

# EL CERRITO CITY COUNCIL

## MINUTES

### REGULAR CITY COUNCIL MEETING

Tuesday, January 20, 2015 – 7:00 p.m.

City Council Chambers

#### Meeting Location

El Cerrito City Hall

10890 San Pablo Avenue, El Cerrito

Mark Friedman – Mayor

Mayor Pro Tem Greg Lyman  
Councilmember Jan Bridges

Councilmember Janet Abelson  
Councilmember Gabriel Quinto

#### ROLL CALL

Present: Councilmembers Abelson, Lyman, Quinto and Mayor Friedman

Absent: Councilmember Bridges

7:00 p.m.

#### CONVENE REGULAR CITY COUNCIL MEETING

Mayor Friedman convened the regular City Council meeting at 7:00 p.m.

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

2. **COUNCIL / STAFF COMMUNICATIONS**

3. **ORAL COMMUNICATIONS FROM THE PUBLIC**

Mike Vukelich, El Cerrito, asked the Council to wait two years before implementing the smoking ordinance because the law needs more research and is unconstitutional. Mr. Vukelich stated that he believes the fourth and ninth amendments to the constitution give people the power to refrain from abiding by the ordinance. The ordinance takes a “meat axe” approach to preventing smoking and second-hand smoke. Addicts cannot stop, they need somewhere to smoke. If you are poor and live in an apartment there is nowhere to smoke. If you are rich you can smoke in a car or in a house. Mr. Vukelich stated that El Cerrito may have the strictest ordinance in the world and also has the ugliest landscaping.

Eve Ma, El Cerrito, invited all to attend the premier of her film, “Domino, Caught in the Crises” on January 28 at 7:00 p.m. at the Cerrito Theater.

Al Miller, El Cerrito, thanked the Rotary Club of El Cerrito for asking the El Cerrito Library Foundation to participate in its annual fundraising event and for presenting the Foundation with an \$11,000 check for a new library. The donation represents positive efforts in fund raising and also illustrates confidence and trust in the Library Foundation.

#### 4. PRESENTATION

**Arts and Culture Commission Work Plan – Presentation by Ruth Cazden, Chair of the Arts and Culture Commission.**

Receive a presentation regarding the Art and Culture Commission's accomplishments, goals and workplan.

**Action:** Received presentation.

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

Moved, seconded (Abelson/Lyman; Ayes – Councilmembers Abelson, Lyman, Quinto and Mayor Friedman; Noes – None; Absent – Councilmember Bridges) and carried to approve Consent Calendar Item Nos. 5(A) through 5(D) in one motion as indicated below.

##### A. Minutes for Approval

Approve the January 6, 2015 City Council special and regular meeting minutes.

**Action:** Approved minutes.

##### B. Planning Commission and Design Review Board Interim Appointments

Adopt a resolution interpreting Section 2.04.220 of the El Cerrito Municipal Code to permit the extension of the terms of members of the Planning Commission and Design Review Board to maintain the full membership of those bodies during a gap period that has occurred as a result of recent amendments to the Municipal Code. The resolution would also extend the terms of specific members of the Planning Commission and Design Review Board.

**Action:** Adopted Resolution No. 2015–02

##### C. Police Department Mobile Data Computer Purchase

Adopt a resolution authorizing the City Manager or his designee to enter into an agreement with C.D.C.E Incorporated in an amount not to exceed \$132,000.00 to purchase and install Mobile Data Computers and related equipment and amend the FY 2014-15 Adopted Budget to authorize the appropriation in an amount not to exceed \$105,000 from the C.O.P.S. Grant Fund and an amount not to exceed \$27,000 from the Vehicle Abatement Fund to complete the purchase and installation of the new MDCs.

**Action:** Adopted Resolution No. 2015–03

##### D. Economic Development Committee Appointment

Approve an Economic Development Committee recommendation to reappoint Jean Shrem to the Economic Development Committee, effective January 21, 2015.

**Action:** Approved recommendation.

#### 6. PUBLIC HEARINGS – None

#### 7. POLICY MATTERS

##### A. Tobacco Retail Regulation Study Session

Convene a study session and provide direction to staff regarding the development of a tobacco retailer license program in El Cerrito, particularly regarding the separation requirements for tobacco retailers and the option to provide some exemptions for existing retailers.

