecting of the City transactions and use taxes and shall take effect 10 days following certification of the vote by the City Council.

SECTION 4. The City Clerk shall certify the passage of this ordinance; publish the same as required by applicable law, and forward a copy of the adopted ordinance to the Board of Equalization.

* * * * *

PASSED AND ADOPTED by the voters of El Cerrito at an election held February 5, 2008 by the following vote:

AYES:

NOES:

ATTEST:

Cheryl Morse, City Clerk

APPROVED:

Letitia D. Moore, Mayor

EXHIBIT 1

CITY OF EL CERRITO
POTHOLE REPAIR AND STREET IMPROVEMENT AND MAINTENANCE SERVICES

PAVEMENT EXPENDITURE PLAN

OF
ONE-HALF (1/2) CENT
TRANSACTIONS AND USE TAX REVENUE

The City of El Cerrito street system consists of approximately 68 miles of streets, the majority of which were constructed to the standards and conditions of the early to mid-20th century with many streets unable to meet today's traffic demands. The City's Pavement Condition Index (PCI), which was compiled by staff and its consulting engineers, illustrates that El Cerrito's streets have a very low average pavement condition rating (51 on a 100-point scale). Further analysis shows that the residential streets are in the worst condition of all categories with an average PCI of 38, while the neighborhood collectors and arterials are in better condition with PCIs of 68 and 80, respectively.

The needed improvements and maintenance on the City of El Cerrito street system far exceed the available revenues for these activities. While the City remains committed to continue efforts to obtain all possible Federal and State funding for street improvements, it is apparent that without the one-half (1/2) cent transactions and use tax revenue, the City will be unable to improve the street system to a level that will adequately serve the traveling public. This Pavement Expenditure Plan describes the specific projects for which the revenues from the tax will be expended, and satisfies the requirements of Section 7285.91(c) of the Revenue and Taxation Code.

The Expenditure Plan is a simple one, as it proposes to utilize the one-half cent transactions and use tax for street maintenance and improvement-related purposes, rather than specific capital improvement projects. The goal of this plan is to rapidly improve the City's street system to provide the traveling public with the best and most efficient road maintenance possible given the existing facilities and the available funds.

Annual Program of Maintenance and Improvement

The City shall prepare a "Maintenance and/or Improvement Program" that the tax revenues will fund. This Program will be a flexible document that responds to the most significant maintenance and improvement needs as they are identified. It will be updated annually as part of the City's annual Capital Improvement Program budget, and available funds will be appropriated. It will follow recommendations and priorities established annually by the City Council ~~and Citizens' Oversight Committee~~, and will itemize each year's particular capital projects and debt service payments. An annual independent audit will be performed by the City's external auditors that will include review of compliance with the requirement that all expenditures are related to street improvement, maintenance and associated debt service.

Accelerated Work Plan in First Five Years

The initial years will be devoted to the rehabilitation of the residential streets within the City of El Cerrito along with an effort to maintain the arterials in good condition. When possible, the City

AGENDA ITEM 6(B)
ATTACHMENT 3

will utilize these funds as matching funds for Federal and State Grants related to street improvement and rehabilitation projects. In addition, approximately 15% of the transactions and use tax would be set aside to improve the non-vehicular mobility and accessibility (curb ramps, improved striping) and significant drainage problems associated with the City's street system.

The first five years of the Pavement Expenditure Plan include a significantly accelerated work plan. This is intended to bring the City's Street System average PCI up to or near 70. Most of the accelerated work will occur in the first four years, and the fifth year would be used to transition to an annual comprehensive ongoing maintenance program.

The work plan is broken into two categories:

1. Preparatory Work: The Preparatory Work will consist of repair and other activities as aimed at preparing a street for the final resurfacing work. This typically includes:
 - Crack sealing
 - Structural pavement repairs
 - Leveling and rideability corrections
 - Installation of curb ramps pursuant to the Americans with Disabilities Act
 - Curb, gutter, and sidewalk repair (as needed)
 - Temporary or restored pavement markings and striping

2. Finish Resurfacing: Finish Resurfacing will consist of installing the final pavement surface and pavement markings. Typical activities would be:
 - Leveling and rideability corrections
 - Edge conform grinding
 - Asphalt overlay, micropaving, slurry seal, and cape seal
 - Replacement and enhancement of pavement markings, striping and signage.

The table below demonstrates how the accelerated (shown as "XXX") work will be performed for the various work items, and also indicates where a normal level of work (shown as "X") would be performed. This also indicates the approximate annual monetary value of work in each construction season.

