

EL CERRITO CITY COUNCIL

MINUTES

SPECIAL CITY COUNCIL MEETING
Tuesday, May 20, 2014 – 6:15 p.m.
Hillside Conference Room

CITY COUNCIL MEETING
Tuesday, May 20, 2014 – 7:00 p.m.
City Council Chambers

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

Janet Abelson – Mayor

Mayor Pro Tem Rebecca Benassini
Councilmember Jan Bridges

Councilmember Mark Friedman
Councilmember Greg Lyman

ROLL CALL

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

6:15 p.m.

CONVENE SPECIAL CITY COUNCIL MEETING

Mayor Abelson convened the special City Council meeting at 6:15 p.m.

ANNOUNCEMENT OF CLOSED SESSION

CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION

Initiation of litigation pursuant to Government Code Section 54956.9(d)(4): One potential case

ORAL COMMUNICATIONS FROM THE PUBLIC – *No speakers.*

RECESSED INTO CLOSED SESSION at 6:16 p.m.

ADJOURNED SPECIAL CITY COUNCIL MEETING at 7:03 p.m.

ROLL CALL

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

7:00 p.m.

CONVENE REGULAR CITY COUNCIL MEETING

Mayor Abelson convened the City Council meeting at 7:07 p.m.

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

2. COUNCIL / STAFF COMMUNICATIONS

Mayor Pro Tem Benassini stated that she attended West County Youth Service Bureau's (WCYSB) 30th Anniversary Dinner on May 15 at the Mira Vista Country Club. The WCYSB has offices in Richmond and Concord and provides wrap around services to at-risk youth. It was a wonderful ceremony that was also attended by Congressman George Miller and other dignitaries.

Mayor Abelson stated that the City Council met in closed session earlier in the evening and provided direction to staff regarding anticipated litigation. (*Announced after the conclusion of Item No. 4(B), Utility users tax presentation.*)

3. ORAL COMMUNICATIONS FROM THE PUBLIC

Ralph Boniello, El Cerrito, Friends of Five Creeks, declared that the Hillside Festival was a great success and very well attended. Friends of Five Creeks co-sponsored the festival. Mr. Boniello provides the City Council with a flyer that the organization handed out at the festival which provides information on the many native species of wildflowers that exist in the Hillside Natural Area. Friends of Five Creeks looks forward to working with the City to steward the area.

Al Miller, El Cerrito, expressed his support for West Contra Costa Unified School District Measure H.

4. PRESENTATION

A. Annual Sundar Shadi Garden Awards – *Presentation by Bonnie E. Smith, President, El Cerrito Garden Club.*

Action: Received presentation. Ms. Smith, presented awards on behalf of the the El Cerrito Garden Club to: 1) 7555 Everett Street – Nalini and Anna Heath-Delaney; 2) 2000 Carquinez Avenue – Todd Saunders and Michael Potoczniak; and 3) 509 Clayton Avenue – Peter J. Sako. Ms. Smith, stated that in past years, gardens received first through third place awards, however, this year, gardens were honored equally since each garden is unique.

B. Utility Users Tax Presentation – *Presentation by Lori Trevino, Finance Director and Sky Woodruff, City Attorney.*

Receive a presentation from the City Attorney and Finance staff regarding the City's Utility Users Tax.

Action: Received presentation.

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

Moved, seconded (Friedman/Bridges) and carried unanimously to adopt Consent Calendar Item Nos. 5A through 5E, 5G and 5H in one motion as indicated below. Consent Calendar Item Nos. 5F and 5I were removed from the Consent Calendar as indicated below.

A. Minutes for Approval

Approve the May 6, 2014 Special City Council and Regular City Council meeting minutes.

Action: Approved minutes.

B. Various Traffic and Parking Regulation Revisions

Adopt two separate resolutions authorizing the Public Works Director/City Engineer to:

1) Remove seventy-five feet of green curb marking on the south side of Madera Drive in front of Madera Elementary School; and 2) Remove existing four-hour parking restrictions on the west side of San Pablo Avenue between Knott Avenue and Wall Avenue. *Exempt from CEQA.*

Action: Adopted Resolution Nos. 2014–13 and 2014–14.

C. Budget Appropriation for the City Housing Trust Fund

Adopt a resolution appropriating spending authority for the Fiscal Year 2013-14 budget for the newly creating City Housing Trust Fund.

Action: Adopted Resolution No. 2014–15.

D. Support for Contra Costa College Bond Measure E

Adopt a resolution supporting the goals of Contra Costa Community College District's Education Bond Measure E and encouraging the voters of the City of El Cerrito to review the language and arguments concerning Measure E and thereafter to cast their vote on Measure E at the June 3, 2014 statewide primary election.

Action: Adopted Resolution No. 2014–16.

