



CITY COUNCIL  
HOUSING AUTHORITY AND  
SUCCESSOR AGENCY TO THE EL CAJON  
REDEVELOPMENT AGENCY

Council Chamber  
200 Civic Center Way  
El Cajon, CA 92020

## Agenda NOVEMBER 12, 2019, 3:00 p.m.

Bill Wells, Mayor  
Steve Goble, Deputy Mayor  
Gary Kendrick, Councilmember  
Bob McClellan, Councilmember  
Phil Ortiz, Councilmember

Graham Mitchell, City Manager  
Vince DiMaggio, Assistant City Manager  
Morgan Foley, City Attorney  
Angela Cortez, City Clerk

**CALL TO ORDER: Mayor Bill Wells**

**ROLL CALL: City Clerk Angela Cortez**

**PLEDGE OF ALLEGIANCE TO FLAG AND MOMENT OF SILENCE**

**POSTINGS:** The City Clerk posted Orders of Adjournment of the October 22, 2019, Meeting and the Agenda of the November 12, 2019, Meeting in accordance to State Law and Council/Authority/Successor Agency to the Redevelopment Agency Policy.

**PRESENTATIONS:**

**Presentation: Veteran of the Year Award**

**Presentation: Insurance Services Office**

**Proclamation: Small Business Saturday**

## AGENDA CHANGES:

## CONSENT ITEMS:

Consent Items are routine matters enacted by one motion according to the RECOMMENDATION listed below. With the concurrence of the City Council, a Council Member or person in attendance may request discussion of a *Consent Item* at this time.

1. Minutes of the City Council/Housing Authority/Successor Agency to the El Cajon Redevelopment Agency Meetings

RECOMMENDATION:

That the City Council/Housing Authority/Successor Agency to the El Cajon Redevelopment Agency approves Minutes of the October 22, 2019, Meeting of the El Cajon City Council/Housing Authority/Successor Agency to the El Cajon Redevelopment Agency.

2. Warrants

RECOMMENDATION:

That the City Council approves payment of Warrants as submitted by the Finance Department.

3. Approval of Reading Ordinances by Title Only

RECOMMENDATION:

That the City Council approves the reading by title and waives the reading in full of all Ordinances on the Agenda.

4. Event in the Right of Way – Holiday Lights on Main

RECOMMENDATION:

That the City Council reviews and approves the submitted road closures and traffic control plan for the Holiday Lights on Main.

5. Wells Park Improvements - Security Gates Project Acceptance

RECOMMENDATION:

That the City Council:

1. Accepts the Wells Park Improvements - Security Gates Project, PK3610, Bid No. 015-19; and
2. Authorizes the City Clerk to record a Notice of Completion and release the bonds in accordance with the contract terms.

6. Travel Expenses to Attend the 2019 League of California Cities Annual Conference - Wells and Ortiz

RECOMMENDATION:

That the City Council reviews and approves the attached Claim for Advance/Reimbursement of Travel Expense forms for Mayor Bill Wells and Councilmember Phil Ortiz, in accordance with City Council Policy G-1.

7. FY 2019-20 California Department of Alcoholic Beverage Control (ABC) Grant

RECOMMENDATION:

That the City Council adopts the next Resolution, in order, and takes the following actions:

1. Authorizes the City Manager, or designee, to accept a grant in the amount of \$19,600 from the California Department of Alcoholic Beverage Control, and to execute any grant documents and agreements necessary for the receipt and use of these funds.
2. Appropriates the Alcoholic Beverage Control (ABC) Grant funds in the amount of \$19,200 for overtime costs and \$400 for training, and travel costs.

8. Agreement Between Helix Water District and City of El Cajon to Provide Customer Water-Consumption Data for Sewer-Billing Services

RECOMMENDATION:

That the City Council adopts the next Resolution, in order, authorizing the City Manager, or designee, to execute an agreement with Helix Water District to provide customer water-consumption data for sewer-billing purposes.

9. Event in the Right of Way – Mother Goose Parade

RECOMMENDATION:

That the City Council reviews and approves the submitted road closures and traffic control plan for the 73rd Annual Mother Goose Parade.

10. Resolution to Amend Resolution No. 097-19, Replacing Exhibit A to Remove the Inclusion of Charges to Septic Haulers

RECOMMENDATION:

That the City Council adopts the next Resolution, in order, authorizing the amendment of Resolution 097-19, by replacing Exhibit A to remove the inclusion of charges to Septic Haulers.

11. Notification of Delinquent Loan Payment and Recommended Options for Remedy (812-816 Grossmont Ave)

**RECOMMENDATION:**

That the City Council/El Cajon Housing Authority receives this report and authorizes a credit in the total amount of \$190,922.70, towards repayment of the outstanding loan amount due from San Diego Habitat for Humanity, Inc. ("SDHFH"); and further authorizes staff to declare the Promissory Note dated June 23, 2017, between SDHFH and the El Cajon Housing Authority, paid in full.

12. Senate Bill 2 Planning Grant

**RECOMMENDATION:**

That the City Council:

1. Adopts the next Resolution, in order, authorizing the City Manager, or designee, to apply for Senate Bill 2 Grant Funding; and
2. Authorizes the City Manager, or the City Manager's designee, to execute grant agreements and such other documents necessary, to accept any awards of grants.

**PUBLIC COMMENT:**

At this time, any person may address a matter within the jurisdiction of the City Council/Housing Authority/Successor Agency to the El Cajon Redevelopment Agency that is not on the Agenda. Comments relating to items on today's docket are to be taken at the time the item is heard. State law prohibits discussion or action on items not on the Agenda; however, Council, Authority and Agency Members may briefly respond to statements or questions. An item may be placed on a future Agenda.

**WRITTEN COMMUNICATIONS:**

**PUBLIC HEARINGS:**

13. Delinquent Refuse Collection Charges

**RECOMMENDATION:**

That the City Council:

1. Opens the Public Hearing and considers public testimony;
2. Closes the Public Hearing;
3. Adopts the next Resolution, in order, confirming the list of property owners as delinquent in the payment of their mandatory trash service bills; and,
4. Authorizes the City Clerk to record the amount owed as a lien on the property and forward a list to the County Tax Assessor for billing on the next property tax bill.

14. Public Hearing to Approve Delinquent Sewer Service Charges and Tax Liens

RECOMMENDATION:

That the City Council:

1. Opens the Public Hearing and considers public testimony;
2. Closes the Public Hearing;
3. Adopts the next Resolution, in order, confirming the list of property owners as delinquent in the payment of their mandatory sewer service bills; and
4. Authorizes the City Clerk to record the amounts owed as a lien on the property and forward a list to the County Tax Assessor for billing on the next property tax bill.

**ADMINISTRATIVE REPORTS:**

15. Update on Electronic Vapor Devices and Products

RECOMMENDATION:

That the City Council receives a report on electronic vapor devices and products.

16. El Cajon Tobacco Retailer's License Ordinance

RECOMMENDATION:

That the City Council considers the proposed modifications to the El Cajon Tobacco Retailer's License Program by:

1. Introducing the Ordinance (attached), and
2. Requesting that the City Clerk recite the title of the Ordinance; and
3. Directing that the second reading of the Ordinance be scheduled for December 10, 2019.

17. Mayor and City Council Cafeteria Benefits Review

RECOMMENDATION:

That the City Council adopts the next Resolution, in order, adjusting the cafeteria benefit allotment from \$1,150 per month to \$1,200 per month, effective January 2020, for Mayor and City Councilmembers.

## **COMMISSION REPORTS:**

### **ACTIVITIES REPORTS/COMMENTS OF MAYOR WELLS:**

SANDAG (San Diego Association of Governments) Board of Directors; SANDAG – Audit Committee; League of California Cities, San Diego Division; Heartland Fire Training JPA – Alternate; LAFCO.

18. Council Activity Report
19. Legislative Report: None
20. Street Racing and Excessive Speeding

#### **RECOMMENDATION:**

That the City Council directs staff to develop an information campaign and strategies to address street racing and excessive speeding in the community.

### **ACTIVITIES REPORTS/COMMENTS OF COUNCILMEMBERS:**

21. **COUNCILMEMBER GARY KENDRICK**  
METRO Commission/Wastewater JPA; Heartland Communications; Heartland Fire Training JPA.
22. **COUNCILMEMBER BOB MCCLELLAN**  
MTS (Metropolitan Transit System Board); Harry Griffen Park Joint Steering Committee; Heartland Communications – Alternate.
23. **DEPUTY MAYOR STEVE GOBLE**  
SANDAG – Board of Directors – Alternate; SANDAG Public Safety Committee – Alternate; METRO Commission/Wastewater JPA – Alternate; Chamber of Commerce – Government Affairs Committee; MTS (Metropolitan Transit System Board) – Alternate.
24. **COUNCILMEMBER PHIL ORTIZ**  
East County Economic Development Council; League of California Cities, San Diego Division.

### **JOINT COUNCILMEMBER REPORTS:**

### **GENERAL INFORMATION ITEMS FOR DISCUSSION:**

### **ORDINANCES: FIRST READING**

### **ORDINANCES: SECOND READING AND ADOPTION**

**CLOSED SESSIONS:**

25. Closed Session - Conference with Real Property Negotiator - pursuant to Section 54956.8 of the Government Code: 1001 West Bradley Ave., - Waste Management, Inc.
26. Closed Session - Conference with Real Property Negotiator - pursuant to Section 54956.8 of the Government Code: 1001 West Bradley Ave., - Republic Services

**ADJOURNMENT: The Regular Joint Meeting of the El Cajon City Council/ El Cajon Housing Authority/Successor Agency to the El Cajon Redevelopment Agency held this 12th day of November 2019, is adjourned to Tuesday, December 10, 2019, at 3:00 p.m.**



City Council  
Agenda Report

**DATE:** November 12, 2019  
**TO:** Honorable Mayor and City Councilmembers  
**FROM:** Angela Cortez, City Clerk  
**SUBJECT:** Minutes of the City Council/Housing Authority/Successor Agency to the El Cajon Redevelopment Agency Meetings

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RECOMMENDATION:

That the City Council/Housing Authority/Successor Agency to the El Cajon Redevelopment Agency approves Minutes of the October 22, 2019, Meeting of the El Cajon City Council/Housing Authority/Successor Agency to the El Cajon Redevelopment Agency.

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Attachments

10-22-19 DRAFT Minutes - 3 PM

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# JOINT MEETING OF THE EL CAJON CITY COUNCIL/HOUSING AUTHORITY/SUCCESSOR AGENCY TO THE EL CAJON REDEVELOPMENT AGENCY



## MINUTES

### CITY OF EL CAJON EL CAJON, CALIFORNIA

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**October 22, 2019**

An Adjourned Regular Joint Meeting of the El Cajon City Council/Housing Authority/ Successor Agency to the El Cajon Redevelopment Agency, held Tuesday, October 22, 2019, was called to order by Mayor/Chair Bill Wells at 3:00 p.m., in the Council Chambers, 200 Civic Center Way, El Cajon, California.

#### ROLL CALL

Council/Agencymembers present:	Kendrick, McClellan and Ortiz
Council/Agencymembers absent:	None
Deputy Mayor/Vice Chair present:	Goble
Mayor/Chair present:	Wells
Other Officers present:	Foley, City Attorney/General Counsel Cortez, City Clerk/Secretary
Other Officers absent:	Mitchell, City Manager/Executive Director DiMaggio, Assistant City Manager

**PLEDGE OF ALLEGIANCE TO FLAG led by Mayor Wells and MOMENT OF SILENCE.** (The Courts have concluded that sectarian prayer, as part of City Council Meetings, is not permitted under the Constitution).

**POSTINGS:** The City Clerk posted Orders of Adjournment of the October 8, 2019, Meetings and the Agenda of the October 22, 2019, Meeting in accordance with State Law and El Cajon City/Housing Authority/Successor Agency to the El Cajon Redevelopment Agency Policy.

**PRESENTATIONS:**

**Presentation: Highlights of HauntFest**

**AGENDA CHANGES:**

Director of Community Development, Anthony Shute, stated that Item 11 had been withdrawn by the applicant, and therefore it should be removed from the Agenda.

**MOTION BY WELLS, SECOND BY McCLELLAN, to REMOVE Item No. 11 from the Agenda per the Applicant's request.**

**MOTION CARRIED BY UNANIMOUS VOTE.**

**CONSENT ITEMS: (1 – 9)**

**MOTION BY WELLS, SECOND BY McCLELLAN, to APPROVE Consent Items 1 to 9.**

**MOTION CARRIED BY UNANIMOUS VOTE.**

1. Minutes of El Cajon City Council/Housing Authority/Successor Agency to the El Cajon Redevelopment Agency Policy

Approves Minutes of the October 8, 2019, Meetings of the El Cajon City Council/Housing Authority/Successor Agency to the El Cajon Redevelopment Agency Policy.

2. Warrants

Approves payment of Warrants as submitted by the Finance Department.

3. Approval of Reading Ordinances by Title only

Approves the reading by title and waive the reading in full of all Ordinances on the Agenda.

## CONSENT ITEMS: (Continued)

4. Award of Bid No. 011-20 - As-Needed Weed Abatement and Channel Clearing Services
  1. Adopts Resolution No. 098-19, to approve Plans and Specifications for the As-Needed Weed Abatement and Channel Clearing Services, Bid No. 011-20; and
  2. Adopts Resolution No. 099-19, to award the bid to the lowest responsive, responsible bidder, Chambers Group, Inc. in the amount of \$63,601.36 for the initial one-year term, with up to four additional one-year renewal options.
  
5. San Diego River Conservancy's Proposition 1 Grant Program
  1. Authorizes the City Manager, or approved designee, to accept grant funding as provided through the San Diego River Conservancy's proposition 1 Grant Program;
  2. Authorizes the City Manager, or approved designee, to execute grant agreements and such other documents necessary, with the San Diego River Conservancy, and other agencies, to accept any awards of grants;
  3. Adopts Resolution No. 100-19 to appropriate \$750,000 for the Wastewater Program Capital Improvement Project WW3586 Broadway Creek Improvements - Phase A and adopts the amended CIP Project Budget; and
  4. Adopts Resolution No. 101-19 to appropriate \$400,000 for the purpose of establishing Parks Program Capital Improvement Project PK3700 Wells Park Improvements - Storm Water Treatment and Landscaping and adopts the CIP Project Budget.
  
6. Award of SOQ No. 004-20 – On-Call Professional Services

Adopts Resolution No. 102-19 to award a pre-qualified list of firms for SOQ No. 004-20 – On-Call Professional Services for a term of two years, with up to three additional one-year renewal options.
  
7. Environmentally Preferable Purchasing Policy

Adopts Resolution No. 103-19, Adopting City Council Policy B-16, Environmentally preferable Purchasing Policy.

## CONSENT ITEMS: (Continued)

### 8. Disposal of Retired Property

That the City Council declares the listed property retired and authorizes disposal in accordance with policy.

### 9. Wells Park Improvements - Parking Lot Lighting Project

1. Adopts Resolution No. 104-19 to Approve plans and specifications for the Wells Park Improvements – Parking Lot Lighting project (PK3610); and
2. Adopts Resolution No.105-19 to Award a public works contract, in accordance with Municipal Code section 3.20.010(C)(6), to Express Energy Services, Inc. in the amount of \$143,325.52.

## PUBLIC COMMENT:

Harold Wilson expressed concern about vehicles traveling around the City during late hours of the night with loud exhaust pipes. Mr. Wilson added that he spoke with Police Chief Moulton and solutions for the problem are being contemplated.

David Chenoweth spoke in approval of the newly adopted Code of Ethics Policy but stated that the policy should also mention the issue of transparency. Mr. Chenoweth suggested adding forms 700 and 460 to the City's webpage.

Jim Cirigliano concurred with the suggestion to add forms 700 and 460 to the webpage. Mr. Cirigliano added that the problem with vaping products is that they contain nicotine, which is a highly addictive substance.

Bonnie Price stated that the City should not allow any more establishments with 'drive-through' services, as those vehicles idle while waiting for service and create excessive amounts of pollution.

Discussion amongst Ms. Price and Councilmembers ensued in regards to clean emissions from vehicles and the Gillespie Field flight school.

Elaine Briggs spoke of the excessive time it takes to replace a street light in her neighborhood.

Director of Public Works Dirk Epperson stated that a request for service had been placed to repair the faulty light pole.

Councilmember McClellan invited students from San Diego State University to introduce themselves to the public.