		<u>2008</u>	<u>2009</u>	<u>2010</u>	<u>2011</u>	<u>2012</u>	
Preparation Work	<i>Curb Ramps</i>	XXX	XXX	X	X	X	
	<i>Crack Seal</i>	XXX	XXX	XXX	X	X	
	<i>Structural Repairs</i>	XXX	XXX	X	X	X	
Finish Work	<i>Slurry / Cape Seal</i>		XXX	XXX	XXX	X	
	<i>Asphalt Overlay</i>		XXX	XXX	XXX	X	
		\$16.9 million	\$2.6 M	\$5.5 M	\$4.5 M	\$3.3 M	\$1.0 M

Subsequent Years

After completion of the accelerated work plan, the subsequent years will be devoted to ongoing maintenance of the system in a manner to protect the City's valuable street infrastructure. Maintenance priorities will be reviewed annually by the City Council and the Citizen Oversight Committee with funds for each year to be expended on the priority items first.

Annual Debt Services

The transactions and use tax revenues will also be used for the payment of interest and principal on obligations resulting from the issuance of bonds, notes, leases, and other indebtedness.

Administrative Costs

In addition to the above expenditures directly related to the goals of the transactions and use tax, the tax will be used for certain administrative costs.

1. Financial Administration Costs: Staff accounting, auditing, and financial activities and contract services that are necessary and reasonable for the City to carry out its responsibilities under the Revenue and Taxation Code.
2. Costs Related to Bonds or Other Indebtedness: Expenses in the sale or issuance of bonds and/or other forms of debt
3. Project Management and Engineering Costs: Expenditures approved by the City Council that are necessary and reasonable for implementing the projects identified in the Maintenance and/or Improvement Program
4. Mandatory Independent Annual Fiscal Audit: Expenditures related to the independent annual audit required by the ordinance, which ensures that the expenditure of funds is in accordance with this plan.



AGENDA BILL

Agenda Item No. 5(D)

Date: August 21, 2012
To: El Cerrito City Council
From: Jerry Bradshaw, Public Works Director / City Engineer
Subject: Amend Capital Improvement Program to Fund Neighborhood Traffic Programs

ACTION REQUESTED

Adopt a resolution amending the 2012-13 Capital Improvement Program as follows:

- 1) Combine the “Traffic Safety Improvement Program” and the “Neighborhood Traffic Management Program (NTMP)” projects into a new project entitled for “Traffic Safety and Management Program;” and
- 2) Transfer \$100,000 of Measure A Street Improvement Funding from the Street Improvement Project to the Traffic Safety and Management Program.

BACKGROUND

The Street Improvement Capital Fund (Fund 211) was created in 2008 after El Cerrito voters approved Measure A, as described in the El Cerrito Municipal Code, Chapter 4.60, “*Pothole Repair and Local Street Improvement and Maintenance Transaction and Use Tax*”. The Measure was a half-cent sales tax to be used primarily to improve the condition of the City’s street pavement. To that end, the City engaged in an aggressive three-year street improvement program that succeeded in improving the City’s average pavement condition index (PCI) from a low of 49 to 85 (out of 100) – second among cities in the Bay Area. The backlog of pavement work was reduced from \$21 million to approximately \$500,000, which equates to a single year’s work.

Measure A included other street-related work items besides pavement. Code Section 4.60.150, *Use of Tax Proceeds and Expenditure Plan*, (a) (1) includes “...crosswalk and pedestrian improvements on or adjacent to City streets; other related services such as lane line, crosswalk and bicycle lane striping and other necessary pavement markings; and other such improvements as are deemed necessary by the City Council for the benefit of the residents of the City.” This section also establishes the Measure’s Expenditure Plan, which is updated annually in the Capital Improvement Program (CIP) budget under the Street Improvement Capital Fund section. That section includes specific projects and appropriations as shown in Table 11-3 and supporting Project Information Sheets in the Budget Book.

Neighborhood Traffic Management Plan – Traffic concerns have increasingly become a concern in El Cerrito. In September 2010 the City Council adopted the

Agenda Item No. 5(D)

Neighborhood Traffic Management Plan (NTMP), which was intended to establish an objective method by which neighborhood traffic concerns are addressed and, if necessary, prioritized. The NTMP did not, however, establish any funding to evaluate and implement NTMP projects. The resources for this were to be considered in the annual budgeting process. Since the NTMP was adopted, no new funding has been appropriated for neighborhood traffic issues.

Speed Surveys – On June 19, 2012 the City Council adopted speed limits on several streets in town. That action item included three street segments on which the speed limit was not supported by an Engineering and Traffic Survey (speed survey). The result was that the speed limit on those segments cannot be enforced using electronic means (e.g. radar or lidar). Staff stated during that meeting that it would explore traffic calming measures that might affect the prevailing speeds such that a future speed survey would support the adopted speed limits. These measures would focus primarily in the residential areas along Arlington Blvd (Thors Bay to Cutting), Barrett, and Potrero (west of San Pablo Avenue).