E. Support for West Contra Costa Unified School District Measure H

Adopt a resolution supporting the goals of Measure H and encouraging the voters of El Cerrito to review the language and arguments concerning Measure H and thereafter cast their vote on Measure H at the June 3, 2014 statewide primary election.

Action: Adopted Resolution No. 2014–17.

F. Proclamation Recognizing Officer Bailey Thepkaysone

Approve a proclamation commending Officer Bailey Thepkaysone on the occasion of his recognition by the Exchange Club of Albany–El Cerrito as the Officer of the Year on May 28, 2014 and extending sincere appreciation to Officer Thepkaysone for his devotion to the mission, vision and values of the Police Department. He truly epitomizes community based policing in the City of El Cerrito.

Action: Removed from the Consent Calendar at the request of Mayor Abelson. Moved, seconded (Friedman/Benassini) and carried to approve the proclamation. Proclamation presented to Officer Thepkaysone.

G. Jewish American Heritage Month Proclamation

Approve a proclamation declaring May 2014 as Jewish American Heritage Month in the City of El Cerrito and calling upon all residents to celebrate Jewish Americans who have helped weave the fabric of not only American history, culture and society but also the City of El Cerrito and visit www.JewishHeritageMonth.gov to learn more about the heritage and contributions of Jewish Americans and to observe this month, the theme of which is healing the world, with solemn remembrance, appropriate programs, activities and ceremonies.

Action: Approved proclamation. Presented to Gabe Quinto, Chair, Human Relations Commission.

H. Asian American Pacific Islander Month Proclamation

Approve a proclamation declaring May 2014 as Asian American and Pacific Islander Heritage Month in the City of El Cerrito and inviting everyone to reflect on the notable accomplishments and outstanding services provided by Asian Americans and Pacific Islanders to the Nation, California and the City of El Cerrito.

Action: Approved proclamation. Presented to Gabe Quinto, Chair, Human Relations Commission.

I. June 2014 City Council Meeting Schedule

The City Council will meet on Monday, June 2, 2014. Approve a recommendation confirming an additional special meeting on Monday, June 9, 2014 and rescheduling the June 17, 2014 regular City Council meeting to Monday, June 23 and reserve Tuesday, June 24 and Monday, June 30 for additional consideration of the budget and other city business as

necessary.

Action: Removed from the Consent Calendar at the request of Councilmember Bridges. Moved, seconded (Bridges/Lyman) and carried unanimously to schedule meetings on June 2, June 9 and June 17 and June 24 and June 30 as necessary.

6. PUBLIC HEARINGS

A. Confirm the Diagram and Levy the Assessment for FY 2014-15 Landscape and Lighting Assessment District No. 1988-1

Conduct a public hearing and upon conclusion adopt a resolution setting the annual Landscape and Lighting Assessment for Fiscal Year 2014-15 as \$72 per residential parcel and as noted in the Engineer's Report for other classes of properties.

Presenter: Lori Treviño, Senior Finance Analyst.

Mayor Abelson opened the public hearing. No speakers.

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

Action: Moved, seconded (Lyman/Friedman) and carried to adopt Resolution No. 2014-18.

B. Fiscal Year 2014-15 Storm Drain Annual Report and Method of Collecting Storm Drain Fees

Conduct a public hearing and upon conclusion adopt a resolution approving the Fiscal Year 2014-15 Storm Drain Annual Report and directing that Storm Drain Fees be collected on the property tax rolls.

Presenter: Lori Treviño, Senior Finance Analyst.

Mayor Abelson opened the public hearing. No speakers.

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

Action: Moved, seconded (Benassini/Bridges) and carried unanimously to adopt Resolution No. 2014-19.

7. POLICY MATTERS

A. Smoking Pollution Protection Ordinance Study Session

Receive a presentation regarding secondhand smoke and pollution associated with smoking. Discuss community outreach and engagement, options for restricting smoking in public places, commercial areas and multi-family housing, tobacco sales and possible preparation of an ordinance for the City Council's consideration.

Presenter: Karen Pinkos, Assistant City Manager.

Speakers: Ralph Boniello, Friends of Five Creeks, expressed concerns about the fire risks associated with cigarette butts, particularly in parks and open spaces as well as the associated litter, waste and toxics from cigarette butts that flows to streets, storm drains and creeks. Friends of Five Creeks recommends adopting an ordinance that results in the reduction of cigarette waste.

Tara Leigh Wagner, El Cerrito, expressed frustration with tobacco smoke that comes into her and her ten year old son's living area from the 7-8 neighbors who smoke in her multi-unit dwelling and the butts that litter the area under her windows, driveway and other areas around her unit. Ms. Wagner stated that she is concerned about her son's health and encouraged the City Council to support a smoking protection ordinance, particularly one that will address the effects of smoking by neighbors.

Edna Chamberlain, El Cerrito, expressed concern and frustration associated with smoking in her building - the Village and Town Center, and asked the City Council to support anti-

smoking regulations.