**WRITTEN COMMUNICATIONS:** None

**PUBLIC HEARINGS:**

10. Second Readings of Ordinances to Adopt by Reference the 2019 California Building Standards and Related Codes (Title 24).

**RECOMMENDATION:**

That the City Council:

1. Opens the public hearing and receives testimony;
2. Closes the public hearing;
3. Adopts by reference the 2019 Editions of the California Building Code, the California Electrical Code, the California Mechanical Code, the California Plumbing Code, the California Residential Code, the California Fire Code, the California Green Building Standards Code, the California Historical Building Code, and the California Existing Building Code; and
4. Requests the City Clerk to recite the titles of each ordinance.

**DISCUSSION**

Deputy Director of Community Development, Dan Pavao, provided a summary of the Item.

Mayor Wells opened the public hearing.

No one came forward to speak.

**MOTION BY WELLS, SECOND BY KENDRICK, to CLOSE the Public Hearing.**

**MOTION CARRIED BY UNANIMOUS VOTE.**

Mayor Wells requested that the City Clerk recite the title to each ordinance.

An Ordinance Repealing Chapter 15.04 of Title 15 of The El Cajon Municipal Code; Adopting The California Building Code, 2019 Edition, As Amended, By Reference; And Adopting a New Chapter 15.04 to Title 15 of The El Cajon Municipal Code

**PUBLIC HEARINGS: (Continued)**

**MOTION BY McCLELLAN, SECOND BY KENDRICK, to ADOPT Ordinance No. 5089, Repealing Chapter 15.04 of Title 15 of The El Cajon Municipal Code; Adopting The California Building Code, 2019 Edition, As Amended, By Reference; And Adopting a New Chapter 15.04 to Title 15 of The El Cajon Municipal Code.**

**MOTION CARRIED BY UNANIMOUS VOTE.**

An Ordinance Repealing Section 15.20.010 of Chapter 15.20 of Title 15 of The El Cajon Municipal Code; Adopting The California Electrical Code, 2019 Edition, As Amended, By Reference

**MOTION BY McCLELLAN, SECOND BY KENDRICK, to ADOPT Ordinance No. 5090, Repealing Section 15.20.010 of Chapter 15.20 of Title 15 of The El Cajon Municipal Code; Adopting The California Electrical Code, 2019 Edition, As Amended, By Reference.**

**MOTION CARRIED BY UNANIMOUS VOTE.**

An Ordinance Repealing Chapter 15.48 of Title 15 of The El Cajon Municipal Code; Adopting The California Mechanical Code, 2019 Edition, As Amended, By Reference; And Adopting A New Chapter 15.48 To Title 15 of The El Cajon Municipal Code

**MOTION BY McCLELLAN, SECOND BY KENDRICK, to ADOPT Ordinance No. 5091, Repealing Chapter 15.48 of Title 15 of The El Cajon Municipal Code; Adopting The California Mechanical Code, 2019 Edition, As Amended, By Reference; And Adopting A New Chapter 15.48 To Title 15 of The El Cajon Municipal Code.**

**MOTION CARRIED BY UNANIMOUS VOTE.**

An Ordinance Repealing Chapter 15.52 of Title 15 of The El Cajon Municipal Code; Adopting The California Plumbing Code, 2019 Edition, As Amended, By Reference; And Adding a New Chapter 15.52 to Title 15 of The El Cajon Municipal Code

**MOTION BY McCLELLAN, SECOND BY KENDRICK, to ADOPT Ordinance No. 5092, Repealing Chapter 15.52 of Title 15 of The El Cajon Municipal Code; Adopting The California Plumbing Code, 2019 Edition, As Amended, By Reference; And Adding a New Chapter 15.52 to Title 15 of The El Cajon Municipal Code.**

**MOTION CARRIED BY UNANIMOUS VOTE.**

**PUBLIC HEARINGS: (Continued)**

An Ordinance Repealing Chapter 15.54 of Title 15 of The El Cajon Municipal Code; Adopting The California Residential Code, 2019 Edition, As Amended By Reference; And Adding a New Chapter 15.54 to Title 15 of The El Cajon Municipal Code

**MOTION BY McCLELLAN, SECOND BY KENDRICK, to ADOPT Ordinance No. 5093, Repealing Chapter 15.54 of Title 15 of The El Cajon Municipal Code; Adopting The California Residential Code, 2019 Edition, As Amended By Reference; And Adding a New Chapter 15.54 to Title 15 of The El Cajon Municipal Code.**

**MOTION CARRIED BY UNANIMOUS VOTE.**

An Ordinance Repealing Chapter 15.56 of Title 15 of The El Cajon Municipal Code; Adopting The California Fire Code, 2019 Edition, As Amended, By Reference; And Adding a New Chapter 15.56 to Title 15 of The El Cajon Municipal Code

**MOTION BY McCLELLAN, SECOND BY KENDRICK, to ADOPT Ordinance No. 5094, Repealing Chapter 15.56 of Title 15 of The El Cajon Municipal Code; Adopting The California Fire Code, 2019 Edition, As Amended, By Reference; And Adding a New Chapter 15.56 to Title 15 of The El Cajon Municipal Code.**

**MOTION CARRIED BY UNANIMOUS VOTE.**

An Ordinance Repealing Chapter 15.60 of Title 15 of The El Cajon Municipal Code; Adopting The California Green Building Standards Code, 2019 Edition, As Amended, By Reference; And Adding a New Chapter 15.60 to Title 15 of The El Cajon Municipal Code

**MOTION BY McCLELLAN, SECOND BY KENDRICK, to ADOPT Ordinance No. 5095, Repealing Chapter 15.60 of Title 15 of The El Cajon Municipal Code; Adopting The California Green Building Standards Code, 2019 Edition, As Amended, By Reference; And Adding a New Chapter 15.60 to Title 15 of The El Cajon Municipal Code.**

**MOTION CARRIED BY UNANIMOUS VOTE.**

**PUBLIC HEARINGS: (Continued)**

An Ordinance Repealing Sections 15.88.010, 15.88.020 And 15.88.030 of Chapter 15.88 of Title 15 of The El Cajon Municipal Code; Adopting The California Historical Building Code, 2019 Edition, As Amended, By Reference; And Adding New Sections 15.88.010, 15.88.020 And 15.88.030 of Chapter 15.88 of Title 15 of The El Cajon Municipal Code

**MOTION BY McCLELLAN, SECOND BY KENDRICK, to ADOPT Ordinance No. 5096, Repealing Sections 15.88.010, 15.88.020 And 15.88.030 of Chapter 15.88 of Title 15 of The El Cajon Municipal Code; Adopting The California Historical Building Code, 2019 Edition, As Amended, By Reference; And Adding New Sections 15.88.010, 15.88.020 And 15.88.030 of Chapter 15.88 of Title 15 of The El Cajon Municipal Code.**

**MOTION CARRIED BY UNANIMOUS VOTE.**

An Ordinance Repealing Sections 15.84.010 And 15.84.015 of Chapter 15.84 of Title 15 of The El Cajon Municipal Code; Adopting The California Existing Building Code, 2019 Edition, As Amended, By Reference; And Adding New Sections 15.84.010 And 15.84.015 to Chapter 15.84 of Title 15 of The El Cajon Municipal Code

**MOTION BY McCLELLAN, SECOND BY KENDRICK, to ADOPT Ordinance No. 5097, Repealing Sections 15.84.010 And 15.84.015 of Chapter 15.84 of Title 15 of The El Cajon Municipal Code; Adopting The California Existing Building Code, 2019 Edition, As Amended, By Reference; And Adding New Sections 15.84.010 And 15.84.015 to Chapter 15.84 of Title 15 of The El Cajon Municipal Code.**

**MOTION CARRIED BY UNANIMOUS VOTE.**

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Item 11 was REMOVED from the Agenda by previous action under Agenda Changes.

**ADMINISTRATIVE HEARING:**

11. Administrative Hearing - Appeal by Alexandra Investments, Inc., dba Angelo's Towing & Recovery

**RECOMMENDATION:**

That the City Council conducts the Administrative Hearing; reviews the documents submitted; receives testimony from witnesses who have been identified on each party's list; and determines whether the City Manager's denial of a Special Operations License ("SOL") to operate a Police Department towing business should be upheld or overturned.

**ADMINISTRATIVE REPORTS:**

12. Citywide Pavement Condition Report

**RECOMMENDATION:**

This is an informational report only. No action is required by the City Council.

**DISCUSSION**

Principal Civil Engineer, Jeffrey Manchester, provided detailed information of the Item.

No one came forward to speak.

Discussion ensued among Council and Staff concerning the following:

- The condition of the street at Washington Ave. and Main Street;
- Availability of CALTRAN Grants for repairs at Washington Ave.;
- Consideration of asphalt thickness for streets with high commercial vehicle usage;
- Availability of SB1 and TransNet funds; and
- Moratoriums on newly paved streets.

**COMMISSION REPORTS:** None

**ACTIVITIES REPORTS/COMMENTS OF MAYOR WELLS:**

SANDAG (San Diego Association of Governments) Board of Directors; SANDAG – Audit Committee; League of California Cities, San Diego Division; Heartland Fire Training JPA – Alternate; LAFCO.

13. Council Activities Report/Comments

Report as stated.

14. Legislative Update – None

15. East County Advance Water Purification Joint Powers Authority Board Appointments

**RECOMMENDATION:**

That the City Council ratifies appointments of Councilmember Gary Kendrick as the City's primary representative and Deputy Mayor Steve Goble as the alternate representative on the East County Advance Water Purification Joint Powers Authority Board.

**MOTION BY McCLELLAN, SECOND BY ORTIZ, to RATIFY the appointment of Councilmember Gary Kendrick as the City's primary representative and Deputy Mayor Steve Goble as the alternate representative on the East County Advance Water Purification Joint Powers Authority Board.**

**MOTION CARRIED BY UNANIMOUS VOTE.**

**ACTIVITIES REPORTS OF COUNCILMEMBERS:**

16. COUNCILMEMBER GARY KENDRICK  
METRO Commission/Wastewater JPA; Heartland Communications; Heartland Fire Training JPA.

Council Activities Report/Comments.

Report as stated.

17. COUNCILMEMBER BOB McCLELLAN  
MTS (Metropolitan Transit System Board); Harry Griffen Park Joint Steering Committee; Heartland Communications – Alternate.

Council Activities Report/Comments.

In addition to the report submitted, Councilmember McClellan advised that he attended a meeting at the Rotary Club of El Cajon.

**ACTIVITIES REPORTS OF COUNCILMEMBERS:**

- 18. DEPUTY MAYOR STEVE GOBLE  
SANDAG – Board of Directors – Alternate; SANDAG Public Safety Committee – Alternate; METRO Commission/Wastewater JPA – Alternate; Chamber of Commerce – Government Affairs Committee; MTS (Metropolitan Transit System Board) – Alternate.

Council Activities Report/Comments.

Report as stated.

- 19. COUNCILMEMBER PHIL ORTIZ  
East County Economic Development Council; League of California Cities, San Diego Division.

Council Activities Report/Comments.

Report as stated.

**JOINT COUNCILMEMBER REPORTS:** None

**GENERAL INFORMATION ITEMS FOR DISCUSSION:**

- 20. El Cajon Animal Shelter Donations for September 2019

**RECOMMENDATION:**

In accordance with City Council Policy B-2, staff informs the City Council about receiving the following donation for the El Cajon Animal Shelter for the month of September:

Tierra Del Sol Middle School: Money For Paws \$307.00

**ORDINANCES: FIRST READING:** None

**ORDINANCES: SECOND READING AND ADOPTION:** None

**CLOSED SESSIONS:** None

**Adjournment: Mayor Wells adjourned the Adjourned Regular Joint Meeting of the El Cajon City Council/Housing Authority/Successor Agency to the El Cajon Redevelopment Agency held this 22<sup>nd</sup> day of October, 2019, at 3:55 p.m., to Tuesday, November 12, 2019, at 3:00 p.m.**

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ANGELA L. CORTEZ, CMC  
City Clerk/Secretary

D R A F T



City Council  
Agenda Report

**DATE:** November 12, 2019  
**TO:** Honorable Mayor and City Councilmembers  
**FROM:** Frank Carson, Director of Recreation  
**SUBJECT:** Event in the Right of Way – Holiday Lights on Main

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**RECOMMENDATION:**

That the City Council reviews and approves the submitted road closures and traffic control plan for the Holiday Lights on Main.

**BACKGROUND:**

Downtown El Cajon Business Partners, the management company for the Downtown El Cajon Property-Based Improvement District (PBID), in celebration of Small Business Saturday, is presenting a holiday themed event in the downtown area. The intent of the event is to provide economic enhancements to the Downtown District.

Holiday Lights on Main will be held on Saturday, November 30, 2019, from 2:00 p.m. to 8:00 p.m. in Downtown El Cajon. The event includes the annual lighting of a 24-foot tree on private property at the corner of Main and Magnolia at 6:00 p.m. Holiday string lighting will be illuminated on Main Street between Magnolia and Claydelle and throughout the Prescott Promenade during the event. Activities will be held in the Prescott Promenade, to include an ice skating rink, amplified music, inflatables, food, retail vendors, craft and informational booths. This event will be free and open to the public. Limited street closures are requested.

In accordance with El Cajon Municipal Code Chapter 12.24, the event is not for the sole purpose of advertising products, goods, or for private profit. Instead the event will provide a central venue to promote community involvement, City awareness and public camaraderie.

The Special Event Committee will notify the Downtown El Cajon Business Partners of the additional conditions to be met no later than two weeks prior to the event. Requirements will include approved Certificates of Insurance and any necessary permits or licenses.

Approval for phased street closures are requested as follows:

Saturday, November 30, 2019

5:00 a.m. – 11:00 p.m. Prescott Promenade

5:00 a.m. – 11:00 p.m. Alley at Prescott Promenade

5:00 a.m. – 11:00 p.m. Prescott Promenade Parking Lot

5:30 p.m. – 6:30 p.m. Main Street and Magnolia Avenue Intersection

FISCAL IMPACT:

Applicable fees to be paid by the applicant.

Prepared By: Frank Carson

Reviewed By: Vince DiMaggio, Assistant City Manager

Approved By: Graham Mitchell, City Manager

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**City Council  
Agenda Report**

**DATE:** November 12, 2019  
**TO:** Honorable Mayor and City Councilmembers  
**FROM:** Dirk Epperson, Director of Public Works  
**SUBJECT:** Wells Park Improvements - Security Gates Project Acceptance

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**RECOMMENDATION:**

That the City Council:

1. Accepts the Wells Park Improvements - Security Gates Project, PK3610, Bid No. 015-19; and
2. Authorizes the City Clerk to record a Notice of Completion and release the bonds in accordance with the contract terms.

**BACKGROUND:**

The City completed the installation of decorative gates and fencing along the entrance of Wells Park, which allows the park to be secured after hours. Blue Pacific Engineering & Construction completed the work in September of this year and acceptance of the project is recommended.

**FISCAL IMPACT:**

This project is budgeted in Parks Projects (505000-PK3610) with Community Development Block Grant (C0922) funding. The total construction contract expenditure is \$152,072.

Prepared By: Dirk Epperson, Director of Public Works

Reviewed By: Vince DiMaggio, Assistant City Manager

Approved By: Graham Mitchell, City Manager

---



City Council  
Agenda Report

**DATE:** November 12, 2019  
**TO:** Honorable Mayor and City Councilmembers  
**FROM:** Graham Mitchell, City Manager  
**SUBJECT:** Travel Expenses to Attend the 2019 League of California Cities Annual Conference - Wells and Ortiz

---

**RECOMMENDATION:**

That the City Council reviews and approves the attached Claim for Advance/Reimbursement of Travel Expense forms for Mayor Bill Wells and Councilmember Phil Ortiz, in accordance with City Council Policy G-1.

**BACKGROUND:**

October 16-18, 2019, Mayor Bill Wells and Councilmember Phil Ortiz represented the City of El Cajon at the League of California Cities Annual Conference held this year in Long Beach. Councilmembers participate in League events to represent the interests of the City of El Cajon and vote on matters affecting the City and the region. Mayor Wells served as the voting delegate and Councilmember Ortiz served as the alternate voting delegate for the City of El Cajon, voting on resolutions presented at the League Conference during a session held on October 18, 2019.

**FISCAL IMPACT:**

The total cost of \$2,258.08 is included in the Fiscal Year 2019-20 Budget (account 101000-8495). Conference registration expenses for Mayor Wells were paid in advance by City credit card. Lodging and parking expenses were charged to a City credit card; and there are no additional expenses claimed for Mayor Wells. Conference registration for Councilmember Ortiz was paid in advance by City credit card. Reimbursement in the amount of \$565.54 will be paid to Councilmember Ortiz for lodging and incidentals.