Arlington Traffic Issues – Following a tragic accident that claimed the life of an El Cerrito resident on June 6th on Arlington Blvd at Brewster Drive (near Arlington Park), staff engaged in a renewed dialog with Arlington residents about traffic issues in their neighborhood. Staff has developed both a near-term plan and a long-term plan for improvements in the vicinity that focus on pedestrian safety, vehicle speeds and sight lines.

ANALYSIS

While the community's focus on traffic issues and their expectations have risen in the past few years, the resources of the City have diminished. These resources consist of staff members of the Public Works and Police Departments and funding for traffic consultants, contractors, and supplies. In the Engineering Division, one of the two staff engineers has retired, and the position isn't slated to be refilled in the foreseeable future.

Currently, the Engineering Division has five NTMP applications at some stage in the process. A few of the simple traffic solutions can be implemented using existing Gas Tax appropriations, but some of the projects may end up requiring more complicated, and more expensive, solutions. In addition, the desire to implement traffic systems to improve the Arlington/Brewster area and to address the three speed zones that are not supported by a speed survey is widening the gap between community expectations and available resources.

Staff is recommending amending the current CIP to shift approximately 14% of the annual appropriation from the paving project to a new project that would address various traffic problems. This would also constitute an amendment of the Measure A Expenditure Plan. While neighborhood traffic problems were not the first priority for Measure A funds as it was presented to the community in 2007 and 2008, the City has made such significant progress in the area of pavement improvements (the first priority for Measure A funds), that it would not be inappropriate to authorize a modest level of funding for some of the secondary aspects of the fund. The rising expectations for

Agenda Item No. 5(D)

improved traffic conditions is evidenced by the response to the NTMP roll-out, individual requests to Engineering Division, and comments received in other public venues such as the most recent National Night Out event.

By approving this action, the City Council would be reinforcing its commitment to neighborhood traffic solutions that was stated in the adoption of the NTMP in 2010. At the same time, the funding available for pavement work will remain strong.

The 2012-13 CIP includes two projects in the Street Improvement Capital Fund (211): The Street Improvement Program (C3027) and the Moeser Ashbury project (C3061). The former is a catchall project used for capital maintenance of the streets. It is focused on pavement treatments and includes traffic control systems only as they pertain to pavement work. Therefore, it would not be appropriate to use this project directly for neighborhood traffic solutions in the absence of paving work. The latter project is specific to certain bicycle and pedestrian improvements along Moeser Lane and Ashbury Avenue.

Further, the CIP also identifies two traffic related programs; both of which remain unfunded:

- “Traffic Safety Improvement” – this project is targeted toward high-accident locations on arterial and collectors identified in a traffic safety audit several years ago.
- “Neighborhood Traffic Management Plan” – this project was created to fund the NTMP program.

These two projects are relatively narrow in scope, and neither applies to staff-generated traffic projects that may come to light outside of the NTMP requests or the existing traffic audit. Examples include the current desire for traffic calming near Arlington Park and in the three speed zones identified above. Therefore, staff is recommending combining these two projects into a single project called “Traffic Safety and Management Program.” This would afford the City more flexibility in applying any annual funding to traffic projects including possible matching funds for future grant opportunities.

FINANCIAL CONSIDERATIONS

The Street Improvement Program (C3027) is budgeted for an expenditure of \$725,000 for fiscal year 2012-13. Staff is recommending re-allocating \$100,000 of that to a new project, Traffic Safety and Management Program.

If approved, the funding will be allocated to the three pending priorities:

- Near-Term Improvements near Arlington Park (approximately \$25,000)
- NTMP requests (approximately \$40,000)
- Speed Zone traffic calming (approximately \$35,000)

Reviewed by:



Scott Hanin, City Manager

Attachment:

1. Accompanying Resolution

RESOLUTION 2012-XX

RESOLUTION OF THE EL CERRITO CITY COUNCIL AMENDING THE 2012-13 CAPITAL IMPROVEMENT PROGRAM TO INCLUDE A TRAFFIC SAFETY PROJECT AND TRANSFER FUNDS FROM THE MEASURE A PAVING PROJECT

WHEREAS, the Street Improvement Capital Fund (Fund 211) was created in 2008 after El Cerrito voters approved Measure A, as described in the El Cerrito Municipal Code, Chapter 4.60; and

