

# EL CERRITO CITY COUNCIL

## MINUTES

**CITY COUNCIL MEETING**  
**Tuesday, October 15, 2013 – 7:00 p.m.**  
**City Council Chambers**

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

Greg Lyman – Mayor

Mayor Pro Tem Janet Abelson  
Councilmember Jan Bridges

Councilmember Rebecca Benassini  
Councilmember Mark Friedman

### ROLL CALL

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

7:00 p.m.

### CONVENE CITY COUNCIL MEETING

Mayor Lyman convened the regular City Council meeting at 7:03 p.m.

**1. PLEDGE OF ALLEGIANCE TO THE FLAG OR OBSERVATION OF MOMENT OF SILENCE** was led by Mayor Pro Tem Abelson.

### **2. COUNCIL / STAFF COMMUNICATIONS**

Councilmember Friedman stated that he attended a RecycleMore meeting regarding the post collection services agreement with Republic Services. The agreement was approved unanimously however there were some issues that were not resolved and will come back to the Integrated Waste Management Authority in the future.

Councilmember Benassini congratulated El Cerrito resident and UC Berkeley professor, Dr. Randy Schekman, for his achievement in the sharing of the 2013 Nobel Prize for Medicine and for his work in revealing the machinery that regulates the transport and secretion of proteins.

Mayor Pro Tem Abelson attended the El Cerrito Historical Society's presentation on the old El Cerrito Plaza in which a number of early merchants attended, including an individual who was in charge of the old Capwells Emporium store. The meeting was interesting, fun and very well attended.

Mayor Lyman announced that families with young children are invited to attend the Trunk-or-Treat event at the Community Center parking lot on Halloween, October 31, where treats are available from the back of cars. The cars are decorated. There are also two haunted

houses, a dog costume contest and a parade at Cerrito Vista Park. More information on all the Halloween events is available from the City's website [www.el-cerrito.org](http://www.el-cerrito.org).

### 3. ORAL COMMUNICATIONS FROM THE PUBLIC

Nicholas Arzio, El Cerrito, asked the City Council to adopt a resolution prohibiting parking along San Pablo Avenue on Monday evenings during street sweeping to enhance debris removal, particularly on the east side of San Pablo between Fairmont and Central Avenues.

Sherry Drobner, El Cerrito, Rockaway Avenue, stated that she is representing neighbors on Rockaway Avenue. Ms. Drobner expressed concerns with demolition that will be conducted by the School District as part of the last phase of the Stadium Project. The demolition poses hazards to residents, specifically potential migration of hazardous materials, diesel exhaust, and rats onto private property. The neighbors will be presenting a letter to the School District outlining its concerns. Ms. Drobner also stated that neighbors are also concerned with slope stability.

Claudia Bugato, El Cerrito, Rockaway Avenue neighborhood, stated that Ms. Drober covered all of the issues in her statement and added that the neighbors were not notified about the project and would like the School District to talk to the neighbors about the project to have input and resolve impacts on residents. Ms. Bugato expressed her hope that the School District will follow city ordinances.

### 4. PRESENTATIONS

**Contra Costa Civic Theatre** – *Presentation by Kimberly Mayer, Contra Costa Civic Theatre Board President and Marilyn Langbehn, Artistic Director.*

Introduction to the Contra Costa Civic Theatre's mission, season, shows and programs.

**Action:** Received presentation.

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

Moved, seconded (Bridges/Abelson) and carried unanimously to approve Consent Calendar Item Nos. 5A through 5D as indicated below.

#### A. Minutes for Approval

Approve the October 1, 2013, Special City Council, Regular City Council and Special City Council – Closed Session meeting minutes.

**Action:** Approved minutes.

#### B. Shelter in Place Day Proclamation

Approve a proclamation declaring November 6, 2013 as "Shelter-in-Place Education Day" and recognizing the importance of preparing for emergencies and encouraging participation in the Contra Costa Community Awareness Emergency Response Group's (CAER) public education efforts and supporting the parents, teachers, students and staff that will be participating with hundreds of other school and childcare centers in the Shelter-in-Place Drill.