Corinne Gustafson, El Cerrito, stated that she is concerned about lower income individuals, including seniors who live in and will move to multi-unit dwellings and will be regulated. Ms. Gustafson also stated that she is concerned about overreaching government and laws and suggested building dwellers be allowed to vote on whether to allow smoking in multi-unit dwellings. Ms. Gustafson encouraged enforcing laws against litterers and looking into impacts associated with emissions from burning fireplaces and large delivery trucks.

Liz Williams, Berkeley, Americans for Nonsmokers Rights, expressed support for adoption of a smoke pollution ordinance and expanding smoke-free protections to improve and protect public health in the community. Ms. Williams also encouraged the City Council to limit the use of e-cigarettes in areas that are required to be smoke free. Bay Area cities that prevent smoking in multi-unit buildings include Albany, Alameda, Berkeley, Richmond, Union City and Walnut Creek.

Laura Purpura, El Cerrito, stated her support for a smoke pollution ordinance. Ms. Purpura reported that her two ten year old boys could not play outside due to secondhand smoke and marijuana smoke. She asked the City Council to support a no smoking ordinance to protect the public's health, protect a right to fresh air and to also act as a role model for children.

Allison Chan, Save the Bay, stated that cigarette butts pose a serious threat to Bay Area water quality and wildlife. It is estimated that 3,000,000,000 cigarette butts litter the Bay Area each year. Cigarette butts are toxic plastic trash. Ms. Chan urged the City Council to enact an ordinance enforcing smoke free commercial zones and other restrictions to address this major source of trash and encouraged making enforcement straight forward. Save the Bay encourages the City Council to include language in the ordinance that prohibits smokers from disposing cigarette butts in areas where smoking is prohibited to further strengthen litter protections and to also prohibit smoking in parks and open spaces to protect creeks. Ms. Chan reminded all that all trash in the Bay is preventable and urged the City Council to move forward with its ordinance.

Mary Jaccodine, Contra Costa Tobacco Prevention Coalition, thanked the City Council for considering second hand smoke protections, tobacco retailer licensing and density restrictions. Ms. Jaccodine described how swishers, e-hookah and e-cigarettes, which contain a carcinogen when vaporized, are colorful and are also fruit and candy flavored, are marketed to youth. Ms. Jaccodine encouraged the City Council to protect public health by adopting tobacco controls and restrictions.

Denise Dennis, Contra Costa Health Services Tobacco Prevention Project, commended staff for the work that has been done to present various policy options to the City Council. Ms. Dennis addressed enforcement and compliance issues, stating that enforcement rests on signage and education. The County does not issue citations but strives to achieve compliance through a progressive system of warning letters, signage and education. Ms. Dennis also described the results of a recent survey regarding retailers that sell tobacco and other unhealthy products and external advertising. Tobacco licensing is a proven strategy for decreasing illegal tobacco sales to minors and youth.

Tom Panas, El Cerrito, thanked staff for its work on the issue and outreach that has been done and also thanked the subject matter experts and community members in attendance. Mr. Panas expressed support for a strong smoking pollution protection ordinance, particularly prohibitions in recreation and commercial areas, addressing smoking in multi-unit dwellings, treating e-cigarettes similar to conventional tobacco products and restricting sales of both products.

Nick Arzio, El Cerrito, says he picks up between 100-200 cigarette butts in the Cerrito Theater area per week. Cigarette butt litter is ever present. Mr. Arzio expressed his support for Councilmember Friedman's idea for increasing fines for littering cigarette butts and the idea for having a non-sworn officer, perhaps in plain clothes, address enforcement.

Al Miller, El Cerrito, added support for all comments that were made before him. Mr. Miller noted that the corner of Eureka and Pomona and Lincoln and Ashbury are hotspots for cigarette butts. Mr. Miller stated that adult West Contra Costa Unified School District

employees go to these corners for their smoke breaks and are the primary contributors to these hot spots. Mr. Miller asked the City Council to also consider including the designation of an appropriate distance within a public school as a non-smoking zone.

Kirk Baughman, El Cerrito, stated that he is an apartment manager for a multi-dwelling unit in El Cerrito. There is just one smoker in the 26 unit building he manages. Mr. Baughman described how he limits smoking in the building and expressed support for a ban on smoking in apartments.

Action: The City Council, agreed by mutual consensus, that the level of restriction on smoking, including e-cigarettes and marijuana, in the City should be as high as possible. Parks, open space and commercial areas should be designated as entirely smoke free. The Council also directed staff to conduct research regarding smoking on all sidewalks and public through ways, including non-commercial areas, while also considering options for defining a non-smoking perimeter around schools. All multi-family dwelling units should be 100% smoke free with a phased in transition period of twelve months or when a lease expires, whichever is less. Additionally, staff was directed to research fines that are significant enough to fund an enforcement officer, signage and education.