WHEREAS, Measure A was primarily focused on pavement improvements but also included other types of work including crosswalk and pedestrian improvements; lane line and bicycle lane striping and other necessary pavement markings; and other such improvements as are deemed necessary by the City Council for the benefit of the residents of the City; and

WHEREAS, the Measure A Expenditure Plan is updated annually through the Capital Improvement Program; and

WHEREAS, the City's aggressive three-year street improvement program successfully reduced the value of the paving backlog from \$21 million to \$500,000; and

WHEREAS, traffic issues have increasingly become a concern in the City as evidenced by the 2010 adoption of the Neighborhood Traffic Management Program (NTMP) and by the five NTMP requests currently being processed by staff; and

WHEREAS, speed limits adopted by the City Council on June 19, 2012 included three street segments where the engineering and traffic survey did not support the speed limit thereby eliminating the City's ability to utilize electronic enforcement (radar) on those segments; and staff promised to explore traffic calming measures to bring prevailing speeds more in line with posted speed limits; and

WHEREAS, the City has developed near- and long-term proposals for traffic improvements on Arlington Blvd near Arlington Park following neighborhood reaction to a tragically fatal accident in the vicinity; and

WHEREAS, no funding is currently identified in the Capital Improvement Program for the NTMP, the speed zone traffic calming, or any improvements near Arlington Park; and

WHEREAS, two existing CIP projects, Traffic Safety Program and Neighborhood Traffic Management Program are relatively narrow in focus and are currently unfunded; and staff is recommending that they be combined into a new project entitled Traffic Safety and Management Program.

NOW, THEREFORE, BE IT RESOLVED that the El Cerrito City Council hereby amends the 2012-13 Capital Improvement Program to:

- 1) Combine the "Traffic Safety Improvement Program" and the "Neighborhood Traffic Management Program" projects into a new project entitled "Traffic Safety and Management Program;" and
- 2) Transfer \$100,000 of Measure A Street Improvement Funding from the Street Improvement Project to the Traffic Safety and Management Program.

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

I CERTIFY that at a regular meeting on August 21, 2012 the City Council of the City of El Cerrito passed this Resolution by the following vote:

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

IN WITNESS of this action, I sign this document and affix the corporate seal of the City of El Cerrito on August ____, 2012.

Cheryl Morse, City Clerk

APPROVED:

William C. Jones III, Mayor



AGENDA BILL

Agenda Item No. 6(B)

Date: November 5, 2007
To: El Cerrito City Council
From: Jerry Bradshaw, Public Works Director
Scott Hanin, City Manager
Subject: Direction on February 2008 Sales Tax Ballot Measure for City Pothole Repair and Local Street Improvements and Maintenance

ACTION REQUESTED

Adopt a Resolution of the City Council of the City of El Cerrito:

- a) Calling for a Special Municipal Election to be consolidated with the Statewide Presidential Primary to be held on February 5, 2008;
- b) Approving an Ordinance (Exhibit A to the Resolution) establishing a one-half (1/2) cent sales tax increase for the repair of potholes and improvement and maintenance of city streets, which would be effective only if adopted by a two-thirds vote of the El Cerrito electorate;
- c) Submitting to the El Cerrito electorate a measure to adopt the Ordinance establishing a one-half (1/2) cent sales tax increase for the repair of potholes and improvement and maintenance of city streets;
- d) Requesting that the Contra Costa Board of Supervisors consent to the consolidation of this election with the statewide primary election to be held on the same date.

BACKGROUND

In order make a determination on the City's approach for future revenue enhancements, the following actions have been undertaken:

- At its January 2, 2007 meeting, the City Council was presented with the results of a recently completed Godbe Research survey of resident attitudes about possible new future taxes to fund the City's largest outstanding capital needs.
- At its March 5, 2007 meeting, based on the prior research and public input, the City Council favored a measure on the February 2008 ballot to fund City street repairs and improvements.
- At its April 16, 2007 meeting, staff was authorized to engage Godbe Research for a follow-up survey that would focus on the City's future street improvement program and collect information to better articulate the City's needs, and the

4-21

7

Lew Edwards Group (LEG) to help the City develop, oversee and implement a public information and outreach program.

Public Outreach

Since April, the City has conducted a public outreach program, which has consisted of the following:

- **Mailers:** Two citywide mailers were sent, the first in July which included a postage-paid questionnaire, and the second in mid-October. The City has received approximately 1,200 responses to the questionnaire (either mailed back or completed online). Those responses were generally supportive of the possibility of a ballot measure and focused heavily on potholes and neighborhood street repair.
- **Newsletter:** Articles on streets appeared in the last two Citywide newsletters.
- **Meetings:** Recently, staff gave presentations at two Community Meetings:
 - October 10th at Madera School – ten people attended
 - October 16th at Community Center – fourteen people attended

Staff has also spoken at the following meetings:

- Financial Advisory Board – Presentation on July 10th
- Human Relations Commission – Discussed on September 5th
- Economic Development Board – Presentation on September 6th
- El Cerrito Rotary Club – Presentation on October 4th

In the near future, staff hopes to make presentations to other Boards and Commissions and other community/neighborhood groups, and will be presenting to the El Cerrito Chamber of Commerce on November 7th.