**Action:** Approved proclamation.

#### C. Regional Federal Emergency Management Agency Grant for the Purchase of Self Contained Breathing Apparatus from Allstar Fire Equipment, Inc.

Staff requests that the City Council adopt a resolution taking the following actions:

- 1) Authorize the participation of the Fire Department in a County-wide Regional Federal Emergency Management Agency (FEMA) grant with the Contra Costa County Fire Protection District (CCCFPD) for the purchase of 36 Self Contained Breathing Apparatus (SCBA) devices;

- 2) Approve the use of \$46,685 in matching funds, of which \$15,561 will be received from a contribution from the Kensington Fire Protection District (KFPD) and the remaining \$31,124 in matching funds from the Vehicle/Equipment Replacement Fund; and
- 3) Authorize payment of \$46,685 to CCCFPD for the required match to purchase thirty-six SCBAs from Allstar Fire Equipment, Inc.

**Action:** Adopted Resolution No. 2013-56.

#### **D. City Manager Performance Evaluation Subcommittee**

Appoint Mayor Lyman and Mayor Pro Tem Abelson to a City Council Subcommittee to meet with the City Manager regarding his performance evaluation and review of his contract.

**Action:** Approved appointment of Mayor Lyman and Mayor Pro Tem Abelson to the City Council Subcommittee.

6. **PUBLIC HEARINGS** – None

7. **POLICY MATTERS**

#### **A. Proposed Sixth Amendment to the Franchise Agreement between East Bay Sanitary Company, Inc. and the City of El Cerrito**

Adopt a resolution approving the proposed Sixth amendment to the Franchise Agreement (Agreement) between the City of El Cerrito (City) and East Bay Sanitary Company, Inc. for Fleet Management and Maintenance Services (Fleet Services), effective October 16, 2013 through December 31, 2014.

**Presenter:** Garth Schultz, Operations and Environmental Services Manager.

**Action:** Moved, seconded (Friedman/Abelson) and carried unanimously to adopt Resolution No. 2013-57.

#### **B. Building Code and Fire Code Ordinance Update**

Staff requests that the City Council take the following actions this evening:

- 1) Adopt a Resolution which makes findings justifying changes or modifications due to local climatic, geologic and topographic conditions in the 2013 California Building Standards Code, which includes the California Green Code, Building Code, Fire Code, Residential Code and related Construction Codes; and
- 2) Introduce by title, waive any further reading, and approve an ordinance which adopts the 2013 California Green Code, Administrative, Building, Fire, Plumbing, Mechanical, Electrical, Energy, Residential Code and related Construction Codes as applicable to all construction within the City of El Cerrito, with local modifications as outlined in the Ordinance.

**Presenters:** Margaret Kavanaugh-Lynch, Development Services Manager and Fred Cullum, Interim Building Official.

Ms. Kavanaugh-Lynch introduced a revised resolution and ordinance at the meeting. The revised documents corrected typographical and numbering errors and also corrected the date of the public hearing to read November 19, 2013 at 7:00 p.m.

**Actions:** Moved, seconded (Friedman/Abelson) and carried unanimously to adopt Resolution No. 2013-58 as revised.

Moved, seconded (Friedman/Abelson) and carried unanimously to introduce by title, waive any further reading, and approve a revised ordinance which adopts the 2013 California Green Code, Administrative, Building, Fire, Plumbing, Mechanical, Electrical, Energy, Residential Code and related Construction Codes as applicable to all construction within the City of El Cerrito, with local modifications as outlined in the Ordinance.

### C. Boards, Commissions and Committees Study Session

Discuss the current status of City of El Cerrito Boards, Commissions and Committees and provide direction to the subcommittee and/or staff regarding recommended changes and revisions.