Prepared By: Teresa Bussey, Executive Assistant

Reviewed By: N/A

Approved By: Graham Mitchell, City Manager

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Attachments

2019 LCC Expense Report

2019 LCC Expense Report

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**CITY OF EL CAJON, CALIFORNIA  
CLAIM FOR REIMBURSEMENT OF TRAVEL EXPENSE**

Employee Name: Phil Ortiz	Position: Councilmember	Department: Mayor & Council	Date of Claim: 11/12/2019
Purpose of Trip: League of California Cities-Long Beach, Oct. 16-18, 2019		Authorized By - Date:	

Method of Transportation	Depart From			Arrive At		
	Name of City	Date	Time	Name of City	Date	Time
Personal Auto	El Cajon	10/16/2019		Long Beach	10/18/2019	

**EXPENSE REPORT**

**ATTACH ALL RECEIPTS TO THIS FORM FOR EXPENDITURES REPORTED**

Item Description	Day 1 10/16/19	Day 2 10/17/19	Day 3 10/18/19	Day 4 xx/xx/xx	Day 5 xx/xx/xx	Day 6 xx/xx/xx	Day 7 xx/xx/xx	Total Expense	Prepaid / Reimb / Inv
1. Meals		\$5.00						\$5.00	R
2. Lodging	\$264.27	\$264.27						\$528.54	R
3. Fare (Air, etc.)								\$0.00	
4. Taxi, Limo, Bus								\$0.00	
5. Telephone								\$0.00	
6. Auto Expense								\$0.00	
7. Registration	\$550.00							\$550.00	P
8. Airport Shuttle								\$0.00	
9. Personal Mileage								\$0.00	
10. Parking	\$16.00	\$16.00						\$32.00	R
<b>Totals</b>	<b>\$830.27</b>	<b>\$285.27</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$1,115.54</b>	

Items 6 through 10 require an explanation below.

**TOTAL ALLOWABLE EXPENSES ABOVE**

Item # & Co.	Explanation / Description	Traveler's Reconciliation	
#1 Loft Restaurant	Breakfast	Total Allowable Expenses	\$1,115.54
#2 Lodging	Hilton Long Beach Hotel	Adv/Prepaid/Invoiced Expenses	\$550.00
#7 League of CA Cities	Annual Conference Registration	Balance Due to (City)/Employee	\$565.54

THE UNDERSIGNED STATES, UNDER PENALTY OF PERJURY, THAT THE ABOVE CLAIM IS TRUE AND CORRECT:

Account Number	Amount
101000-8594	\$1,115.54

APPROVAL OF DEPARTMENT HEAD:

APPROVAL OF DIRECTOR OF FINANCE:



HILTON LONG BEACH  
 701 West Ocean Blvd. | Long Beach, CA | 90831  
 T: 562 983 3400 | F: 562 983 1200  
 W: hilton.com

NAME AND ADDRESS:

ORTIZ, PHIL  
 1244 WASHINGTON AVE  
 EL CAJON CA 92019  
 UNITED STATES OF AMERICA

Room: 1401/K1X  
 Arrival Date: 10/16/2019 4:40:00 PM  
 Departure Date: 10/18/2019  
 Adult/Child: 1/0  
 Room Rate: 229.00  
 Rate Plan: CC3  
 HH #: 1186729941 BLUE  
 AL:  
 Car:

Confirmation Number: 3152098720

10/18/2019



DATE	REFERENCE	DESCRIPTION	AMOUNT
10/16/2019	6125924	SELF PARKING	\$16.00
10/16/2019	6125925	GUEST ROOM	\$229.00
10/16/2019	6125925	OCCUPANCY TAX	\$27.48
10/16/2019	6125925	LONG BEACH TOURISM ASSESSMENT	\$6.87
10/16/2019	6125925	STATE TOURISM ASSESSMENT	\$0.92
10/17/2019	6126493	LOFT	\$5.00
10/17/2019	6126903	SELF PARKING	\$16.00
10/17/2019	6126904	GUEST ROOM	\$229.00
10/17/2019	6126904	OCCUPANCY TAX	\$27.48
10/17/2019	6126904	LONG BEACH TOURISM ASSESSMENT	\$6.87
10/17/2019	6126904	STATE TOURISM ASSESSMENT	\$0.92
10/18/2019	6127582	VS *6119	(\$565.54)
		REF=0001160113-01611188 CHIP 05	
		CAPITAL ONE VISA AID:A0000000031010 TVR:0080008000	
		**BALANCE**	\$0.00



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ACCOUNT NO. VS *6119	DATE OF CHARGE 10/18/2019	FOLIO NO./CHECK NO. 1160113 A
CARD MEMBER NAME ORTIZ, PHIL	AUTHORIZATION 04624D	INITIAL
ESTABLISHMENT NO. & LOCATION	PURCHASES & SERVICES	
	TAXES	
	TIPS & MISC.	
CARD MEMBER'S SIGNATURE	TOTAL AMOUNT	-565.54
MERCHANDISE AND/OR SERVICES PURCHASED ON THIS CARD SHALL NOT BE RESOLD OR RETURNED FOR A CASH REFUND.		PAYMENT DUE UPON RECEIPT



## **Teresa Bussey**

---

**From:** League of California Cities <mdunn@cacities.org>  
**Sent:** Tuesday, July 02, 2019 1:29 PM  
**To:** Teresa Bussey  
**Cc:** mdunn@cacities.org  
**Subject:** 2019 Annual Conference Registration Confirmation

Thank you for registering for the 2019 Annual Conference & Expo, taking place October 16 - 18 at the Long Beach Convention Center. Please keep this confirmation for your records. To access the League's room blocks, click the link below and use Access Code: ATT2019 when making your reservation.

Attendee Room Blocks: <https://shows.preferred1.com/events/cc19>  
Access Code: ATT2019

If you have questions about hotel reservations, please call (310) 906-3844 or email [pcs@preferred1.com](mailto:pcs@preferred1.com)

City of El Cajon  
Phil Ortiz  
Councilmember  
[tbussey@cityofelcajon.us](mailto:tbussey@cityofelcajon.us)  
No Special Request

Early Bird Full Conference \$550.00

Sub Total: \$550.00  
Amount Paid: \$550.00  
Balance: \$0.00

Questions or special needs? Contact the Conference Registrar at [mdunn@cacities.org](mailto:mdunn@cacities.org) before Tuesday, September 24.

Advance registrants unable to attend will receive a refund of rate paid, minus a \$75 processing charge, only when a written request is submitted to [mdunn@cacities.org](mailto:mdunn@cacities.org) on or before Tuesday, September 24. Refunds will not be available after this date. If you are unable to attend, you may substitute a colleague for your entire registration. Sharing of registrations is prohibited.

Hotel reservation changes, date modifications, early check-out, or cancellations made prior to Tuesday, September 24, must be done through the online reservation link you received when registering for the conference. Use your confirmation/acknowledgement number to access your reservation and make any necessary changes. Once the September 24 deadline has passed, please contact the hotel directly with any changes or cancellations. Please note that after the housing deadline has passed, you may incur a financial penalty and minimum one-night room charge or attrition fees.

PLEASE NOTE: The information you provide to the League when registering for a League conference or meeting may be shared with the conference or meeting hotel(s). The hotel(s) will also share with the League the information you provide to the hotel(s) when you make your hotel reservation for the conference or meeting. The information shared between the League and the hotel(s) will be limited to your first name, last name and dates/length of stay in the hotel.

**CITY OF EL CAJON, CALIFORNIA  
CLAIM FOR REIMBURSEMENT OF TRAVEL EXPENSE**

Employee Name: <b>Bill Wells</b>	Position: <b>Mayor</b>	Department: <b>Mayor &amp; Council</b>	Date of Claim: <b>11/12/2019</b>
Purpose of Trip: <b>League of California Cities-Long Beach, Oct. 16-18, 2019</b>		Authorized By - Date:	

Method of Transportation	Depart From			Arrive At		
	Name of City	Date	Time	Name of City	Date	Time
Personal Auto	El Cajon	10/16/2019		Long Beach	10/18/2019	

**EXPENSE REPORT**

**ATTACH ALL RECEIPTS TO THIS FORM FOR EXPENDITURES REPORTED**

Item Description	Day 1 10/16/19	Day 2 10/17/19	Day 3 10/18/19	Day 4 xx/xx/xx	Day 5 xx/xx/xx	Day 6 xx/xx/xx	Day 7 xx/xx/xx	Total Expense	Prepaid / Reimb / Inv
1. Meals								\$0.00	
2. Lodging	\$264.27	\$264.27						\$528.54	P
3. Fare (Air, etc.)								\$0.00	
4. Taxi, Limo, Bus								\$0.00	
5. Telephone								\$0.00	
6. Auto Expense								\$0.00	
7. Registration	\$550.00							\$550.00	P
8. Airport Shuttle								\$0.00	
9. Personal Mileage								\$0.00	
10. Parking	\$32.00	\$32.00						\$64.00	P
<b>Totals</b>	<b>\$846.27</b>	<b>\$296.27</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$1,142.54</b>	

Items 6 through 10 require an explanation below.

**TOTAL ALLOWABLE EXPENSES ABOVE**

Item # & Co.	Explanation / Description	Traveler's Reconciliation	
#2 Lodging	Hilton Long Beach Hotel	Total Allowable Expenses	\$1,142.54
#7 League of CA Cities	Annual Conference Registration	Adv/Prepaid/Invoiced Expenses	\$1,142.54
		Balance Due to (City)/Employee	\$0.00

THE UNDERSIGNED STATES, UNDER PENALTY OF PERJURY, THAT THE ABOVE CLAIM IS TRUE AND CORRECT:

Account Number	Amount
101000-8594	\$1,142.54

APPROVAL OF DEPARTMENT HEAD:	APPROVAL OF DIRECTOR OF FINANCE:



HILTON LONG BEACH HOTEL  
 701 WEST OCEAN BOULEVARD  
 LONG BEACH, CA 90831  
 United States of America  
 TELEPHONE 562-983-3400 • FAX 562-983-1200  
 Reservations  
 www.hilton.com or 1 800 HILTONS

WELLS, BILL  
 X  
 X CA XXXXX  
 UNITED STATES OF AMERICA

Room No: 1501/K1X  
 Arrival Date: 10/16/2019 3:13:00 PM  
 Departure Date: 10/18/2019 8:37:00 AM  
 Adult/Child: 1/0  
 Cashier ID: ARE  
 Room Rate: 229.00  
 AL:  
 HH #  
 VAT #  
 Folio No/Che 1160155 B

Confirmation Number: 3148992100

HILTON LONG BEACH HOTEL 10/28/2019 10:55:00 AM

DATE	REF NO	DESCRIPTION	CHARGES
10/16/2019	6125959	VALET PARKING	\$32.00
10/16/2019	6125960	GUEST ROOM	\$229.00
10/16/2019	6125960	OCCUPANCY TAX	\$27.48
10/16/2019	6125960	LONG BEACH TOURISM ASSESSMENT	\$6.87
10/16/2019	6125960	STATE TOURISM ASSESSMENT	\$0.92
10/17/2019	6126935	VALET PARKING	\$32.00
10/17/2019	6126936	GUEST ROOM	\$229.00
10/17/2019	6126936	OCCUPANCY TAX	\$27.48
10/17/2019	6126936	LONG BEACH TOURISM ASSESSMENT	\$6.87
10/17/2019	6126936	STATE TOURISM ASSESSMENT	\$0.92
10/18/2019	6127501	VS *7871	(\$592.54)
**BALANCE**			\$0.00

CREDIT CARD DETAIL

APPR CODE	098210	MERCHANT ID	16584
CARD NUMBER	VS *7871	EXP DATE	03/21
TRANSACTION ID	6127501	TRANS TYPE	Sale

## **Teresa Bussey**

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**From:** League of California Cities <mdunn@cacities.org>  
**Sent:** Tuesday, July 02, 2019 1:26 PM  
**To:** Teresa Bussey  
**Cc:** mdunn@cacities.org  
**Subject:** 2019 Annual Conference Registration Confirmation

Thank you for registering for the 2019 Annual Conference & Expo, taking place October 16 - 18 at the Long Beach Convention Center. Please keep this confirmation for your records. To access the League's room blocks, click the link below and use Access Code: ATT2019 when making your reservation.

Attendee Room Blocks: <https://shows.preferred1.com/events/cc19>  
Access Code: ATT2019

If you have questions about hotel reservations, please call (310) 906-3844 or email [pcs@preferred1.com](mailto:pcs@preferred1.com)

El Cajon  
Bill Wells  
Mayor  
[tbussey@cityofelcajon.us](mailto:tbussey@cityofelcajon.us)  
No Special Request

Early Bird Full Conference \$550.00

Sub Total: \$550.00  
Amount Paid: \$550.00  
Balance: \$0.00

Questions or special needs? Contact the Conference Registrar at [mdunn@cacities.org](mailto:mdunn@cacities.org) before Tuesday, September 24.

Advance registrants unable to attend will receive a refund of rate paid, minus a \$75 processing charge, only when a written request is submitted to [mdunn@cacities.org](mailto:mdunn@cacities.org) on or before Tuesday, September 24. Refunds will not be available after this date. If you are unable to attend, you may substitute a colleague for your entire registration. Sharing of registrations is prohibited.

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City Council  
Agenda Report

**DATE:** November 12, 2019  
**TO:** Honorable Mayor and City Councilmembers  
**FROM:** Mike Moulton, Chief of Police  
**SUBJECT:** FY 2019-20 California Department of Alcoholic Beverage Control (ABC) Grant

---

**RECOMMENDATION:**

That the City Council adopts the next Resolution, in order, and takes the following actions:

1. Authorizes the City Manager, or designee, to accept a grant in the amount of \$19,600 from the California Department of Alcoholic Beverage Control, and to execute any grant documents and agreements necessary for the receipt and use of these funds.
2. Appropriates the Alcoholic Beverage Control (ABC) Grant funds in the amount of \$19,200 for overtime costs and \$400 for training, and travel costs.

**BACKGROUND:**

The California Department of Alcoholic Beverage Control (ABC) has awarded a grant to the El Cajon Police Department to fund increased education, inspection, and enforcement efforts for Fiscal Year 2019-20. The money from the grant will be directed to fund additional overtime shifts for officers to increase enforcement of laws pertaining to alcohol, specifically targeting sales to minors, and alcohol-related nuisances in and around on-sale restaurants/bars and off-sale liquor store establishments. Additionally, 50 hours will be dedicated to outreach and education through inspections at local off-sale liquor store establishments, as well as through media coverage and press releases. In accordance with the terms of the grant agreement, the Police Department will submit monthly reports to ABC detailing project accomplishments.

**FISCAL IMPACT:**

This grant will provide \$19,600 to the Special Revenue Fund 225900 - Police Miscellaneous Grants. No matching funds are required for this grant. These funds will only be used by the Police Department for the programs listed above or as indicated by approved modifications to the grant.

Prepared By: Julie Wiley, Sr. Management Analyst

Reviewed By: Mike Moulton, Police Chief

Approved By: Graham Mitchell, City Manager

---

Attachments

Reso - ABC Grant  
Award Letter

RESOLUTION NO. \_\_\_-19

RESOLUTION OF THE CITY OF EL CAJON  
AUTHORIZING THE ACCEPTANCE OF A GRANT OF FUNDS  
FROM THE CALIFORNIA DEPARTMENT OF  
ALCOHOLIC BEVERAGE CONTROL FOR FISCAL YEAR 2019-2020  
FOR INCREASED EDUCATION AND ENFORCEMENT EFFORTS

WHEREAS, the City of El Cajon Police Department has been awarded a California Department of Alcohol Beverage Control ("ABC") grant to fund increased education, inspection, and enforcement efforts in Fiscal Year 2019-2020 (the "Grant"); and

WHEREAS, the money from the Grant will be directed to fund additional overtime shifts for officers to increase enforcement of laws pertaining to alcohol, specifically targeting sales to minors and alcohol-related nuisances in and around on-sale restaurants/bars and off-sale liquor store establishments; and

WHEREAS, additionally, sixty (60) hours will be dedicated to outreach and education through inspections at local off-sale liquor store establishments, as well as media coverage and press releases; and

WHEREAS, in accordance with the terms of the grant agreement, the Police Department will submit monthly reports to ABC detailing project accomplishments; and

WHEREAS, the City Council has determined that it is in the best interests of the City for the El Cajon Police Department to be a recipient of the designated grant funds for Fiscal Year 2019-2020.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL CAJON AS FOLLOWS:

1. The City Council hereby elects to be a recipient of the designated grant funds and hereby authorizes the ABC to release the designated grant funds to the City.
2. The City Council hereby authorizes the City Manager, or his designee, to take all actions and to execute all documents necessary or appropriate to accept the grant on behalf of the City of El Cajon Police Department.
3. The City Council hereby further authorizes the City Clerk to attest to the signature of the City Manager, or his designee, in executing the Agreement and such documents as authorized in Section 2, above.



## DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

3927 Lennane Drive, Suite 100  
Sacramento, CA 95834  
(916) 419-2500



September 25, 2019

Chief Jeff Davis  
El Cajon Police Department  
100 Civic Center Way  
El Cajon, CA 92020

Re: ABC-OTS Grant Program

Dear Chief Davis:

We are pleased to inform you that your agency has been selected to participate in the Department of Alcoholic Beverage Control's ABC-OTS Grant Program. Funding for this project comes from the Office of Traffic Safety through the National Highway Traffic Safety Administration. We anticipate operations to begin upon completion of a one-day mandatory training. Funding will conclude on August 31, 2020.

**Because the grant starts October 1, 2019, on or after that date you can make travel arrangements for your operations officer and fiscal officer to attend the one-day training.** Travel purchased prior to October 1<sup>st</sup> will not be reimbursed. The information regarding the date, location and authorized per diem rates are enclosed. If you have questions, please contact Supervising Agent Brandon Shotwell at (916) 928-7954.

To expedite the issuance of your contract please review and complete the enclosed ABC-OTS Grant Program Information Sheet. You can mail, fax, or email this information to our Grant Coordinator, Diana Fouts-Guter, at 3927 Lennane Drive, Suite 100, Sacramento, CA 95834, Fax: (916) 928-7625, or email her at [Diana.fouts-guter@abc.ca.gov](mailto:Diana.fouts-guter@abc.ca.gov). We will also need a resolution from your agency's governing body. Since these resolutions typically must put be on your governing body's calendar, we ask that you do this as soon as possible.

We appreciate your prompt response and look forward to working with your agency.

Sincerely,

Jacob Appelsmith  
Director

Enclosures



City Council  
Agenda Report

**DATE:** November 12, 2019  
**TO:** Honorable Mayor and City Councilmembers  
**FROM:** Dirk Epperson, Director of Public Works  
**SUBJECT:** Agreement Between Helix Water District and City of El Cajon to Provide Customer Water-Consumption Data for Sewer-Billing Services

---

**RECOMMENDATION:**

That the City Council adopts the next Resolution, in order, authorizing the City Manager, or designee, to execute an agreement with Helix Water District to provide customer water-consumption data for sewer-billing purposes.

**BACKGROUND:**

The City of El Cajon (City) uses water consumption data from the Helix Water District (District) for all properties served by the District within the jurisdictional boundaries of the City, to calculate the sewer service fees for its sewer customers. This data has been provided by the District since 1971, and a new agreement is required for the District to continue to provide services to the City. The District provides account numbers, service addresses, service types, water consumption information, and meter numbers which allows the City to properly calculate the units of water consumption utilized by our customers and process account move-ins and move-outs.

The proposed Agreement provides that the District will invoice the City on a periodic basis, but no less frequently than once each fiscal year. The invoiced amount will be based on the number of accounts for which the District provides information to the City using a per-account bill charge detailed in the schedule of Sewer Billing Data Fees that is attached hereto as Appendix A. On October of each year, the District will send a letter of amendment to the proposed Agreement to the City that will include an updated schedule of Sewer Billing Data Fees. The letter will reflect the District's current cost (based on the previous fiscal year's audited financial statements) and the amount to be charged for each account for which the District provides information.

Per the proposed Agreement, the District will invoice the City on a periodic basis, but no less frequently than once each fiscal year. The invoiced amount will be based on the number of accounts for which the District provides information to the City using a per-account bill charge detailed in the schedule of Sewer Billing Data Fees that is attached hereto as Appendix A. On October of each year, the District will send a letter of amendment to the proposed Agreement to the City that will include an updated schedule of Sewer Billing Data Fees. The letter will reflect the District's current cost (based on the previous fiscal year's audited financial statements) and the amount to be charged for each account for which the District provides information.

The term of the proposed Agreement is 25 years from the effective date, subject to each party's right to terminate with a 90-day advanced written notice.

**FISCAL IMPACT:**

The fiscal impact for the initial one-year term is \$30,183. Sufficient funds were budgeted in FY2019-20 Public Works Wastewater Customer Service (650730) Annual Budget. Subsequent annual costs will be budgeted accordingly.

Prepared By: Dirk Epperson, Director of Public Works

Reviewed By: Vince DiMaggio, Assistant City Manager

Approved By: Graham Mitchell, City Manager

---

Attachments

Reso - Helix Billing Services  
Agreement

---

RESOLUTION NO. \_\_-19

RESOLUTION OF THE CITY OF EL CAJON APPROVING  
AND AUTHORIZING THE EXECUTION OF AN AGREEMENT BETWEEN  
HELIX WATER DISTRICT AND CITY OF EL CAJON  
TO PROVIDE CUSTOMER WATER-CONSUMPTION  
DATA FOR SEWER-BILLING SERVICES

WHEREAS, the City of El Cajon (the "City") and Helix Water District (the "District") desire to enter into an agreement to provide customer water consumption data for sewer billing services (the "Agreement"); and

WHEREAS, the City uses the District's water consumption data, for all properties served by the District within the jurisdictional boundaries of the City, to calculate the sewer service fees for its sewer customers on a volumetric basis; and

WHEREAS, the District provides account numbers, service addresses, service types, water consumption information, and meter numbers which allows the City to properly calculate the units of water consumption utilized by sewer customers and process account customer migration; and

WHEREAS, the District will invoice the City on a periodic basis, but no less frequently than once each fiscal year, with the invoice amount to be based on the number of accounts for which the District provides information to the City using a per-account bill charge detailed in the included schedule of Sewer Billing Data; and

WHEREAS, the Agreement provides that in October of each year, the District will send a letter of amendment to this Agreement to the City that will include an updated schedule of Sewer Billing Data Fees and that will reflect the District's current cost (based on the previous fiscal year's audited financial statements) and the amount to be charged for each account for which the District provides information; and

WHEREAS, the term of the Agreement to provide information for sewer billing services is for twenty-five (25) years from the effective date of the Agreement, subject to each party's right to terminate with 90-day advance written notice.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL CAJON AS FOLLOWS:

Section 1. The above recitals are true and correct, and are the findings of the City Council.

Section 2. The City Council hereby approves the execution of that certain Agreement between Helix Water District and City of El Cajon to Provide Customer Water-Consumption Data for Sewer-Billing Services, substantially in the form as presented to the City Council at this meeting.

Section 3. The City Council hereby authorizes the City Manager, or designee, to execute the Agreement on behalf of the City of El Cajon, with such changes as may be approved by the City Manager, or designee, and to take all actions and to execute all documents, attachments to the Agreement, and other documents necessary or appropriate to carry out the terms of the Agreement.

11/22/19 CC Agenda  
Reso - Approve Agt. Helix Water District and City 102819

**AGREEMENT BETWEEN HELIX WATER DISTRICT AND CITY OF EL CAJON  
TO PROVIDE CUSTOMER WATER-CONSUMPTION DATA  
FOR SEWER-BILLING PURPOSES**

This Agreement is to Provide Customer Water-Consumption Data for Sewer-Billing Purposes (the “Agreement”) and is made and entered into on \_\_\_\_\_ (“Effective Date”) between Helix Water District, a State agency (hereinafter the “District”), and the City of El Cajon, a Municipal Corporation (hereinafter the “City”).

**RECITALS**

- A. The City has adopted Resolution No. XXXX-XX;
- B. The City provides sewer-collection services to properties located within its jurisdictional boundaries;
- C. The rates for the City’s sewer service fees are structured, in part, on the basis of a customer’s metered water use and certain assumptions regarding the volume of water returned to the sewer system;
- D. The District provides water service to properties located within the City;
- E. The City has requested the District provide water-consumption data for all properties served by the District within the jurisdictional boundaries of the City in order for the City to calculate the sewer service fees for its sewer customers;
- F. The District has agreed to provide such services to the City on the terms and conditions and for such consideration as is set forth in this Agreement.
- G. NOW, THEREFORE, in consideration of the promises and covenants set forth in this Agreement and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by both parties, the parties hereto agree as follows:

**TERMS**

**1. Services**

- 1.1 On a periodic basis, but no less frequently than once each fiscal year (i.e., July 1 through next succeeding June 30), the District will provide water-consumption data regarding the District’s water customers within the City’s jurisdictional boundaries to the City using a mutually agreed upon standard data-file format, delivery method, and time table.
- 1.2 The data to be provided will include: account number, service address, service type, water consumption, and meter number.

1.3 The District will provide the City's Customer Service Department with computer-based inquiry-only access to the data described in subsection 1.2 above as long as the data is readily available on the computer system and database used by the District.

1.4 The full costs of any remote connection to the District's computers and database will be paid by the City.

**2. Term.** The term of this Agreement is for 25 years from the Effective Date, subject to each party's right to terminate under section 4 below.

**3. Payment**

3.1 The District shall invoice the City on a periodic basis, but no less frequently than once each fiscal year (i.e., July 1 through next succeeding June 30), in the month immediately following the end of the period that the data is provided to the City.

3.2 The invoiced amount will be based on the number of accounts for which the District provides information to the City using a per-account bill charge that is detailed in the schedule of Sewer Billing Data Fees that is attached hereto as Appendix A. This charge represents the District's costs to collect and provide this information.

3.3 Payment from the City will be due and payable within 30 days of receipt of the invoice.

3.4 In October of each year, the District will send a letter of amendment to this Agreement to the City that will include an updated schedule of Sewer Billing Data Fees (Appendix A). This letter will reflect the District's current cost basis (based on the previous fiscal year's audited financial statements) and the amount to be charged for each account for which the District provides data to the City

**4. Termination**

4.1 Either party may unilaterally terminate this Agreement with 90-days advance written notice.

4.2 In the event of termination of this Agreement, the City shall pay the District for the District's costs, as described in subsection 3.2 above, prorated to reflect current fiscal-year costs to the date of actual termination.

4.3 Notice of termination shall be provided to:

City of El Cajon	Helix Water District
Deputy Director of Public Works	Finance Manager
200 Civic Center Way	7811 University Avenue
El Cajon, CA. 92020-3916	La Mesa, CA 91942-0427

5. **No Warranty.** The District will make its best effort to provide the consumption data to the City in an accurate and timely fashion. The District however makes no warranty of the accuracy of this data and shall have no liability for any business decision or use made with this data by the City.

6. **Confidentiality and Limited Use**

6.1 The City agrees that the customer water-consumption data provided by the District is confidential and must be kept confidential by the City.

6.2 The data may only be used for activities related to billing for sewer services within the City. It may not be used for any other purpose except as stated herein, unless otherwise required by state or federal statute or government regulation.

7. **Mutual Defense and Indemnity**

7.1 Claims Arising Solely from the Acts or Omissions of One Party

(A) Each party hereby agrees to defend and indemnify the other from any claim, action, or proceeding that arises solely out of the acts or omissions of the indemnifying party. "Party" here includes each party's agents, officers, and employees.

(B) At its sole discretion, the indemnified party may participate at its own expense in the defense, but such participation shall not relieve the indemnifying party of any obligation imposed by this Agreement.

(C) Each party shall promptly notify the other of any potential or actual claim, action, or proceeding, and each shall cooperate fully in the defense.

7.2 Claims Arising from Joint or Shared Acts or Omissions

(A) The District hereby agrees to defend itself, and the City hereby agrees to defend itself, from any claim, action, or proceeding that arises out of the joint or shared acts or omissions of the District and the City.

(B) In such cases, the District and the City each agrees to retain its own legal counsel, bear its own defense costs, and waive its right to seek reimbursement of such costs from the other, except as provided in subsection 7.4 below.

7.3 Joint Defense

(A) Notwithstanding subsection 7.2 above, in cases where the District and the City agree in writing to a joint defense, the District and the City may appoint joint defense counsel to defend them against or in the claim, action, or proceeding arising out of the joint or shared acts or omissions of the City and the District.

(B) Joint defense counsel shall be selected by mutual agreement of the District and the City.



- (C) The District and the City agree to share the costs of such joint defense and any agreed settlement in equal amounts, except as provided in subsection 7.4 below.
- (D) The District and the City further agree that neither party may bind the other to a settlement agreement without the written consent of both the District and the City.

7.4 Reallocation and Reimbursement. If a trial verdict or arbitration award determines the comparative fault of the parties, either party may seek reallocation and reimbursement of defense costs, settlement payments, judgments, and awards, consistent with such comparative fault.

**8. No Third-party Rights.** Nothing in this Agreement creates a contractual relationship with or a cause of action in favor of a third party against the District or the City. The District's services under this Agreement are being performed solely for the City's benefit, and no other person or entity shall have any claim against the District because of this Agreement or the performance or nonperformance of services hereunder.

**9. Survival and Severability.**

9.1 Section 7 above shall survive the completion of the services and the termination of this Agreement.

9.2 If any provision of this Agreement is adjudicated and determined to be unenforceable under the law, the remaining provisions shall continue in full force and effect.

**10. Cooperation; Further Actions.** The parties shall fully cooperate with one another and shall take whatever further actions that are necessary, appropriate, or convenient to accomplish the purposes of this Agreement, including but not limited to executing other documents.

**11. Entire Agreement.** This Agreement represents the entire Agreement between the District and the City as to its subject matter and supersedes all prior negotiations, representations or agreements, written or oral.

**12. Amendment.** This Agreement may be amended or modified only by the mutual, written agreement of both parties.

**13. Counterparts.** This Agreement may be signed in counterparts, each of which shall constitute an original.

**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement as of the day and year hereinabove written.

**City of El Cajon**

**Helix Water District**

By \_\_\_\_\_

Graham Mitchell, City Manager

By \_\_\_\_\_

Carolos V. Lugo, General Manager

By \_\_\_\_\_

Angela Cortez, City Clerk

By \_\_\_\_\_

Sandra L. Janzen, District Board Secretary

Approved as to Form:

By \_\_\_\_\_

Morgan L. Foley, City Attorney

## Appendix A

### Helix Water District Sewer Billing Data Fees

Fiscal Year End June 30, 2019

Effective July 1, 2019

#### CUSTOMER ACCOUNT & METER-READING EXPENSES

Acct Description	Rate	Cost	Extended
Meter Reading	100%	\$494,385	\$494,385
Automotive-Repairs & Maint.	11%	\$198,745	\$21,862
Safety Labor	7%	\$256,558	\$17,959
Automotive Labor	11%	\$120,011	\$13,201
Unleaded Fuel - Vehicle	11%	\$105,183	\$11,570
Diesel Fuel-Vehicle	11%	\$74,466	\$8,191
Automotive-Parts & Supplies	11%	\$20,537	\$2,259
Employee Uniforms	13%	\$15,270	\$1,985
Automotive-Contract Payment	11%	\$10,642	\$1,171
Automotive-Other Expense	11%	\$992	\$109

#### CUSTOMER RECORDS AND COLLECTION EXPENSE

Acct Description	Rate	Cost	Extended
Information Services	25%	\$1,933,024	\$483,256
Admin Office Maint.	10%	\$454,382	\$45,438
Customer Service Labor	5%	\$682,028	\$34,101
Human Resources Labor	7%	\$343,367	\$24,036
Office Supplies	10%	\$23,461	\$2,346
Custodial Supplies	10%	\$18,496	\$1,850
Human Resources-Recruitment	7%	\$5,284	\$370
Training and Staff Development	7%	\$636	\$45
Supplies	7%	\$99	\$7
Meetings & Conferences	7%	\$79	\$6

#### DEPRECIATION

Depreciation-Admin. Equip.	10%	\$499,618	\$49,962
Depreciation-Admin. Bldg.	10%	\$180,629	\$18,063

**\$5,437,891      \$1,232,171**

The annual Helix Data Charges to the City shall be based on the equation shown below utilizing the total prorated costs indicated in the far right hand column above. The total prorated costs shall be divided by the total number of Helix water bills rendered during the year and the City shall pay an amount equal to 10% for each City account bill rendered during the year.