- **Updates:** The City has sent two letters to community groups to inform and update about the needs and request opportunities to come speak to their organization. We also conducted one-on-one meetings as needed with community stakeholders to build awareness of the needs.
- **Citizens' Working Group:** The City Manager convened an ad-hoc Citizens' Working Group composed of key stakeholders to provide feedback on community needs and priorities. Two meetings were held which consisted of 8-12 members of the community.
- **Additional Outreach:** Information about the City's neighborhood street repair and maintenance needs has been posted on the City website and updated frequently.

In addition to the extensive outreach effort, Godbe Research conducted a new statistically valid phone survey of El Cerrito residents. Unlike the survey that was conducted last year, this survey focused only on streets and asked voters to primarily consider a sales tax. Similar to the 2006 survey, over 70% of those residents surveyed

Agenda Item No. 6(B)

indicated they were in favor of the proposed ballot measure. Respondents indicated the most important streets-related issues included:

- Filling potholes
- Maintaining and repairing neighborhood streets
- Providing a constant stream of funding for the ongoing maintenance of all 68 miles of the city's roads

Conversely, when asked if they would consider a parcel tax, only 34% responded favorably (a 28% decrease from last year's survey).

Measure Overview

The local ballot measure under consideration has the following key components:

- Sales tax would increase by one-half cent
- The City would incur debt in order to immediately begin and accelerate street improvements
- All funds generated by the measure would be used exclusively for City streets
- Independent audits of funds usage would be required
- A Citizens' Oversight Committee would be created
- All revenues would be kept in a restricted fund

Next Steps

The Ordinance (Exhibit A to the Resolution) would be subject to voter approval and contains the details of the sales tax collection and approved expenditures. The proposed Resolution would approve the Ordinance as written, and calls for a special municipal election to be consolidated with the Statewide Presidential Primary to be held on February 5, 2008. Should the City Council adopt the Resolution in order to place the sales tax measure on the ballot, the previously approved public information and outreach program will continue and be centered around 3-4 additional public information mailings as described in April:

NOVEMBER 2007	<ul style="list-style-type: none">➤ Council acts to place Measure on February 2008 Ballot➤ Issue nonpartisan City Mailer #3 (announcement of Council action)➤ Issue Opinion Leader Update #3
DECEMBER 2007	<ul style="list-style-type: none">➤ Refine/update January – February communications plan
JANUARY 2008	<ul style="list-style-type: none">➤ Produce nonpartisan City mailers #4 and #5➤ Issue Opinion Leader Update #4
FEBRUARY 2008	<ul style="list-style-type: none">➤ Produce nonpartisan City Mailer #6

The proposed resolution also directs the City Attorney to prepare the impartial analysis and authorizes a member of the Council to prepare the argument in favor of the measure.

ANALYSIS/FINANCIAL CONSIDERATIONS

Expenditure Plan

The needed street improvements and maintenance in the City of El Cerrito far exceed the available revenues for these activities. While the City remains committed to continue efforts to obtain all possible Federal and State funding for street improvements, it is apparent that without the one-half cent sales tax revenue, the City will be unable to improve the street system to a level that will adequately serve the traveling public. Staff has prepared a Pavement Expenditure Plan (Exhibit 1 to the Ordinance) that describes how the revenues from the tax will be expended, and satisfies the requirements of Section 7285.91(c) of the Revenue and Taxation Code.

The Expenditure Plan is a simple one, as it proposes to utilize the one-half cent sales tax for street maintenance and improvement-related purposes, rather than specific capital improvement projects. The goal of this plan is to rapidly improve the City's Street System to provide the traveling public with the best and most efficient road maintenance possible given the existing facilities and the available funds.

Annual Program of Maintenance and Improvement

The City will annually prepare a "Maintenance and Improvement Program" that the sales tax revenues will fund. This Program will be a flexible document that responds to the most significant maintenance and improvement needs as they are identified. It will be updated as part of the City's annual Capital Improvement Program budget, and available funds will be appropriated. It will follow recommendations and priorities established by the City Council and Citizens' Oversight Committee, and will itemize each year's particular capital projects and debt service payments. An annual independent audit will be performed by the City's external auditors that will include review of compliance with the requirement that all expenditures are related to street improvement, maintenance and associated debt service.