**Presenters:** Suzanne Iarla, Administrative Analyst and Margaret Kavanaugh-Lynch, Development Services Manager.

**Speakers:** Janna Katz, Albany, representing the American Cancer Society, Cancer Action Network, stated that she has seen the devastating impact that smoking can have on public health and commended staff and the City Council on its plan. Ms. Katz said the City

is on its way in upgrading its grade from an F to an A. Ms. Katz urged the City Council to give the hardest and strongest support to public health possible. Over 100 communities have passed a strong and effective tobacco retailers licensing ordinance. A licensing fee will aid enforcement and efforts to hold retailers accountable.

Nick Arzio, El Cerrito, thanked staff for coming up with solutions to a very complicated problem. Mr. Arzio said he has seen proposals that would increase the burden on small businesses but also sees some measures that would act as a windfall for existing businesses. The exclusion of new significant tobacco retailer licenses would give existing significant tobacco retailers a monopoly amongst themselves. Mr. Arzio asked if it would serve any good purpose toward the proposed goals to differentiate between significant and regular tobacco retailers because the definition of significant tobacco retailer is based on sales rather than type. It may be easier to monitor sales to minors in a small tobacco shop than in the supermarket.

**Action:** By mutual consensus, Councilmembers Abelson, Lyman, Quinto and Mayor Friedman (Absent – Councilmember Bridges) provided direction to staff to develop an ordinance which:

- 1) Prohibits types of business such as a Cigar Lounge, Hookah Lounge, Vape Shop or similar use and any new business that meets the criteria for a “New Significant Tobacco Retailer.”
- 2) Requires all businesses that sell tobacco (Tobacco Retailers) to prohibit sale of flavored tobacco products, prohibit the sale of single cigars, small-pack cigars except single cigars that are priced over \$5.00 each; prohibit self-service displays of all tobacco products; prohibit employees younger than the Minimum Legal Sale Age (MLSA) from selling tobacco products; prohibit the distribution of samples of tobacco and tobacco-related products (including electronic nicotine delivery devices (eNDDs)), samples and coupons; and any additional constraints.

[Mayor Friedman asked staff to engage in deeper discussions with the City of Richmond to see if it has plans to amend its ordinance so that there is consistency between both cities.]

- 3) Contains a Grandfather Clause for existing businesses. The City Council is comfortable with giving existing businesses two years to come into compliance with new business standards but suggested that staff reach out to the Economic Development Committee and the Chamber of Commerce.

- 4) Regarding Separation/Buffer Requirements and Economic Development Considerations, the City Council agreed with staff’s proposal to establish a 1,000 foot buffer between tobacco retailers while exempting existing retailers and allow new retailers to apply for relief through a conditional use permit to provide the City with flexibility and establish a 500’ buffer around schools, parks and other sensitive sites while excluding the Ohlone Greenway and considering other factors and criteria relating to existing and potential new retailers upon consultation with the City Attorney.

[At the request of staff, the City Council (Councilmember Bridges absent) also provided guidance regarding use permit fees for existing tobacco retailers whereby existing retailers would be provided an incentive to register quickly.]

## **B. Community Security Camera Registration**

Receive a presentation and adopt a resolution supporting a proposed voluntary security camera registration program.

**Presenter:** Stephen Bonini, Police Lieutenant.

**Speakers:** Al Miller, El Cerrito, stated that witnesses fail to come forth and assist in the investigation of a crime because they are fearful of their own personal safety or retaliation and asked if the fear is valid and what provisions could be made to encourage people to offer assistance, including their video cameras.

Nick Arzio, El Cerrito, stated that it would be good for the Police Department to confer with the Crime Prevention Committee on this matter. Mr. Arzio stated that cameras could serve as both crime prevention and investigation devices depending on signage. Mr. Arzio also said that he would like to see more attention focused on proper positioning of cameras in the program and putting safeguards in place that will protect privacy rights.