Effective July 1, 2019, and for the quarter ended September 30, 2019, the charge would be 31 cents per account, calculated as follows:

$$\$1,232,171 / 396,107 \text{ Helix Bills} = \$3.11$$

$$\$3.11 \times 10\% = \mathbf{\$0.31 \text{ cents per account bill rendered during the year}}$$



City Council  
Agenda Report

**DATE:** November 12, 2019  
**TO:** Honorable Mayor and City Councilmembers  
**FROM:** Frank Carson, Director of Recreation  
**SUBJECT:** Event in the Right of Way – Mother Goose Parade

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RECOMMENDATION:

That the City Council reviews and approves the submitted road closures and traffic control plan for the 73rd Annual Mother Goose Parade.

BACKGROUND:

On July 9, 2019, the City Council approved sponsorship of the 73rd Annual Mother Goose Parade to include in-kind city services and \$20,000 in funds. This year's Mother Goose Parade is scheduled for Sunday, November 24, 2019, with a start time of 1:00 p.m. This year's theme is "Legends, Past, Present and Future" and the parade entries include special guests, locally designed floats, vintage cars, police and fire department vehicles, community groups, marching bands, local youth, large helium balloons, equestrian units, Mother Goose and Santa Claus.

The parade will begin on West Main Street at El Cajon Boulevard, travel east along Main Street and conclude at 1st Street. Upon arriving at 1st Street, parade participants will turn left onto 1st Street to receive dismissal assignments to either El Cajon High School for special units, floats and marching bands or Wells Park parking lot for equestrians units.

Approval for phased street closures are requested as follows:

Sunday, November 24, 2019

10:00 a.m. – 5:00 p.m. Main Street: Johnson Avenue to El Cajon Boulevard  
10:00 a.m. – 5:00 p.m. El Cajon Boulevard: Main Street to Johnson Avenue  
10:00 a.m. – 5:00 p.m. Johnson Avenue: El Cajon Boulevard to Main Street  
10:00 a.m. – 5:00 p.m. Douglas Avenue: El Cajon Boulevard to Claydelle Avenue  
12:00 p.m. – 5:00 p.m. Magnolia Avenue: Douglas Avenue to Civic Center Drive  
12:00 p.m. – 5:00 p.m. Main Street: Chambers Street to 1st Street  
12:00 p.m. – 5:00 p.m. 1st Street: Main Street to Madison Avenue  
1:00 p.m. – 5:00 p.m. Madison Avenue: 1st Street to El Cajon Valley HS  
1:00 p.m. – 5:00 p.m. Madison Avenue: 1st Street to Wells Park  
1:00 p.m. – 5:00 p.m. Wells Park parking lot

In accordance with El Cajon Municipal Code, Chapter 12.24, staff recommends that the City Council approve the use of the public right-of-way for the parade as it provides a venue for community participation and, in interest of the public, creates community awareness of the City. The parade is not for the sole purpose of advertising products, goods or for private profit. The traffic management plan has been approved by the City's Traffic Engineer and will be coordinated with Public Works and Police staff to ensure a safe and healthy event. Furthermore, the effective movement of vehicles and pedestrians in and around the parade will be assisted by Police without compromising service to the broader community.

The Special Event Committee will notify the Downtown El Cajon Business Partners of the additional conditions to be met no later than two weeks prior to the event. Requirements will include approved certificates of insurance, contracting of security guards to assist with street closures and any necessary permits or licenses.

#### CALIFORNIA ENVIRONMENTAL QUALITY ACT:

The proposed project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) according to Section 15061 (b)(3) the General Rule, which states that CEQA applies only to projects which have the potential for causing a significant effect on the environment. The temporary use of the City's right-of-way for a community event and the detouring of other modes of transportation within City Streets will not have a significant effect on the environment.

#### FISCAL IMPACT:

Funding for Mother Goose Parade in the amount of \$20,000 was approved by City Council on July 9, 2019. Funds are designated in the Council Contingency Budget (Activity #104000) for Fiscal Year 2019-2020. Indirect staff costs for the parade will be absorbed within the respective department budgets.

Prepared By: Frank Carson

Reviewed By: Vince DiMaggio, Assistant City Manager

Approved By: Graham Mitchell, City Manager

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City Council  
Agenda Report

Agenda Item 10.

**DATE:** November 12, 2019  
**TO:** Honorable Mayor and City Councilmembers  
**FROM:** Dirk Epperson, Director of Public Works  
**SUBJECT:** Resolution to Amend Resolution No. 097-19, Replacing Exhibit A to Remove the Inclusion of Charges to Septic Haulers

---

**RECOMMENDATION:**

That the City Council adopts the next Resolution, in order, authorizing the amendment of Resolution 097-19, by replacing Exhibit A to remove the inclusion of charges to Septic Haulers.

**BACKGROUND:**

The City Council adopted Resolution 097-19, Resolution Determining the Absence of a Majority Protest and Adopting a Schedule of Sewer Service Charges for Residential and Commercial Customers in the City of El Cajon Pursuant to Chapter 13.20 of the El Cajon Municipal Code (Resolution 097-19) on October 8, 2019. Resolution 097-19 made reference to Exhibit A Monthly Wastewater Service Charges for Residential and Non Residential users. Exhibit A erroneously misplaced and included a charge for Septic Haulers under "Other" user class. The Septic Haulers fee should have been omitted from Exhibit A as it is not a property ownership related fee and not subject to Proposition 218 Public Notice requirements. This fee is utilized to bill commercial septic tank service companies the cost of the City to handle offloads of sewer from septic systems and adopted yearly by the City Council as part of the City annual fee update based on reasonable anticipation of actual costs to provide City services. This action corrects that error.

**FISCAL IMPACT:**

No fiscal impact is anticipated by the removal of Septic Haulers fee from Exhibit A. The Septic Haulers fee is evaluated by staff on a yearly basis and included in the City yearly fee update based on reasonable anticipation of actual costs to provide City services adopted by the City Council.

Prepared By: Dirk Epperson, Director of Public Works  
Reviewed By: Vince DiMaggio, Assistant City Manager  
Approved By: Graham Mitchell, City Manager

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Attachments

Resolution

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RESOLUTION NO. \_\_\_\_-19

A RESOLUTION TO AMEND  
RESOLUTION NO. 097-19 BY REPLACING  
EXHIBIT A TO REMOVE THE INCLUSION OF  
CHARGES TO SEPTIC HAULERS

WHEREAS, on October 8, 2019, the City Council adopted El Cajon City Council Resolution No. 097-19 ("Resolution No. 097-19") to determine the absence of a majority protest and adopt a schedule of sewer service charges for residential and commercial customers in the City of El Cajon; and

WHEREAS, the schedule of sewer service charges included in Resolution No. 097-19 erroneously misplaced and included septic haulers in the schedule, which customers are separate and distinct from residential and commercial customers, whose charges are incident to their ownership of property; and

WHEREAS, the City's fees for septic haulers, although calculated to reasonably relate to the cost of the City to handle offloads of sewer from septic systems, are not incident to property ownership, but are instead charges required of handling sewage from commercial septic tank service companies; and

WHEREAS, the septic hauler fee is adopted yearly by the City Council as part of the City's annual fee update based on the reasonable anticipation of actual costs to provide City services.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL CAJON AS FOLLOWS:

1. The statements contained in the recitals above are true and correct, and are the findings of this City Council.

2. The City Council hereby finds that the inclusion of charges for septic haulers was in error and hereby approves an amendment to Resolution No. 097-19 by deleting Exhibit A, "Monthly Wastewater Service Fees," and replacing it with a new Exhibit A "Monthly Wastewater Service Fees," attached to this Resolution as Attachment 1. Attachment 1 to this Resolution shall hereafter be incorporated into Resolution 097-19 by this reference, and shall apply retroactively so as to be effective as of the effective date of Resolution No. 097-19.

3. Except as otherwise modified by this Resolution, Resolution No. 097-19 shall remain in full force and effect.

4. This Resolution shall be effective immediately.

PASSED AND ADOPTED by the City Council of the City of El Cajon, California, at a Regular Joint City Council/Housing Authority/Successor Agency to the El Cajon Redevelopment Agency Meeting held this 12th day of November 2019, by the following vote to wit:

AYES :  
NOES :  
ABSENT :  
DISQUALIFY :

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Bill Wells, Mayor of the City of El Cajon

ATTEST:

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Angela L. Cortez, CMC, City Clerk

11/12/19 CC Agenda



# Attachment 1

## EXHIBIT A

### Monthly Wastewater Service Charges

User Class	Effective 11/22/2019		Effective 7/1/2020		Effective 7/1/2021		Effective 7/1/2022		Effective 7/1/2023	
	Base Charge	Volumetric Charge (per HCF*)	Base Charge	Volumetric Charge (per HCF*)	Base Charge	Volumetric Charge (per HCF*)	Base Charge	Volumetric Charge (per HCF*)	Base Charge	Volumetric Charge (per HCF*)
<b>Residential</b>										
Single Family	\$ 12.43	\$ 4.49	\$ 14.29	\$ 4.94	\$ 17.15	\$ 5.53	\$ 20.07	\$ 6.03	\$ 23.48	\$ 6.51
Multi-Family/Condo w/o Irrigation Meter	\$ 12.43	\$ 3.92	\$ 14.29	\$ 4.31	\$ 17.15	\$ 4.83	\$ 20.07	\$ 5.26	\$ 23.48	\$ 5.69
Multi-Family/Condo w/ Irrigation Meter	\$ 12.43	\$ 4.49	\$ 14.29	\$ 4.94	\$ 17.15	\$ 5.53	\$ 20.07	\$ 6.03	\$ 23.48	\$ 6.51
<b>Non-Residential</b>										
Commercial - Low w/o Irrigation Meter	\$ 16.95	\$ 4.04	\$ 19.49	\$ 4.45	\$ 23.39	\$ 4.98	\$ 27.37	\$ 5.43	\$ 32.02	\$ 6.19
Commercial - Low w/ Irrigation Meter	\$ 16.95	\$ 4.49	\$ 19.49	\$ 4.94	\$ 23.39	\$ 5.53	\$ 27.37	\$ 6.03	\$ 32.02	\$ 6.51
Commercial - Medium w/o Irrigation Meter	\$ 16.95	\$ 5.30	\$ 19.49	\$ 5.83	\$ 23.39	\$ 6.53	\$ 27.37	\$ 7.12	\$ 32.02	\$ 8.12
Commercial - Medium w/ Irrigation Meter	\$ 16.95	\$ 5.89	\$ 19.49	\$ 6.48	\$ 23.39	\$ 7.26	\$ 27.37	\$ 7.91	\$ 32.02	\$ 8.54
Commercial - High w/o Irrigation Meter	\$ 16.95	\$ 7.05	\$ 19.49	\$ 7.75	\$ 23.39	\$ 8.68	\$ 27.37	\$ 9.46	\$ 32.02	\$ 10.79
Commercial - High w/ Irrigation Meter	\$ 16.95	\$ 7.83	\$ 19.49	\$ 8.61	\$ 23.39	\$ 9.65	\$ 27.37	\$ 10.51	\$ 32.02	\$ 11.36

\*HCF = Hundred Cubic Feet; 1 HCF = approximately 748 gallons.

Rates may increase in future years by any amount of pass-through charges, per section 53756 of the California Government Code.



## City Council Agenda Report

**Agenda Item 11.**

**DATE:** November 12, 2019  
**TO:** Honorable Mayor and City Councilmembers  
**FROM:** Jamie Van Ravesteyn, Housing Manager  
**SUBJECT:** Notification of Delinquent Loan Payment and Recommended Options for Remedy (812-816 Grossmont Ave)

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### RECOMMENDATION:

That the City Council/EI Cajon Housing Authority receives this report and authorizes a credit in the total amount of \$190,922.70, towards repayment of the outstanding loan amount due from San Diego Habitat for Humanity, Inc. ("SDHFH"); and further authorizes staff to declare the Promissory Note dated June 23, 2017, between SDHFH and the El Cajon Housing Authority, paid in full.

### BACKGROUND:

Under the former "Greenovation Program" established in 2010, Bay Kitchen & Bath (developer) was engaged to acquire and develop/rehabilitate distressed properties using former Redevelopment Agency funds. In May of 2013, the developer acquired the property located at 812 Grossmont Avenue. Development began, including the demolition of an existing substandard unit, construction of three new concrete pads, and construction/installation of two new manufactured housing units on two of the pads. Upon completion of the first two units, the developer attempted to sell the property as a single parcel with multiple units. After several extensions of time to perform were provided, the developer was unable to sell the property as developed and essentially abandoned it. The property was transferred back "AS-IS" to the El Cajon Housing Authority in October of 2016.

On April 25, 2017, the Housing Authority authorized the sale of the property at 812-816 Grossmont Avenue to San Diego Habitat for Humanity, Inc. (SDHFH) for subsequent development of homeownership units for lower-income households, at the agreed price of \$640,000. On June 23, 2017, the Housing Authority executed a DDA with SDHFH specifying the development terms and conditions. The DDA requires SDHFH to subdivide the property and sell the first two homes, and then develop and sell the third home. All three homes are to be sold to lower-income first time homebuyers. Escrow closed on the sale on August 24, 2017.

The terms of the sale included a \$300,000 cash payment from SDHFH at close of escrow, and the execution of a Promissory Note for \$340,000, payable upon sale of the first two existing units. The Note required sale of the first two units and full repayment of the outstanding balance by June 30, 2018. The Note was to be interest-free, except in the event of a default.

On November 13, 2018, the Housing Authority granted SDHFH's request for an extension of time to perform the sale of the first two units and to repay the \$340,000 loan. A Promissory Note Extension Agreement was executed in December 2018, with a new due date for repayment of the outstanding loan of April 30, 2019. Due to circumstances outlined below, SDHFH was unable to meet the extended repayment date of April 30, 2019.

**FISCAL IMPACT:**

No impact to the General Fund. This loan originates from the Low and Moderate Income Housing Asset Fund (LMIHAF) and repayment that would be received by the Housing Authority contributes to ongoing affordable housing projects and programs.

**REPORT:**

In March of 2019 (prior to expiration of the extended deadline), SDHFH advised staff that significant drainage problems were discovered beneath the two existing manufactured homes. Large amounts of water pooled beneath the homes following significant rain events. It was clear that the previous developer did not grade the site appropriately nor install proper drainage systems. In addition, while preparing for the development of the third home, a buried slab/foundation was discovered which required SDHFH to expend additional unanticipated costs for demolition.

SDHFH completed the comprehensive permanent engineering repairs to the lot drainage, including the installation of pumps beneath the homes, and the removal of the unknown slab, requiring additional costs which far-exceeded the expected development budget. The total additional costs incurred and documented for repairs/demolition included the following:

Engineering costs (drainage repairs):	\$ 2,650
Construction of drainage repairs:	\$ 121,500
Asphalt repairs:	\$ 2,700
Demolition of slab:	\$ 8,800
<b>TOTAL:</b>	<b>\$ 135,650</b>

The repair work was completed, and escrow closed on the sale of the first two homes on September 17, 2019. Partial repayment of \$204,350 on the Note was received on that date (\$340,000 minus \$135,650 in repair costs above).

As full repayment of the loan was not received by the extended due date, staff is required to notify the City Council/Housing Authority when a monetary loan issued is delinquent under City Council Policy B-11. The DDA and the Loan Documents include provisions for interest upon default at the rate of 5% (Prime Rate), and 10% if not paid within 15 days. As repayment was not received by April 30, 2019, interest accrues and is calculated from the date of the original Note until paid. The outstanding Principal Balance and accrued Interest are calculated as follows (through November 12, 2019):

<b>Principal Balance of Promissory Note:</b>		<b>\$340,000.00</b>
Interest accrued on Principal Balance from 6/23/17 to 9/17/19 (date of partial repayment):	\$51,006.61	\$391,006.61
<b>(Less) Partial Repayment received on 9/17/19:</b>	<b>(\$204,350.00)</b>	\$186,656.61
Total Interest accrued on Outstanding Balance from 9/18/19 to 11/12/19	\$ 4,266.09	\$190,922.70
<b>Current Outstanding Balance:</b>		<b>\$190,922.70</b>

Given that the Housing Authority was the previous owner of the property and both parties were unaware of the true property conditions, SDHFH is requesting Housing Authority's participation in the unanticipated costs. SDHFH is also requesting that interest be waived as well because the additional repairs were unknown and could not have been completed by the extended due date. The total requested to be credited is \$190,922.70, as follows:

<b>Current Outstanding Balance:</b>		<b>\$190,922.70</b>
Credit requested for Drainage Repairs incurred:	(\$126,850.00)	
Credit requested for Demolition costs incurred:	(\$8,800.00)	
(Less) Interest accrued from 6/23/17 to 9/17/19 (date of partial repayment):	(\$51,006.61)	
(Less) Interest accrued from 9/18/19 to 11/12/19:	(\$4,266.09)	
<b>Total Credit Requested:</b>	<b>(\$190,922.70)</b>	
<b>Balance of Note:</b>		<b>\$0.00</b>

SDHFH is currently in compliance with all other provisions of the DDA and Loan Documents. Staff recommends granting a credit of all or a portion of the outstanding balance of the Note and interest accrued, as outlined above.