Accelerated Work Plan in First Five Years

The initial phase of street improvement work will be devoted to the rehabilitation of the residential streets within the City of El Cerrito along with an effort to maintain the arterials in good condition. When possible, the City will utilize the sales tax revenue as matching funds for Federal and State Grants related to street improvement and rehabilitation projects. In addition, approximately 15% of the sales tax revenues would be set aside to improve the non-vehicular mobility and accessibility (curb ramps, improved striping) and significant drainage problems associated with the City's street system.

The first five years of the Pavement Expenditure Plan include a significantly accelerated work plan. This is intended to bring the City's Street System average Pavement Condition Index (PCI) up to or near 70, a "Good" rating. Most of the accelerated work will occur in the first four years, and the fifth year would be used to transition to an annual comprehensive ongoing maintenance program.

The work plan is broken into two categories:

1. **Preparatory Work:** The preparatory work will consist of repair and other activities as aimed at preparing a street for the final resurfacing work. This typically includes:
 - Crack sealing
 - Structural pavement repairs
 - Leveling and rideability corrections
 - Installation of curb ramps pursuant to the Americans with Disabilities Act
 - Curb, gutter, and sidewalk repair (as needed)
 - Temporary or restored pavement markings and striping

2. **Finish Resurfacing:** Finish resurfacing will consist of installing the final pavement surface and pavement markings. Typical activities would be:
 - Leveling and rideability corrections
 - Edge conform grinding
 - Asphalt overlay, micropaving, slurry seal, and cape seal
 - Replacement and enhancement of pavement markings, striping, and signage

The table below demonstrates how the accelerated (shown as "XXX") work will be performed for the various work items, and also indicates where a normal level of work (shown as "X") would be performed. This also indicates the approximate annual monetary value of work in each construction season.

	<u>2008</u>	<u>2009</u>	<u>2010</u>	<u>2011</u>	<u>2012</u>	
Preparation Work	<i>Curb Ramps</i>	XXX	XXX	X	X	X
	<i>Crack Seal</i>	XXX	XXX	XXX	X	X
	<i>Structural Repairs</i>	XXX	XXX	X	X	X
Finish Work	<i>Slurry / Cape Seal</i>		XXX	XXX	XXX	X
	<i>Asphalt Overlay</i>		XXX	XXX	XXX	X
	\$16.9 million	\$2.6 M	\$5.5 M	\$4.5 M	\$3.3 M	\$1.0 M

Subsequent Years

After completion of the accelerated work plan, the subsequent years will be devoted to ongoing maintenance of the system in a manner to protect the City's valuable street infrastructure. Maintenance priorities will be reviewed annually by the City Council and the Citizens' Oversight Committee with funds to be expended on the priority items first.

Annual Debt Services

The sales tax revenues will also be used for the payment of interest and principal on obligations resulting from the issuance of bonds, notes, leases, and other indebtedness.

Administrative Costs

In addition to the expenditures directly related to the goals of the sales tax, the revenues will be used for certain administrative costs:

- **Financial Administration Costs:** Staff accounting, auditing, and financial activities and contract services that are necessary and reasonable for the City to carry out its responsibilities under the Revenue and Taxation Code
- **Costs Related to Bonds or Other Indebtedness:** Expenses in the sale or issuance of bonds and/or other forms of debt
- **Project Management and Engineering Costs:** Expenditures approved by the City Council that are necessary and reasonable for implementing the projects identified in the Maintenance and Improvement Program
- **Mandatory Independent Annual Fiscal Audit:** Expenditures related to the independent annual audit required by the ordinance, which ensures that the expenditure of funds is in accordance with this plan

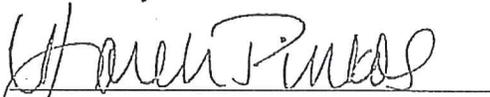
Election Costs

Contra Costa County has estimated that the actual cost of the election to the City will be approximately \$30,000. This would be funded by undesignated General Fund balance.

LEGAL CONSIDERATIONS

The City Attorney has reviewed and approved all of the documentation with respect to this measure, including all public information and outreach materials as well as the attached resolution and ordinance. Staff will continue to work with the City Attorney to ensure that all activities of the City and its employees are strictly limited to providing accurate, fair and impartial information about the ballot measure and the election process.