Denise Sangster, El Cerrito, expressed support for the program. Ms. Sangster said that her neighborhood has been burglarized, credited the value of video cameras in recording thefts and noted that other communities are using it. The quality of cameras is pretty good today however the biggest differentiator is bandwidth. Ms. Sangster encouraged the city and/or Comcast to work toward decreasing costs associated with bandwidth for participants in the program and queried whether a list of participants in the program can be disclosed under the California Public Records Act.

Ben Dhindsa, local business owner, stated that he is very supportive of the program.

**Action:** Moved, seconded (Abelson/Quinto; Ayes – Councilmembers Abelson, Lyman, Quinto and Mayor Friedman; Noes – None; Absent – Councilmember Bridges) and carried to adopt Resolution No. 2015-04.

## **8. COUNCIL LOCAL AND REGIONAL LIAISON ASSIGNMENT REPORTS**

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

Councilmember Abelson reported on her attendance at the League of California Cities Community Services Policy and Administrative Services Policy Committee meeting in Sacramento on January 16-17, 2015. The Healthy Eating Active Living City Campaign (HEALS) made a presentation. A new whitepaper is being prepared regarding healthy eating and active living. Councilmember Abelson stated that addressing climate change can include healthy eating and active living and suggested that the City could invest more deeply in these issues in upcoming years. Councilmember Abelson also attended an East Bay Division of League of California Cities gathering for new mayors and councilmembers in Alameda and Contra Costa County who were also attending the League's Academy in Sacramento. Councilmember Quinto also attended this event. There are many exciting people who are beginning their first term in office. Councilmember Abelson said she is looking forward to working with all of the newly elected officials and getting to know them better.

Mayor Pro Tem Lyman reported that the Environmental Quality Committee is taking up several issues including storm water pollution reduction issues and reduction of trash in storm water runoff. The Financial Advisory Board is working on its Council workplan presentation and is also working on standardizing city purchasing policies. The West County Integrated Waste Management Authority (IWMA) provided guidance to its executive recruiter regarding what qualities the IWMA would like to see in a new executive director. Guidance on salary will be given next week. Mayor Pro Tem Lyman elected chair of the IWMA starting February 1, 2015.

Mayor Friedman reported that the annual Martin Luther King Parade and celebration was a great event. Mayor Friedman thanked Assistant City Manager Pinkos, the Police Department, Fire Department, Human Relations Commission and coordinator Pat Durham for their leadership and work on the event.

## **9. ADJOURNED REGULAR CITY COUNCIL MEETING at 9:01 p.m.**

**SUPPLEMENTAL REPORTS AND COMMUNICATIONS**

**Item No. 4(A) Arts & Culture Commission Workplan**

1. Powerpoint presentation – *Submitted by Suzanne Iarla, Staff Liaison for Arts & Culture Commission.*

**Item No. 7(A) Tobacco Retail Regulation Study Session**

2. Powerpoint presentation – *Submitted by Suzanne Iarla, Administrative Analyst.*

3. Comments on Tobacco Sales Restrictions and E-Cigarettes – *Submitted by Steven J. Duffy, National Association of Tobacco Outlets, Inc.*

4. Information on best practices for policies that may help achieve the City Council’s goal of ending illegal sales of tobacco products to minors and preventing initiation of tobacco use among youth – *Submitted by Denice Dennis, MPH, Tobacco Prevention Program Manager.*

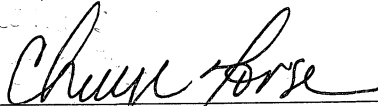
5. Comments encouraging adoption of a strong policy – *Submitted by Mary Jaccodine, MPH, Contra Costa Tobacco Prevention Coalition Co-Chair.*

**Other:**

6. Comments in opposition to existing smoking ordinance and regarding Climate Change – *Submitted by Mike Vukelich, El Cerrito.*

7. Postcard advertising the film showing, “Domino, Caught in the Crisis” – *Submitted by Eve Ma, El Cerrito.*

This is to certify that the foregoing is a true and correct copy of the minutes of the Regular City Council meeting of January 20, 2015 as approved by the El Cerrito City Council.

  
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Cheryl Morse, City Clerk

  
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Mark Friedman, Mayor