Prepared By: Jamie van Ravesteyn, Housing Manager  
Reviewed By: Anthony Shute, Director of Community Development  
Approved By: Graham Mitchell, City Manager

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City Council  
Agenda Report

**DATE:** November 12, 2019  
**TO:** Honorable Mayor and City Councilmembers  
**FROM:** Anthony Shute, Director of Community Development  
**SUBJECT:** Senate Bill 2 Planning Grant

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RECOMMENDATION:

That the City Council:

1. Adopts the next Resolution, in order, authorizing the City Manager, or designee, to apply for Senate Bill 2 Grant Funding; and
2. Authorizes the City Manager, or the City Manager's designee, to execute grant agreements and such other documents necessary, to accept any awards of grants.

PROJECT DESCRIPTION:

Senate Bill (SB) 2, the Building Homes and Jobs Act, was signed into law by the Governor on September 29, 2017. It created a new grant program designed to provide public agencies funding for planning and affordable housing development. Staff is requesting authorization to submit an application for grant funding in the amount of \$310,000, which would be used to assist in the streamlining of residential development. Efforts for streamlining include analyzing multi-family residential development standards, looking at ways to incentivize new residential development, generating a marketing and outreach plan for developers, developing a plan and tools for accessory dwelling units, and supplemental efforts to assist with state mandated updates to the General Plan.

BACKGROUND:

Senate Bill 2

The purpose of the this state program is to provide funding and technical assistance to all local governments to prepare, adopt, and implement plans and process improvements that streamline housing approvals. The program goals include accelerating housing production, streamlining approval of housing, promoting development, facilitating housing affordability, and supporting local governments through technical assistance. The program is non-competitive and grant amounts are based on population categories. The Department of Housing and Community Development (HCD) has been charged with the responsibility of overseeing the SB 2 Program.

## DISCUSSION

Staff anticipates using SB 2 funds in the following manner:

### Multi-Family Development Standards

Conduct an overall analysis and update to the Zoning Code's multi-family development standards. Expected outcomes will include new design guidelines and objective design standards to ensure streamlining the permit process for high quality projects.

### Available Sites Marketing & Outreach Plan

Creating a marketing and outreach plan to spur new residential developments by establishing and promoting an available sites inventory.

### Zoning/Developer Incentives

This effort would explore zoning and development incentives that would provide alternative approaches to development such as creating a lower-level permit process, creating a process for deviations, and establishing a transfer of development rights and opportunity sites program.

### General Plan Supplemental Funds

The City is undertaking a Housing Element update, adding a new state required Environmental Justice Element and updating the Safety Element. SB 2 funds will supplement the efforts with outreach, sites inventory, site justification, and Safety Element components.

### Accessory Dwelling Unit Incentives

Under AB 671, the state is requiring local jurisdictions to create a plan that provides incentives and promotes accessory dwelling unit (ADU) creation. SB 2 funds can be used for this effort.

The SB 2 Grant application proposes a budget of \$310,000 dollars that would be broken down as follows:

Budget Breakdown	
Multi-Family Residential Standards	\$120,000
Marketing and Outreach Plan	\$20,000
Zoning/Development Incentives	\$30,000
General Plan Update Supplemental Funds	\$110,000
ADU Plan Incentives	\$30,000
<b>Total Requested</b>	<b>\$310,000</b>
State Allocation for Mid-Size City	\$310,000

## RECOMMENDATION:

That the City Council authorizes the application for Senate Bill 2 Grant Funding and authorizes the City Manager to execute grant agreements and other such documents.

Prepared By: Lorena Cordova, Associate Planner

Reviewed By: Anthony Shute, Director of Community Development

Approved By: Graham Mitchell, City Manager

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## Attachments

Draft Resolution

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RESOLUTION NO. 2019-  
A RESOLUTION OF THE CITY COUNCIL OF  
CITY OF EL CAJON, COUNTY OF SAN DIEGO  
AUTHORIZING APPLICATION FOR, AND RECEIPT OF,  
SB 2 PLANNING GRANTS PROGRAM FUNDS

WHEREAS, the State of California, Department of Housing and Community Development ("Department") has issued a Notice of Funding Availability ("NOFA") dated March 28, 2019, for its Planning Grants Program ("PGP"); and

WHEREAS, the City Council of the City of El Cajon desires to submit a project application for the PGP program to accelerate the production of housing and will submit a 2019 PGP grant application as described in the Planning Grants Program NOFA and SB 2 Planning Grants Program Guidelines released by the Department for the PGP Program; and

WHEREAS, the Department is authorized to provide up to \$123 million under the SB 2 Planning Grants Program from the Building Homes and Jobs Trust Fund for assistance to Counties (as described in Health and Safety Code section 50470 et seq. (Chapter 364, Statutes of 2017 ("SB 2"))) related to the PGP Program.

NOW, THEREFORE, THE CITY COUNCIL OF EL CAJON RESOLVES AS FOLLOWS:

SECTION 1. The City Council is hereby authorized and directed to apply for and submit to the Department the 2019 Planning Grants Program application in the amount of \$310,000.

SECTION 2. In connection with the PGP grant, if the application is approved by the Department, the City Manager is authorized to enter into, execute, and deliver a State of California Agreement ("Standard Agreement") for the amount of \$ 310,000, and any and all other documents required or deemed necessary or appropriate to evidence and secure the PGP grant, the obligations related thereto, and all amendments thereto

SECTION 3. The City shall be subject to the terms and conditions as specified in the Standard Agreement, the SB 2 Planning Grants Program Guidelines, and any applicable PGP guidelines published by the Department. Funds are to be used for allowable expenditures as specifically identified in the Standard Agreement. The application in full is incorporated as part of the Standard Agreement. Any and all activities funded, information provided, and timelines represented in the application will be enforceable through the executed Standard Agreement. The City Council hereby agrees to use the funds for eligible uses in the manner presented in the application as approved by the Department and in accordance with the Planning Grants NOFA, the Planning Grants Program Guidelines, and 2019 Planning Grants Program Application.

SECTION 4. The City Manager is authorized to execute the City of El Cajon Planning Grants Program application, the PGP Grant Documents, and any amendments thereto, on behalf of the City as required by the Department for receipt of the PGP Grant.





**City Council  
Agenda Report**

**DATE:** November 12, 2019  
**TO:** Honorable Mayor and City Councilmembers  
**FROM:** Dirk Epperson, Director of Public Works  
**SUBJECT:** Delinquent Refuse Collection Charges

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**RECOMMENDATION:**

That the City Council:

1. Opens the Public Hearing and considers public testimony;
2. Closes the Public Hearing;
3. Adopts the next Resolution, in order, confirming the list of property owners as delinquent in the payment of their mandatory trash service bills; and,
4. Authorizes the City Clerk to record the amount owed as a lien on the property and forward a list to the County Tax Assessor for billing on the next property tax bill.

**BACKGROUND:**

On January 1, 1996, the City began mandatory trash service for all single-family residences. The City's agreement with its solid-waste hauler, Waste Management, allows Waste Management to bill for regular service with the City assuming responsibility for placing liens on delinquent accounts. This allows the City to use the enforcement power of a property lien, when necessary, to collect past due amounts. Additionally, the lien process is a cost-effective way for the City to ensure payment of delivered services.

Every four months, Waste Management provides the City with a list of properties that are delinquent in payments for refuse and recycling collection services. A customer is considered delinquent when their account is more than 120 days overdue with a minimum balance of \$40. In February, June, and November of each year, the City Council reviews the list of delinquencies and directs staff to record a lien on the delinquent properties. Residents have several opportunities prior to the lien process to reconcile their accounts, including advanced notice of the public hearing. Residents are able to pay their delinquent balance up to the day of the City Council Meeting.

Furthermore, the El Cajon Municipal Code allows for exemption from the mandatory refuse service with sufficient proof of use of a City-approved refuse and recyclables collection alternative. Residents may take their refuse to their private business located within the City limits of El Cajon or they may haul their refuse to the landfill and provide receipts for such service.

On October 2, 2019, 583 customers were sent a Final Notice of Delinquency, asking them to pay a combined total of \$82,667.52. As of October 30 2019, 168 customers have paid, leaving a balance of 415 delinquent accounts for the City Council to consider totaling \$59,838.92.

**FISCAL IMPACT:**

As the City collects a 15 percent franchise fee for Waste Management services, the City's financial share of these delinquencies is approximately \$8,975.84. These funds are deposited into the General Fund.

**List of Delinquent Refuse Collection Accounts is available for review in the City Clerk's Office, during regular business hours.**

Prepared By: Dirk Epperson, Director of Public Works  
Reviewed By: Vince DiMaggio, Assistant City Manager  
Approved By: Graham Mitchell, City Manager

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Attachments

Reso - Refuse

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RESOLUTION NO. \_\_\_-19

RESOLUTION APPROVING REPORT AND ACCOUNT OF  
DELINQUENT REFUSE COLLECTION SERVICE FEES AND CHARGES;  
AND CONFIRMING ASSESSMENTS AS LIENS PURSUANT TO  
CHAPTER 8.24 OF THE EL CAJON MUNICIPAL CODE

WHEREAS, pursuant to the provisions of Chapter 8.24 of the El Cajon Municipal Code, a public hearing was held on November 12, 2019, for the purpose of hearing objections or protests to a report and account of delinquent refuse collection service fees and charges; and

WHEREAS, protests and objections of the owners of the properties liable to be assessed for said delinquent charges have been heard and considered by said City Council, and said accounts have been approved as submitted.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL CAJON AS FOLLOWS:

1. In accordance with the provisions of Title 4, Division 3, Chapter 10, section 38791 and Title 3, Division 2, Chapter 8, section 25831 of the Government Code of the State of California, and section 8.24.090 of Chapter 8.24 of the El Cajon Municipal Code, the report and account of delinquent refuse collection service fees and charges (Exhibit "A") considered at the hearing held on November 12, 2019, on file in the office of the City Clerk, is approved, and the unpaid amounts designated in said report and account shall be a charge to the owners of the properties on the next regular tax bill, and shall be liens upon the properties involved.

2. The sums herein assessed remaining unpaid after thirty (30) days from the date of this resolution shall bear interest at the rate of seven percent (7%) per annum, as set forth in section 8.24.100 of Chapter 8.24 of the El Cajon Municipal Code.

3. The designation of said parcels is shown by Assessor's parcel numbers, and the initial amounts plus interest to be assessed and imposed as liens are designated thereafter on Exhibit "A," on file in the Office of the City Clerk.

4. Said liens shall be of no further force or effect upon the confirmation of the Tax Collector that said assessments have been added to the tax rolls.

5. The City Clerk is hereby directed to record one or more certified copies of this resolution, which shall collectively include all of Exhibit "A," in the office of the County Recorder of San Diego County.

6. The City Clerk is hereby authorized to discharge and release any such lien when the claim under said lien has been fully satisfied.

**7. The decision in your matter is final on this date, and by this notice, you have 90 calendar days from the date of the mailing of this notice to seek judicial**

**review of this decision pursuant to California Code of Civil Procedure sections 1094.5 and 1094.6, and El Cajon Municipal Code Chapter 1.32.**

11/12/19 CC Agenda

Delinquent Refuse Liens (November 2019) 101419



City Council  
Agenda Report

**DATE:** November 12, 2019  
**TO:** Honorable Mayor and City Councilmembers  
**FROM:** Dirk Epperson, Director of Public Works  
**SUBJECT:** Public Hearing to Approve Delinquent Sewer Service Charges and Tax Liens

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**RECOMMENDATION:**

That the City Council:

1. Opens the Public Hearing and considers public testimony;
2. Closes the Public Hearing;
3. Adopts the next Resolution, in order, confirming the list of property owners as delinquent in the payment of their mandatory sewer service bills; and
4. Authorizes the City Clerk to record the amounts owed as a lien on the property and forward a list to the County Tax Assessor for billing on the next property tax bill.

**BACKGROUND:**

In accordance with the requirements of Municipal Code chapter 13.44, a public hearing has been requested for the collection of delinquent sewer service charges through liens placed on the properties.

In March 2012, the City contracted with Global Water Management, Inc. (Fathom) to bill for sewer services with the City assuming responsibility for placing liens on delinquent accounts. This allows the City to use the enforcement power of a property lien, when necessary, to collect past due accounts. By utilizing a property lien rather than a collection agency or other recoupment procedure, the City is able to ensure the security of the wastewater funding for the operation and maintenance of our wastewater collection system, as well as costs associated with the transportation, treatment, and disposal of our wastewater by the City of San Diego. Additionally, the lien process is a cost effective way for the City to ensure payment of sewer services.

Every four months, Fathom provides the City with a list of properties that are delinquent in payments for sewer services. A customer is considered delinquent when their account is more than 30 days overdue with a minimum balance of \$50 for active accounts and a minimum of \$25 for closed accounts. In February, June, and November of each year, the City Council reviews the list of delinquencies and directs staff to record liens on the delinquent properties. Residents have several opportunities prior to the lien process to reconcile their accounts, including advanced notice of the public hearing.

On October 14, 2019, 875 customers were sent a Final Notice of Delinquency, requesting that they pay their delinquent account in full. The combined total amount of delinquencies is \$169,452.45. As of November 5, 2019, 292 customers have paid, leaving a balance of 583 accounts totaling \$144,489.92 for the City Council to consider collecting through the property lien process. Each customer will also pay a 1.5% interest charge and an administrative fee of \$25 for the City's recording processing cost.

**FISCAL IMPACT:**

Failure to pay sewer bills impacts the City's ability to meet wastewater collection, treatment, and maintenance costs. There is no impact to the General Fund.

**List of Delinquent Sewer Collection Accounts is available for review in the City Clerk's Office, during regular business hours.**

Prepared By: Dirk Epperson, Director of Public Works  
Reviewed By: Vince DiMaggio, Assistant City Manager  
Approved By: Graham Mitchell, City Manager

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Attachments

Resolution

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RESOLUTION NO. \_\_-19

RESOLUTION APPROVING REPORT AND ACCOUNT OF  
SEWER SERVICE CHARGE DELINQUENCIES; AND  
CONFIRMING ASSESSMENTS AS LIENS PURSUANT TO  
CHAPTER 13.44 OF THE EL CAJON MUNICIPAL CODE

WHEREAS, pursuant to the provisions of Chapter 13.44 of the El Cajon Municipal Code, a public hearing was held on November 12, 2019, for the purpose of hearing objections or protests to a report and account of delinquent sewer service charges; and

WHEREAS, protests and objections of the owners of the property liable to be assessed for said delinquent charges have been heard and considered by said City Council, and said account has been approved as submitted.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL CAJON AS FOLLOWS:

1. In accordance with the provisions of section 13.44.100 of Chapter 13.44 of the El Cajon Municipal Code, the report and account of delinquent sewer service charges (Exhibit "A") considered at the hearing held on November 12, 2019, on file in the office of the City Clerk, is approved, and the unpaid amounts designated in said report and account shall be a charge to the owners of the property on the next regular tax bill, and shall be a lien upon the property involved.

2. The sums herein assessed remaining unpaid after thirty (30) days from the date of this resolution shall bear interest as set forth in section 13.44.110 of Chapter 13.44 of the El Cajon Municipal Code.

3. The designation of said parcels is shown by Assessor's parcel numbers, and the initial amount plus interest to be assessed and imposed as a lien is designated thereafter on Exhibit "A" on file in the Office of the City Clerk.

4. Said liens shall be of no further force or effect upon the confirmation of the Tax Collector that said assessments have been added to the tax rolls.

5. The City Clerk is hereby directed to record one or more certified copies of this resolution, which shall collectively include all of Exhibit "A," in the office of the County Recorder of San Diego County.