Reviewed by:



Karen Pinkos, Assistant City Manager

Attachments:

1. Resolution
2. Ordinance (Exhibit A to Resolution)
3. Expenditure Plan (Exhibit 1 to the Ordinance)

Citizen Street Oversight Committee
Terms since inception

	<u>Member</u>			08	09	10	11	12	13	14	15	16	17	18	19
	Kessler														
	A Miller														
	Robertson Schultz														
	T Miller														
	Ozselcuk														

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Roster

Citizen's Street Oversight Committee

Current

Name	Term	
Lynne Kessler (Vice Chair)	01/01/12	1/10/16
Al Miller	01/01/12	01/01/16
Thomas Miller	01/01/11	01/01/15
Elizabeth Oszelcuk	01/01/11	01/01/15
Aurelia Schultz (Chair)	01/01/12	1/10/16



MADDY ACT LOCAL APPOINTMENTS LIST

NOTICE TO THE RESIDENTS OF THE CITY OF EL CERRITO: In compliance with the requirements of the Maddy Act, Government Code §54970, please find below, a listing of all current board and commission members whose terms will expire on January 1, 2014. This list was posted on or before December 31, 2013 at El Cerrito City Hall, 10890 San Pablo Avenue, the El Cerrito Library, 6510 Stockton Avenue and the El Cerrito Community Center, 7007 Moeser Lane. The City Council invites all residents interested in serving on a Board, Commission or Committee to apply. An application may be downloaded from the City’s website at www.el-cerrito.org or obtained from the City Clerk, 215-4305. The **DEADLINE** for receipt of applications is **Monday, 12/9/13** by 12:00 p.m. in the City Clerk's office. Please note that the City Council conducts open recruitment year round should any unexpected vacancies occur and any applications received after the deadline will be kept on file for this purpose. **Please consider submitting an application now!**

ARTS & CULTURE COMMISSION

Meets the 4th Monday at 7:00 p.m. at City Hall. Staff Liaison: Suzanne Iarla, 215-4318, siarla@ci.el-cerrito.ca.us. Qualifications: Resident of El Cerrito. Members shall demonstrate a commitment to various arts disciplines, including but not limited to: fine arts, performing arts, literary arts, art history and arts education.

Commission Member	Date Appointed	Term Expiration
Existing Vacancy		1/1/2017
Deb Danzinger	3/19/2013	1/1/2014
Nancy Donovan	5/7/2008	1/1/2014
Joyce Hawley	1/1/2010	1/1/2014

CITIZENS STREET OVERSIGHT COMMITTEE

Meets 4th Monday of September, 2nd Monday of November and 4th Monday of January at 7:00 p.m. at City Hall. Staff Liaison: Yvetteh Ortiz, 215-4345, yortiz@ci.el-cerrito.ca.us. Qualifications: Resident of El Cerrito.

Committee Member	Date Appointed	Term Expiration
Existing Vacancy		1/1/2016

CIVIL SERVICE COMMISSION

Meets on-call at 7:00 p.m. at City Hall. Qualifications: Resident of El Cerrito. Staff Liaison: Sukari Beshears, 215-4304, sbeshears@ci.el-cerrito.ca.us. Qualifications: Resident of El Cerrito.

Commission Member	Date Appointed	Term Expiration
Jade Smith	2/7/2011	1/1/2014

CITY OF EL CERRITO – MADDY ACT LOCAL APPOINTMENTS LIST

COMMITTEE ON AGING

Meets the 3rd Wednesday at 3:00 p.m. at City Hall. Staff Liaison: Janet Bilbas, 559-7677, jbilbas@ci.el-cerrito.ca.us. Qualifications: El Cerrito Resident. **No vacancies.**

CRIME PREVENTION COMMITTEE

Meets the 2nd Wednesday at 7:00 p.m. at City Hall. Staff Liaison: Cpl. JT Wahrlich, 215-4418, jwahrlich@ci.el-cerrito.ca.us. Qualifications: El Cerrito Resident and successful completion of a criminal records background check. **Eight vacancies exist – All residents are encouraged to apply. Appointments to the Committee are made by the City Council upon recommendation of the Committee.**

DESIGN REVIEW BOARD

Meets the 1st Wednesday at 7:30 p.m. at City Hall. Staff Liaison: Noel Ibalio, 215-4330, nibalio@ci.el-cerrito.ca.us. Qualifications: Resident of El Cerrito. At least three members shall be members of the design profession.

Board Member	Date Appointed	Term Expiration
Cassandra Adams	1/1/2010	1/1/2014
Margaret Leighly	1/1/2010	1/1/2014

ECONOMIC DEVELOPMENT BOARD

Meets Quarterly at City Hall at 6:30 p.m. Staff Liaison: Dwayne Dalman, 215-4362, ddalman@ci.el-cerrito.ca.us. Qualifications: Members shall be either residents of the city or own or operate businesses in the city. Owners or operators of a business in the city do not have to be city residents.