The Council also directed staff to bring back an ordinance at the same time, to address regulating the sales of tobacco and e-cigarettes and raise the age for the purchase of tobacco products and e-cigarettes to 21.

B. City Council Wall of Fame Nomination Subcommittee Recommendation

Approve the City Council Wall of Fame Nomination Subcommittee's recommendation to induct Tom Panas into the El Cerrito Wall of Fame and direct the City Clerk to return to the City Council with a resolution confirming the appointment and schedule the formal induction ceremony in either July or August 2014 pending the availability of all parties involved.

Presenters: Mayor Pro Tem Benassini and Councilmember Bridges.

Action: Moved, seconded (Friedman/Lyman) and carried unanimously to approve the induction of Tom Panas into the El Cerrito Wall of Fame. The formal induction ceremony will take place in July or August 2014.

8. COUNCIL LOCAL AND REGIONAL LIAISON ASSIGNMENT REPORTS

Mayoral and City Council communications regarding local and regional liaison assignments and committee reports. *(Held over from the May 6, 2014 City Council meeting.)*

Councilmember Lyman stated that he is pushing issues relating to future membership and goals of the West Contra Costa Integrated Waste Management Authority (WCCIWMA) forward. The WCCIWMA is waiting on the City of Richmond to take action on its post collection agreement and for Richmond to make a decision about whether it will remain in the Joint Powers Agreement (JPA). There was discussion at the WCCIWMA meeting that noted if Richmond did not take action and make a decision about whether to stay in the JPA that there would be some sort of public communication to the ratepayers about how much money Richmond is costing ratepayers of Richmond and the other cities of West Contra Costa County. The cost is estimated at \$50,000 to \$70,000 per month. This extra cost does not affect El Cerrito because it negotiated its agreement separately.

At the Association of Bay Area Governments (ABAG) Executive Board meeting on May 15, the Board learned that staff is focusing on what it can do better during the next update of the One Bay Area Plan process. Plan Bay Area is updated every four years, as required by law, to reflect the region's changing needs and priorities. ABAG also took positions on legislation that affects the region.

Mayor Pro Tem Benassini reported on her attendance at the last Economic Development Committee meeting. The Committee continues to brainstorm on its Action Plan and is interested in using interns on surveys and data collection efforts. The Committee is also speaking with other members of commissions and committees including the Arts and Culture Commission, the Design Review Board and other related committees to determine if there

are events or areas of inquiry that they can collaborate on.

9. ADJOURNED REGULAR CITY COUNCIL MEETING at 10:25 p.m.

SUPPLEMENTAL REPORTS AND COMMUNICATIONS

Item No. 4(B) UUT Utility Users Tax Presentation

1. Powerpoint presentation – *Submitted by Lori Trevino, Senior Finance Analyst and Sky Woodruff, City Attorney.*

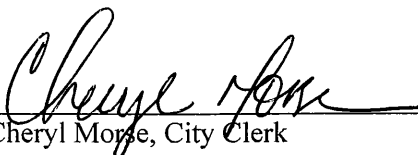
Item No. 7(A) Smoking Pollution Protection Ordinance Study Session


2. Letter encouraging adoption of a comprehensive smoking ordinance – *Submitted by David Lewis, Save the Bay.*
3. Letter encouraging expansion of the City’s smoke-free air protections and supporting prohibition of the use of e-cigarettes – *Submitted by Cynthia Hallett, Americans for Non-Smokers Rights.*
4. Comments in support of a tobacco ban – *Submitted by Ed and Yana Murphy, El Cerrito.*
5. Comments in support of stricter controls on smoking – *Submitted by Sandy Young, Berkeley.*
6. Comments in support of protections from neighbors who smoke and a smoking ordinance – *Submitted by R. Amernick, El Cerrito.*
7. Comments in support of a smokefree ordinance – *Submitted by Ira Sharenow, El Cerrito.*
8. Comments in support of stringent regulations for the sale and use of tobacco products – *Submitted by A. Rakley.*
9. Summary of Contra Costa County’s Comprehensive Secondhand Smoke Protections Ordinance and offer to provide technical assistance – *Submitted by Denice Dennis, Tobacco Prevention Program Manager, Contra Costa County.*
10. Contra Costa County flyer and survey highlights regarding marketing and promotion of tobacco, alcohol and sugary beverages to youth in stores – *Submitted by Den*

Other:

11. Flyer entitled, “Some wildflowers of the El Cerrito Hillside Natural Area” – *Submitted by Susan Schwartz, Friends of Five Creeks.*

This is to certify that the foregoing is a true and correct copy of the minutes of the special and regular meetings of May 20, 2014 as approved by the El Cerrito City Council.


Cheryl Morje, City Clerk


Janet Abelson, Mayor