6. The City Clerk is hereby authorized to discharge and release any such lien when the claim under said lien has been fully satisfied.

**7. The decision in your matter is final on this date, and by this notice, you have 90 calendar days from the date of the mailing of this notice to seek judicial review of this decision pursuant to California Code of Civil Procedure sections 1094.5 and 1094.6, and El Cajon Municipal Code Chapter 1.32.**



City Council  
Agenda Report

**DATE:** November 12, 2019  
**TO:** Honorable Mayor and City Councilmembers  
**FROM:** Graham Mitchell, City Manager  
**SUBJECT:** Update on Electronic Vapor Devices and Products

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**RECOMMENDATION:**

That the City Council receives a report on electronic vapor devices and products.

**BACKGROUND:**

On October 8, 2019, the City Council, as part of its discussion on the City's Tobacco Retailer's License program, heard from forty-two public speakers that addressed issues related to vaping products and e-cigarettes. At the conclusion of the agenda discussion, the City Council directed staff to prepare several modifications to the Tobacco Retailer's License ordinance (separate agenda item and report) and directed staff to prepare a report with additional information on the topic of vaping.

This staff report addresses the following topics:

1. Updated information from the Federal government on vaping and e-cigarettes,
2. Actions taken by other jurisdictions, and
3. Correction from October 8<sup>th</sup> meeting.

Information from the Federal Government

According to the Centers for Disease Control and Prevention (CDC), as of October 29, 2019, 1,888 cases of lung injury (EVALI) related to e-cigarette or vaping products have been reported to the CDC from 49 states—a total of 37 deaths have been reported. All EVALI patients have reported a history of using e-cigarette or vaping products, THC is present in most of the samples tested by FDA to date, and most patients report a history of using THC-containing products. Also, the latest national and state findings suggest products containing THC, particularly those obtained off the street or from other informal sources (e.g. friends, family members, illicit dealers), are linked to most of the cases and play a major role in the outbreak.

At this time, the FDA and CDC have not identified the specific cause or causes of the lung injuries in these cases but have identified e-cigarettes or vaping products as the commonality among all cases. Many different substances and product sources are still under investigation.



The CDC provides recommendations related to e-cigarette and vaping usage on its website ("Smoking & Tobacco Use: For the Public - What You Need to Know"). The following are several of the CDC's recommendations:

- The public should not use e-cigarette or vaping products that contain THC.
- The public should not purchase any type of e-cigarette or vaping products (particularly those containing THC) off the street or modify or add any substances that are not intended by the manufacturer, including products purchased through retail establishments.
- The public should refrain from using all e-cigarettes or vaping products to assure it is not at risk during the investigation since the specific compounds or ingredients causing lung injury are not yet known.

In addition, a recent FDA study determined that among high school students in 2017-2018, there has been a 78 percent increase in e-cigarette usage increasing from 11.7 to 20.8 percent. Usage among middle school students has increased by 48 percent from 3.3 to 4.9 percent.

#### Actions by Other Jurisdictions

Several California cities and counties have implemented heightened regulation on vaping devices and products (these regulations range from an outright sales ban to restriction of sales near schools). In California, 42 cities and counties have specifically restricted the sale of flavored tobacco products with 32 of them restricting the sale of menthol flavor. The County of San Diego is scheduled to consider a ban in unincorporated areas of the County. Several states have enacted emergency rules to restrict the sale of e-cigarettes; these states include Massachusetts, Michigan, New York, Rhode Island, and Utah.

The two public school districts that serve El Cajon youth have adopted resolutions encouraging the City to adopt restrictions on the sale of e-cigarettes and flavored tobacco products (resolutions from the Cajon Valley School District and the Grossmont Union High School District are attached). Two private schools located in El Cajon have also provided letters encouraging restrictions on flavored tobacco products.

#### Correction

At the October 8<sup>th</sup> meeting, there was some dispute over whether the FDA regulates or has the authority to regulate vaping devices and products. With further research, staff wishes to clarify its statement regarding this topic. The FDA has clear regulatory authority over tobacco products, including Electronic Nicotine Delivery Systems (ENDS). Despite its regulatory authority, the FDA has not yet regulated ENDS or ENDS products. The FDA has been working on approving guidelines and has a deadline of May 2020 for e-cigarette manufacturers to submit their review paperwork. As such, ENDS or vaping products currently purchased have not been FDA regulated.

Recently, the FDA has written warning letters to ENDS companies such as California-based JUUL and New Jersey-based Eonsmoke LLC. The FDA warned JUUL for violations related to advertising products as a reduced risk alternative to tobacco cigarettes without demonstrating scientific evidence to prove the claim. The FDA also warned Eonsmoke LLC and had them remove 100 ENDS products because they have not had the required marketing authorization.

Prepared By: Graham Mitchell, City Manager

Reviewed By: N/A

Approved By: N/A

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#### Attachments

CVUSD Resolution - Eliminate Vaping Devices & Flavored Products

GUHSD Resolution - Restrictions on Vaping Devices and Flavored Tobacco Products

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## IN SUPPORT OF LOCAL TOBACCO RESTRICTIONS THAT ELIMINATE VAPING DEVICES AND FLAVORED PRODUCTS

**WHEREAS**, Cajon Valley School District (CVUSD) works with San Diego County Office of Education (SDCOE) and other partnering public agencies to discourage tobacco use by students through our longstanding participation in local Tobacco Use Prevention Education (TUPE) efforts; and

**WHEREAS**, CVUSD and others engage in these efforts because educators understand the importance of TUPE to help prevent tobacco-related illnesses, addiction and death, knowing the best way to prevent tobacco-related health impacts is to keep youth from starting to smoke in the first place; and

**WHEREAS**, the tobacco industry targets young people and vulnerable communities with tobacco products that mask the harsh taste of tobacco with flavors highly appealing to youth (including bubble gum, cotton candy, grape, gummy bear, and menthol flavors); and

**WHEREAS**, it is known that tobacco companies and retailers profit from the research-proven fact that the earlier a person starts to use tobacco, the harder it will become for them to quit; and

**WHEREAS**, considerable progress has been made in reducing cigarette smoking among our nation's youth.<sup>1</sup> However, the tobacco product landscape continues to evolve to include a variety of tobacco products, including smoked, smokeless, and electronic products, such as e-cigarettes.<sup>2</sup> E-cigarettes are designed to deliver nicotine, flavorings, and other additives to the user via an inhaled aerosol;<sup>2</sup> and

**WHEREAS**, since 2014, e-cigarettes have been the most commonly used tobacco product among U.S. youth.<sup>2</sup> E-cigarette use among U.S. middle and high school students increased 900% from 2011-2015, before declining for the first time during 2015-2017.<sup>3</sup> However, current e-cigarette use increased 78% among high school students during the past year, from 11.7% in 2017 to 20.8% in 2018.<sup>4</sup> In 2018, more than 3.6 million U.S. youth, including 1 in 5 high school students and 1 in 20 middle school students, currently use e-cigarettes;<sup>4</sup> and

**WHEREAS**, e-cigarette aerosol is not harmless.<sup>2</sup> Most e-cigarettes contain nicotine – the addictive drug in regular cigarettes, cigars, and other tobacco products.<sup>2</sup> Nicotine exposure during adolescence can harm the developing brain – which continues to develop until about age 25.<sup>2</sup> Nicotine exposure during adolescence can impact learning, memory, and attention;<sup>1,2</sup> it can also increase risk for future addiction to other drugs.<sup>1,2</sup> In addition to nicotine, the aerosol that users inhale and exhale from e-cigarettes can potentially expose the smoker and bystanders to other harmful substances, including heavy metals, volatile organic compounds, and ultrafine particles that can be inhaled deeply into the lungs;<sup>2</sup> and

**WHEREAS**, many e-cigarettes come in kid-friendly flavors. In addition to making e-cigarettes more appealing to young people,<sup>5</sup> some of the chemicals used to make certain flavors may also have health risks.<sup>2</sup> E-cigarettes can also be used to deliver other drugs, including marijuana.<sup>2</sup> In 2016, one-third of U.S. middle and high school students who ever used e-cigarettes had used marijuana in e-cigarettes.<sup>6</sup>

**IN SUPPORT OF LOCAL TOBACCO RESTRCITIONS THAT  
ELIMINATE VAPING DEVICES AND FLAVORED PRODUCTS – Page 2**

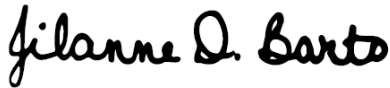
**NOW, THEREFORE, BE IT RESOLVED** that the Cajon Valley Union School District, Governing Board join others in support of an ordinance to restrict the sale of e-cigarettes/vaping devices and all flavored tobacco products

PASSED AND ADOPTED by the Cajon Valley Union School District Governing Board on September 24, 2019, by the following vote:

AYES:	<b>ALEGRIA, BARTO, MEJIA, MILLER, OTERO</b>
NOES:	<b>NONE</b>
ABSENT:	<b>NONE</b>

STATE OF CALIFORNIA    ]  
  ] ss  
COUNTY OF SAN DIEGO   ]

I, Jill Barto, Clerk of the Board, do hereby certify that the foregoing is a full and correct copy of a resolution duly passed and adopted by said Board at a regularly called and conducted meeting held on said date:



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Clerk of the Governing Board

## References

1. Office of the Surgeon General. The Health Consequences of Smoking-50 Years of Progress: A Report of the Surgeon General. Atlanta, GA: US Department of Health and Human Services, Centers for Disease Control and Prevention (US), National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health; 2014. <https://www.surgeongeneral.gov/library/reports/50-years-of-progress/full-report.pdf>.
2. Office of the Surgeon General. E-cigarette Use among Youth and Young Adults: A Report of the Surgeon General. Washington, DC: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention; 2016. [https://www.cdc.gov/tobacco/data\\_statistics/sgr/e-cigarettes/pdfs/2016\\_sgr\\_entire\\_report\\_508.pdf](https://www.cdc.gov/tobacco/data_statistics/sgr/e-cigarettes/pdfs/2016_sgr_entire_report_508.pdf).
3. Wang TW, Gentzke A, Sharapova S, et al. Tobacco Use Among Middle and High School Students - United States, 2011- 2017. MMWR Morbidity and Mortality Weekly Report. 2018;67(22):629-633.
4. Cullen KA, Ambrose BK, Gentzke AS, Apelberg BJ, Jamal A, King BA. Notes from the Field: Increase in use of electronic cigarettes and any tobacco product among middle and high school students – United States, 2011-2018. MMWR Morbidity & Mortality Weekly Report 2018; 67(45):1276-1277.
5. Ambrose BK, Day HR, Rostron B, et al. Flavored Tobacco Product Use Among US Youth Aged 12-17 Years, 2013-2014. Jama. 2015;314(17):1871-1873.
6. Trivers KF, Phillips E, Gentzke AS, Tynan MA, Neff LJ. Prevalence of Cannabis Use in Electronic Cigarettes Among US Youth. JAMA pediatrics. 2018;172(11):1097-1099.
7. National Academies of Sciences, Engineering, and Medicine. 2018. Public Health Consequences of E-Cigarettes. Washington, DC: The National Academies Press. <https://doi.org/10.17226/24952>.
8. Ramamurthi D, Chau C, Jackler RK. JUUL and other stealth vaporisers: hiding the habit from parents and teachers. Tob Control. 2018. Epub ahead of print. doi: 10.1136/tobaccocontrol-2018-054455.
9. King BA, Gammon DG, Marynak KL, Rogers T. Electronic Cigarette Sales in the United States, 2013-2017. Jama. 2018;320(13):1379-1380.
10. Willett JG, Bennett M, Hair EC, et al. Recognition, use and perceptions of JUUL among youth and young adults. Tob Control. 2018. Epub ahead of print. doi: 10.1136/tobaccocontrol-2018-054273.
11. Truth Initiative. JUUL e-cigarettes gain popularity among youth, but awareness of nicotine presence remains low. <https://truthinitiative.org/news/juul-e-cigarettes-gain-popularity-among-youth>.
12. US Department of Health and Human Services. Preventing tobacco use among youth and young adults. Atlanta, GA: US Department of Health and Human Services, CDC;2012. [https://www.cdc.gov/tobacco/data\\_statistics/sgr/2012/index.htm](https://www.cdc.gov/tobacco/data_statistics/sgr/2012/index.htm)

<https://e-cigarettes.surgeongeneral.gov/documents/surgeon-generals-advisory-on-e-cigarette-use-among-youth-2018.pdf>

# GROSSMONT UNION HIGH SCHOOL DISTRICT

## RESOLUTION

(2020-10)

### In Support of Local Tobacco Restrictions That Eliminate Vaping Devices and Flavored Tobacco Products

**ON MOTION** by Member Woods seconded by Member Salinas, the following resolution is adopted:

**WHEREAS**, Grossmont Union High School District (GUHSD) works with the San Diego County Office of Education (SDCOE) and other partnering public agencies to discourage tobacco use by students through our longstanding participation in local Tobacco Use Prevention Education (TUPE) efforts; and

**WHEREAS**, GUHSD is committed to educating students about the risks associated with vaping and the use of tobacco and tobacco-related products. The District uses TUPE funding to provide on-site interventions designed to address tobacco use and cessation assistance through the 2-layer intervention program Alternatives to Smoking 1/2 (ATS) and classroom curriculum; and

**WHEREAS**, GUHSD and others engage in these efforts because educators understand the importance of TUPE to help prevent tobacco-related illnesses, addiction and death, knowing the best way to prevent tobacco-related health impacts is to keep youth from starting to smoke in the first place; and

**WHEREAS**, the tobacco industry targets young people and vulnerable communities with tobacco products that mask the harsh taste of tobacco with flavors highly appealing to youth (including bubble gum, cotton candy, grape, gummy bear, and menthol flavors); and

**WHEREAS**, it is known that tobacco companies and retailers profit from the research-proven fact that the earlier a person starts to use tobacco, the harder it will become for them to quit; and

**WHEREAS**, considerable progress has been made in reducing cigarette smoking among our nation's youth.<sup>1</sup> However, the tobacco product landscape continues to evolve to include a variety of tobacco products, including smoked, smokeless, and electronic products, such as e-cigarettes.<sup>2</sup> E-cigarettes are designed to deliver nicotine, flavorings, and other additives to the user via an inhaled aerosol;<sup>2</sup> and

**WHEREAS**, since 2014, e-cigarettes have been the most commonly used tobacco product among U.S. youth.<sup>2</sup> E-cigarette use among U.S. middle and high school students increased 900% from 2011-2015, before declining for the first time during 2015-2017.<sup>3</sup> However, current e-cigarette use increased 78% among high school students during the past year, from 11.7% in 2017 to 20.8% in 2018.<sup>4</sup> In 2018, more than 3.6 million U.S. youth, including 1 in 5 high school students and 1 in 20 middle school students, currently use e-cigarettes;<sup>4</sup> and

**WHEREAS**, e-cigarette aerosol is not harmless.<sup>2</sup> Most e-cigarettes contain nicotine – the addictive drug in regular cigarettes, cigars, and other tobacco products.<sup>2</sup> Nicotine exposure during adolescence can harm the developing brain – which continues to develop until about age 25.<sup>2</sup> Nicotine exposure during adolescence can impact learning, memory, and attention;<sup>1,2</sup> it can also increase risk for future addiction to other drugs.<sup>1,2</sup> In addition to nicotine, the aerosol that users inhale and exhale from e-cigarettes can potentially expose the smoker and bystanders to other harmful substances, including heavy metals, volatile organic compounds, and ultrafine particles that can be inhaled deeply into the lungs;<sup>2</sup> and

**WHEREAS**, many e-cigarettes come in kid-friendly flavors. In addition to making e-cigarettes more appealing to young people,<sup>5</sup> some of the chemicals used to make certain flavors may also have health risks.<sup>2</sup> E-cigarettes can also be used to deliver other drugs, including marijuana.<sup>2</sup> In 2016, one- third of U.S. middle and high school students who ever used e-cigarettes had used marijuana in e-cigarettes.<sup>6</sup>

**WHEREAS**, The Grossmont Union High School District is a tobacco-free district; use of all tobacco and tobacco-related products is prohibited at all times on any GUHSD school site, at any District facility/property and at all District-sponsored student events.

**NOW, THEREFORE, BE IT RESOLVED** that the Governing Board of the Grossmont Union High School District joins others in support of an ordinance to restrict the sale of e-cigarettes/vaping devices and all flavored tobacco products


**APPROVED, PASSED AND ADOPTED** by the Board of Trustees of the Grossmont Union High School District on the 10th day of October, 2019.