Board Member	Date Appointed	Term Expiration
Chamber Appointee	1/1/2013	1/1/2014
Existing Vacancy		1/1/2014

ENVIRONMENTAL QUALITY COMMITTEE

Meets 2nd Tuesday at 7:00 p.m. at City Hall. Staff Liaison: Garth Schultz, 559-7684, gschultz@ci.el-cerrito.ca.us. Qualifications: El Cerrito resident or business member. Knowledge of, interest in, and/or involvement in issues affecting environmental quality desired. **Four vacancies exist – All residents and representatives of local businesses are encouraged to apply. Appointments to the Committee are made by the City Council upon recommendation of the Committee.**

FINANCIAL ADVISORY BOARD

Meets 2nd Tuesday at 7:00 at City Hall. Staff Liaison: Lisa Malek-Zadeh, 215-4312, lmalekzadeh@ci.el-cerrito.ca.us. Qualifications: Resident of El Cerrito. Members shall have demonstrated expertise in financial management, accounting, fiscal analysis, computer applications, economic analysis or related skills.

Board Member	Date Appointed	Term Expiration
Existing Vacancy		1/1/2016

CITY OF EL CERRITO – MADDY ACT LOCAL APPOINTMENTS LIST

HUMAN RELATIONS COMMISSION

Meets 1st Wednesday at 7:00 p.m. at City Hall. Qualifications: Resident of El Cerrito. Staff Liaison: Sukari Beshears, 215-4304, sbeshears@ci.el-cerrito.ca.us. Qualifications: Resident of El Cerrito.

Commissioner	Date Appointed	Term Expiration
Existing Vacancy		1/1/2015

PARKS AND RECREATION COMMISSION

Meets the 4th Wednesday at 7:00 p.m. in Council Chambers. Staff Liaison: Chris Jones, 559-7005, cjones@ci.el-cerrito.ca.us. Qualifications: Resident of El Cerrito.

Commissioner	Date Appointed	Term Expiration
Manish Doshi	11/5/2007	1/1/2014
Margo Takemiya	2/1/2006	1/1/2014

PLANNING COMMISSION

Meets the 3rd Wednesday at 7:30 p.m. in Council Chambers. Staff Liaison: Sean Moss, 215-4359, smoss@ci.el-cerrito.ca.us. Qualifications: Resident of El Cerrito.

Commissioner	Date Appointed	Term Expiration
Ken Hirano	9/11/2012	1/1/2014
Lisa Motoyama	1/1/2010	1/1/2014

TREE COMMITTEE

Up to 15 members. Meets second Monday at 7:00 p.m. in the Hillside Room. Staff Liaison Stephen Preé, 215-4333, spre@ci.el-cerrito.ca.us Qualifications: Resident of El Cerrito. **Six vacancies exist.**

LOCAL APPOINTMENTS TO REGIONAL BODIES

CONTRA COSTA LIBRARY COMMISSION

Meets bi-monthly on the 4th Thursday at 7:00 p.m. at the Library Administration Conference Room in Pleasant Hill. One primary and one alternate are appointed by the City Council as representatives from the City of El Cerrito. Qualifications: Resident of El Cerrito. **No vacancies**

CCC TRANSPORTATION AUTHORITY CITIZENS ADVISORY COMMITTEE

Meets 4th Wednesday at 6:30 p.m. in Pleasant Hill. One person is appointed by the City Council as a representative from the City of El Cerrito. Qualifications: Resident of El Cerrito. **No scheduled vacancies until 2015.**

CCC MOSQUITO AND VECTOR CONTROL DISTRICT BOARD OF TRUSTEES

Meets bi-monthly on the 2nd Monday at 7:00 p.m. in Concord. One person is appointed by the City Council as a representative from the City of El Cerrito. Qualifications: Resident of El Cerrito. **There are no scheduled vacancies until 2016.**

WEST CONTRA COSTA CITIZENS BOND OVERSIGHT COMMITTEE

CITY HALL 10890 San Pablo Avenue, El Cerrito, CA 94530
Telephone (510) 215-4305 Fax (510) 215-4379 <http://www.el-cerrito.org>

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CITY OF EL CERRITO – MADDY ACT LOCAL APPOINTMENTS LIST

Meets once per month at 1300 Potrero, Richmond. One primary and one alternate member are appointed to this 21 member WCCUSD Committee. Qualifications: Resident of El Cerrito.

Commissioner	Date Appointed	Term Expiration
Vacancy - Alternate		

Dated: September 24, 2013 _____
Revised: Cheryl Morse, City Clerk