**Presenters:** Mayor Lyman and Councilmember Friedman.

**Speakers:** Tom Panas, El Cerrito, stated that he has always felt conflicted by the Council's role when they come to a board, commission or committee meeting because he looks to them in an advisory role when he is supposed to be working independently. Mr. Panas said the commission application does not make a lot of sense to him. He never felt like he could express himself and his qualifications or why he wanted to be on the commission. Mr. Panas said he would welcome enhancements to the application.

**Action:** Discussion held. The City Council provided direction for follow up action as indicated below:

#### Efficient and Appropriate Communications

The City Council considered each of the options presented and developed a policy based on a modification of Options A (Eliminate specific assignments), B (Attend meetings quarterly) and D (Liaisons leave meetings following their report). The City Council, by mutual consensus, did not want to eliminate the liaison role entirely but chose to update its policy by rotating individual Council Liaison assignments on an annual basis with the exception of the Committee on Aging because it meets during the day. There is an expectation and recommendation for each Councilmember assigned as a liaison to a Board, Commission or Committee to deliver a report to the advisory body on a quarterly basis at the beginning of the meeting and either leave or remove themselves to the audience and not participate in the meeting after the report. Council Liaisons to the Arts and Culture Commission, Design Review Board, Financial Advisory Board, Parks and Recreation Commission and the Planning Commission are expected to leave the room after their report is delivered.

Sky Woodruff, City Attorney, clarified that although Councilmembers do not give up their first amendment rights when they are elected and can speak on an issue as an individual, Councilmembers need to understand that if they express a view on an item that they are interested in that is potentially appealable or will come to the entire Council for review, they may be precluded from participating in the issue when it comes before the Council for a decision.

#### Development of Future Leaders

The City Council by mutual consensus agreed that the chairperson of an advisory body, will work with the Staff Liaison to develop periodic work plans that will be reviewed on an annual basis. The advisory body chair or designee will present the body's plan to the City Council on an annual basis.

#### Standardization of Advisory Bodies

The City Council by mutual consensus, agreed that the Economic Development Board should be changed to an Economic Development Committee of fifteen members that meets monthly instead of quarterly.

#### Vacancy and Terms

After much discussion and consideration, Mayor Lyman stated that the Council Subcommittee would return to the City Council at a future date with legislation to change terms from January 1 to March 1 and re-distribute commissioner termination dates. The

Subcommittee will also return to the City Council with a recommendation regarding the concept of alternate or pending appointments or appointments to be made in the event of an unexpected vacancy.

### Other Considerations

By mutual consensus, the City Council agreed to require Assembly Bill 1234 training to all members of the Arts and Culture Commission, Design Review Board, Financial Advisory Board and the Planning Commission.

The City Council also agreed that chairs of advisory bodies serve no more than two consecutive years to encourage rotation of this role. The City Council also discussed problems arising from lack of quorum and discussed options for defining a quorum. This issue was deferred to the subcommittee for more research and information. The City Council distinguished between whether a quorum could differ in terms of the number of advisory body members needed to meet versus the number needed to take action. The subcommittee will return to the City Council at a future date with options to consider.

The City Council directed the City Attorney to identify direct conflicts of interest regarding simultaneous service on two or more advisory bodies and asked that the application be updated to include a statement regarding any conflicts and to also research any conflicts resulting from two members from the same address serving on two different advisory bodies or on advisory bodies that might pose a conflict of interest.

Additional changes proposed based on the 2005 subcommittee recommendations are:

- 1) Eliminate the requirement for two business owners on the new Economic Development Committee by changing the language from "must be" to "can be;"
- 2) Update ECMC Section 2.04.220 to include the statement, "City boards, commissions and committees are intended to provide a valuable service to the community by providing in-depth advice to the City Council on a variety of topics and assume some of the workload from Council to research issues or gather public input;" and
- 3) Increase communication between the City Council and advisory bodies by facilitating the exchange of minutes between both entities. [The City Clerk suggested that this can be achieved by enhancing the functionality and navigation of an electronic subscription service on the City's website].

Additionally, direction was given to update the City Council policy regarding staff relations with City Commissions, Boards, Committees and Task Forces based upon the Council's direction to staff this evening. Mayor Lyman also noted the need for staff to revise the application as requested by the Council, view the application as a dynamic document and continue to improve the application as needed in the future.

## **8. COUNCIL ASSIGNMENTS/LIAISON REPORTS**

A. Mayor Lyman reported that a subcommittee of the West Contra Costa County Integrated Waste Management Authority gave direction to the executive director to develop a budget for Fiscal Year 2014-15 that provides a minimum number of services. The direction was to reduce services to the bare minimum required by Assembly Bill 939 and whatever is required by regulation. This budget will be presented soon. The Contra Costa Mayors Conference received a presentation on how real estate is doing throughout the county. East County is not doing as well as Central and West County. The Contra Costa Mayors also received a presentation on a broadband initiative that is trying to promote competition for better broadband services throughout Alameda and Contra Costa Counties.

One member and one alternate position on the East Bay Regional Communication System

(EBRCS) Authority Board will be available and considered for appointment by the Contra Costa Mayors. The deadline for submitting an application is October 21.

B. Mayor Pro Tem Abelson reported that the Environmental Quality Committee (EQC) has come a long way in developing an identity. At its last meeting, each subcommittee reported out on activities. Mayor Pro Tem Abelson said she was proud of the EQC for its presentation and the work it is doing. The EQC is planning activities around Earth Hour and discussed Green Team activities, fundraising related to the Madera property and also discussed the eco-film series and hosting speaker events. The EQC is very active at the moment.

C. Councilmember Benassini reported that the Financial Advisory Board is close to approving a liquidity policy that will be recommended to the City Council. Approval is expected next month.

D. Councilmember Bridges reported that the Design Review Board (DRB) met on Oct 2 to consider modifications to the exterior of the Ohlone Gardens project located on Portola Drive behind the Marshalls store. The DRB also discussed the proposed Eden Housing mixed-use project which will be located on San Pablo Avenue during a study session. Additionally, the applicant from Verizon returned regarding a project located at 6238 Stockton Avenue, a cell antenna on a church. The application was denied because the plans that were given to the DRB from the applicant did not work architecturally. The other issue with the project involved placement of a generator on the roof which was deemed too large by the DRB.

E. Councilmember Friedman reported on his attendance at the Executive Committee of the East Bay Development Alliance. It was a very interesting presentation by Lawrence Livermore Lab. Everyone is pleased with the work of the interim director and expects that the group will become more effective in the future.

## **SUPPLEMENTAL REPORTS**

### **Item No. 4: Contra Costa Civic Theatre**

1. Contra Costa Civic Theatre. You are the community. We are your theatre – *Submitted by Kimberly Mayer, Contra Costa Civic Theatre Board President.*

### **Item No. 7(B): Adoption of Building/Fire/Green Building and related Construction Codes**

2. Summary of changes to proposed resolution – *Submitted by Margaret Kavanaugh-Lynch, Development Services Manager.*

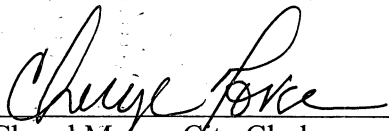
3. Revised resolution – *Submitted by Margaret Kavanaugh-Lynch, Development Services Manager.*

4. Summary of changes to proposed ordinance – *Submitted by Margaret Kavanaugh-Lynch, Development Services Manager.*

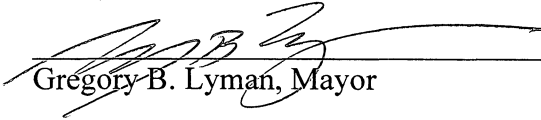
5. Revised Ordinance – *Submitted by Margaret Kavanaugh-Lynch, Development Services Manager.*

**9. ADJOURNED REGULAR CITY COUNCIL MEETING at 10:13 p.m.**

This is to certify that the foregoing is a true and correct copy of the minutes of the regular meeting of October 15, 2013 as approved by the El Cerrito City Council.



Cheryl Morse, City Clerk



Gregory B. Lyman, Mayor