AYES:	Shield, Fite, Salinas, Kelly, Woods
NOES:	0
ABSENT:	0
ABSTENTION:	0

STATE OF CALIFORNIA  
COUNTY OF SAN DIEGO

I, Elva Salinas, Clerk of the Governing Board of the Grossmont Union High School District of San Diego County, California, do hereby certify that the foregoing is a full, true, and correct copy of a resolution adopted by the said Board at a meeting thereof held at its regular place of meeting at the time and by the vote above stated, which resolution is on file in the office of the said Board.

October 10, 2019  
Date

  
Clerk of the Board

## References

1. Office of the Surgeon General. The Health Consequences of Smoking-50 Years of Progress: A Report of the Surgeon General. Atlanta, GA: US Department of Health and Human Services, Centers for Disease Control and Prevention (US), National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health; 2014. <https://www.surgeongeneral.gov/library/reports/50-years-of-progress/full-report.pdf>.
2. Office of the Surgeon General. E-cigarette Use among Youth and Young Adults: A Report of the Surgeon General. Washington, DC: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention; 2016. [https://www.cdc.gov/tobacco/data\\_statistics/sgr/e-cigarettes/pdfs/2016\\_sgr\\_entire\\_report\\_508.pdf](https://www.cdc.gov/tobacco/data_statistics/sgr/e-cigarettes/pdfs/2016_sgr_entire_report_508.pdf).
3. Wang TW, Gentzke A, Sharapova S, et al. Tobacco Use Among Middle and High School Students - United States, 2011- 2017. MMWR Morbidity and Mortality Weekly Report. 2018;67(22):629-633.
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5. Ambrose BK, Day HR, Rostron B, et al. Flavored Tobacco Product Use Among US Youth Aged 12-17 Years, 2013-2014. Jama. 2015;314(17):1871-1873.
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City Council  
Agenda Report

**DATE:** November 12, 2019  
**TO:** Honorable Mayor and City Councilmembers  
**FROM:** Graham Mitchell, City Manager  
**SUBJECT:** El Cajon Tobacco Retailer's License Ordinance

**RECOMMENDATION:**

That the City Council considers the proposed modifications to the El Cajon Tobacco Retailer's License Program by:

1. Introducing the Ordinance (attached), and
2. Requesting that the City Clerk recite the title of the Ordinance; and
3. Directing that the second reading of the Ordinance be scheduled for December 10, 2019.

**BACKGROUND:**

On July 23, 2019, the City Council discussed the City's Tobacco Retailer's License Program and directed staff to return with changes based on staff's observations of the effectiveness of the program. Staff returned to the City Council on October 8, 2019. In its report on October 8th, staff

- provided background information on the City's regulation of tobacco sales,
- presented analysis on the City's compliance checks performed by Community Action Service Advocacy (CASA), and
- recommended changes to the City's Tobacco Retailer's License Program.

During the October 8, 2019 meeting, the City Council provided feedback on several specific changes recommended by staff and received testimony about vaping and electronic cigarettes from the public. During the meeting, the City Council directed staff to return with a modified ordinance reflecting the changes agreed upon by the City Council. Staff also made several additional changes to aid in the administration of the program.

Significant changes made to the Tobacco Retailer's License ordinance include the following:

1. Discount in annual license fee of 20 percent if no violations are found for a three-year period (Section 8.33.060),
2. Changes to penalties for violations (8.33.090)--the table below compares the current program with the proposed ordinance changes:

Violation	Current Ordinance	Recommended Ordinance
1st	\$1,000 fine or 30-day suspension	\$2,500 fine and up to two compliance checks within 12 months - no suspension required

2nd	90-day suspension and \$1,000 fine if violation occurs within a 5-year period	30-day suspension, \$2,500 fine, and up to two compliance checks within 12 months if violation occurs within a 3-year period
3rd	1-year suspension and \$1,000 fine if violation occurs within a 5-year period	60-day suspension, \$2,500 fine, and up to two compliance checks within 12 months if violation occurs within a 3-year period
4th	Revocation of license if violations occurs within a 5-year period	Revocation of license and \$2,500 fine if violation occurs within a 3-year period

3. Allowance of others to serve as hearing officers, such as professional mediation service, or city-appointed hearing officer (8.33.090),
4. Clarification of the standards that can be used to determine the overturning of an appeal (8.33.090).

Staff has attached an ordinance for City Council consideration, along with a red-lined version showing all the proposed deletions and additions to the Tobacco Retailer’s License ordinance. Staff recommends that the City Council conduct first reading of the ordinance.

Prepared By: Graham Mitchell, City Manager

Reviewed By:

Approved By: Graham Mitchell, City Manager

Attachments

TRL Ord - Redline

TRL Ord - Clean

## Chapter 8.33 LICENSURE OF TOBACCO RETAILERS

### 8.33.010 Definitions.

The following words and phrases, whenever used in this chapter, shall have the meanings defined in this section unless the context clearly required otherwise:

A. **“Authorized address”** means the name and mailing address authorized by each proprietor to receive all license-related communications and notices.

AB. **“Department”** means the community development department.

BC. **“Electronic Vapor Device”** means any device with a heating element, a battery, or an electronic circuit that provides nicotine or other vaporized liquids to the user in a manner that simulates smoking tobacco products, shisha, herbs, or any other product that produces smoke.

CD. **“Electronic Vapor Inhalation Substance Products”** means cartridges, cartomizers, e-liquid, smoke juice, tanks, tips, atomizers, vaporizers, electronic smoking device batteries, electronic smoking device chargers, and any other item specifically designed for the preparation, charging, or use of electronic vapor devices.

DE. **“Electronic Vapor Device Retailers”** means any establishment that sells electronic cigarettes or any products used in conjunction with electronic cigarettes, including, but not limited to, kits, e-liquids and “juice.”

EF. **“Hookah”** means a pipe commonly, but not always, made of glass, used for vaporizing and smoking tobacco, flavored tobacco, non-flavored tobacco, shisha, dried fruits, or other substances in which vapor or smoke is passed through a water basin before inhalation.

FG. **“Person”** shall have the definition set forth in [Section 1.04.020](#) of the El Cajon Municipal Code.

GH. **“Proprietor”** means a person with an ownership or managerial interest in a business. An ownership interest shall be deemed to exist when a person has a ten percent

or greater interest in the stock, assets or income of a business other than the sole interest of security for debt. A managerial interest shall be deemed to exist when a person can or does have, or can or does share ultimate control over the day-to-day operations of a business.

H. **“Tobacco product”** means: (1) any substance containing tobacco leaf, including but not limited to cigarettes, cigars, pipe tobacco, dipping tobacco, bidis or any other preparation of tobacco; ~~and~~ (2) any product or formulation of matter containing biologically active amounts of nicotine that is manufactured, sold, offered for sale or otherwise distributed with the expectation that the product or matter will be introduced into the human lungs or mouth; (3) any electronic vapor device, electronic vapor inhalation substance, and hookahs; and (4) any plant, weed, or plant product that is manufactured, sold, offered for sale, or otherwise distributed with the expectation that the product or matter will be introduced into the human lungs or mouth in smoke or vapor form, using any tobacco paraphernalia, but does not include any product specifically approved by the Federal Food and Drug Administration for use in treating nicotine or tobacco product dependence.

I. **“Tobacco paraphernalia”** means cigarette papers or wrappers, pipes, holders of smoking materials of all types, cigarette rolling machines and any other item designed for the smoking or ingestion of tobacco products, hookahs, electronic vapor devices and electronic vapor inhalation substances.

J. **“Tobacco retailer”** means any person or proprietor who – personally or through an agent, employee, contractor, or other intermediary – sells, offers for sale or does or offers to exchange for any form of consideration, tobacco, tobacco products or tobacco paraphernalia, hookahs, electronic vapor devices and electronic vapor inhalation substances. “Tobacco retailing” shall mean the doing of any of these things. This definition is without regard to the quantity of tobacco, tobacco products or tobacco paraphernalia sold, offered for sale, exchanged or offered for exchange.

### 8.33.020 Requirement for tobacco retailer license.

- A. It shall be unlawful for any person to act as a tobacco retailer without first obtaining and maintaining a valid tobacco retailer's license pursuant to this chapter for each location at which that activity is to occur.
- B. ~~No~~A license may only issue to authorize tobacco retailing at anya specified, fixed, address, legally zoned for commercial activities at the location. For example, tobacco retailing by persons on foot and tobacco retailing from vehicles are prohibited.
- C. No license may be issued to authorize tobacco retailing at any location that is licensed under state law to serve alcoholic beverages for consumption on the premises (e.g., an "on-sale" license issued by the California Department of Alcoholic Beverage Control) and no license may be issued to authorize tobacco retailing at any location offering food for sale for consumption by guests on the premises. For example, tobacco retailing in bars and restaurants is prohibited.
- D. The license fee established pursuant to ~~S~~section 8.33.060 confers paid status upon a license for a term of one year. Each tobacco retailer shall apply for the renewal of his or her tobacco retailer's license no later than thirty days prior to expiration of the payment term.
- E. Nothing in this chapter shall be construed to grant any person obtaining and maintaining a tobacco retailer's license any status or right other than the right to act as a tobacco retailer at the location in the city identified on the face of the license. For example, nothing in this chapter shall be construed to render inapplicable, ~~supercedes~~supersede, or apply in lieu of any other provision of applicable law, including, without limitation, any condition or limitation on smoking in enclosed places of employment made applicable to business establishments by California Labor Code ~~S~~section 6404.5.

### 8.33.030 Application procedure.

~~A.~~ Application for a tobacco retailer's license shall be submitted in the name of each proprietor proposing to conduct retail tobacco sales and shall be signed by each proprietor or an authorized agent thereof. It is the responsibility of each proprietor to be informed of the laws affecting the issuance of a tobacco retailer's license. A license that is issued in error or on the basis of false or misleading information supplied by a proprietor may be revoked pursuant to ~~S~~section 8.33.090(C) of this chapter. All applications shall be submitted on a form supplied by the department and shall contain the following information:

~~1A.~~ The name, address and telephone number of each proprietor.

~~2B.~~ The business name, address and telephone number of the single fixed location for which a tobacco retailer's license is sought.

~~3C.~~ The ~~name and mailing address authorized by each proprietor to receive all license-related communications and notices~~ ("the authorized address") for each proprietor.

If an authorized address is not supplied, each proprietor shall be understood to consent to the provision of notice at the business address specified in subsection 2 above.

~~4D.~~ Whether ~~or not~~ any proprietor has previously been issued a license pursuant to this chapter that is, or was at any time, suspended or revoked and, if so, the dates of the suspension period or the date of revocation.

~~5E.~~ Such other information as the department deems necessary for the administration or enforcement of the ordinance codified in this chapter.

### 8.33.040 Issuance of license.

Upon the receipt of an application for a tobacco retailer's license and the license fee, the department shall issue a license unless ~~substantial~~reasonable ~~record~~ evidence in the record demonstrates s one of the following bases for denial:

A. The application is incomplete or inaccurate; or

B. The application seeks authorization for tobacco retailing by a proprietor for which or whom a suspension is in effect pursuant to [§section 8.33.090](#) of this chapter; or

C. The application seeks authorization for tobacco retailing by a proprietor for which or whom a suspension is in effect pursuant to [§section 8.33.090](#) of this chapter; or at a location which has had a license revoked pursuant to [§section 8.33.090\(A\)\(4\)](#) of this chapter provided; however, this subsection shall not constitute a basis for denial of a license if the applicant provides the city with documentation demonstrating by clear and convincing evidence that the applicant [\(1\) was not a proprietor at the time that \(a\) a violation of this chapter occurred, or \(b\) an appeal of a citation for a violation of this chapter was pending; and \(2\)](#) has acquired or is acquiring the premises or business in an arm's length transaction. For the purposes of this subsection, an "arm's length transactions" is defined as a [third-party](#) sale in good faith and for valuable consideration that reflects the fair market value in the open market between two informed and willing parties, neither under any compulsion to participate in the transaction. A sale between relatives, related companies or partners, [proprietors](#), or a sale for the primary purpose of avoiding the effect of the violation of this chapter that occurred at the location, is presumed not to be an "arm's length transaction;" [or](#)

D. The application seeks authorization for tobacco retailing that is prohibited pursuant to [§section 8.33.020](#) of this chapter (e.g., mobile vending), that is unlawful pursuant to Title 17 of this code (i.e., the zoning [ordinancecode](#)), or that is unlawful pursuant to any other local, state or federal law.

### **8.33.050 Other requirements and prohibitions.**

A. Display of License. Each license shall be prominently displayed in a publicly visible location at the licensed premises.

B. Positive Identification Required. No person shall engage in tobacco retailing without first examining the identification of [the each](#) purchaser [reasonably appears under](#)

~~the age of twenty-seven years old,~~ and confirming that the proposed sale is to a purchaser who is at least the minimum age in state law for being sold the tobacco product or tobacco paraphernalia.

C. Minimum Age for Persons Selling Tobacco. No person shall engage in tobacco retailing if the person is younger than the minimum age in state law for being sold or for possessing any tobacco product.

#### **8.33.060 Fees for license.**

A. \_\_\_\_\_ The fee to issue or to renew a tobacco retailer's license shall be established by resolution of the city council. The fee shall be calculated so as to recover the total cost of both license administration and license enforcement, including, for example, issuing the license, administering the license program, retailer education, retailer inspection and compliance checks, documentation of violations, and prosecution of violators, but shall not exceed the cost of the total program. All fees shall be used to fund the program. Fees are nonrefundable except as may be required by law.

B. \_\_\_\_\_ A proprietor, in possession of a tobacco retailer's license, who has not been found to be in violation of this chapter for a period of 36 months immediately preceding the issuance or renewal of a tobacco retailer's license, shall receive a twenty percent (20%) discount on the annual tobacco retailer's license fee. This discounted fee will be applied to the annual license fee following a proprietor's compliance after 36 consecutive months.

#### **8.33.070 Licenses nontransferable.**

A tobacco retailer's license is nontransferable except between existing proprietors holding a license at the same location. If the information required in the license application pursuant to Section 8.33.030, subsections (A)(1), (2) or (3) changes, a new tobacco retailer's license is required before the business may continue to act as a tobacco retailer. For example, if a proprietor to whom a license has been issued changes business location, that proprietor must apply for a new license prior to acting as a tobacco retailer at the new location. ~~Or~~Also, if the



business is sold, the new owner must apply for a license for that location before acting as a tobacco retailer.

### **8.33.080 License violation and compliance monitoring.**

A. Violation of Tobacco-Related Laws. It shall be a violation of a tobacco retailer's license for a licensee or his or her agent or employee to violate any local, state or federal tobacco-related law.

B. License Compliance Monitoring.

1. Compliance with this chapter shall be monitored by the department. Any peace officer or code enforcement official also may enforce this chapter.

2. The department shall check the compliance of each tobacco retailer at least one time ~~per~~during a twelve-month period and shall conduct additional compliance checks within that period as warranted. The compliance checks shall be conducted to determine, at a minimum, if the tobacco retailer is complying with tobacco laws regulating underage sales. The department, or the police department, in assisting the department in performing compliance checks, shall use underage youth decoys and comply with the city's protocols for the compliance checks developed in consultation with the San Diego County Department of Health and Human Services, ~~and~~ the San Diego County District Attorney, and the City Attorney's Office. When appropriate, the compliance checks shall determine compliance with other tobacco-related laws.

3. The city shall not enforce any tobacco-related minimum-age law against a person who otherwise might be in violation of such law because of the person's age (~~hereinafter~~the "youthunderage decoy") if the potential violation occurs when:

a. The youthunderage decoy is participating in a compliance check supervised by a peace officer or a code enforcement official; or

b. The youthunderage decoy is participating in a compliance check funded in part by the San Diego County Department of Health and Human Services or

funded in part, either directly or indirectly through sub-contracting, by the California Department of Health Services.

### 8.33.090 Penalties for Violation.

A. Suspension or Revocation of License for Violation. In addition to any other penalty authorized by law, an administrative fine shall be paid, and a tobacco retailer's license ~~shall~~ may be suspended or revoked if the department finds, after notice to the licensee and opportunity to be heard, that the licensee, or his or her agents or employees, has or have violated the requirements or prohibitions of this chapter including the conditions of the license imposed pursuant to ~~Section~~ §section 8.33.080 of this chapter.

1. Upon a finding by the department of a first license violation within any ~~thirty-sixty-~~ month period, the tobacco retailer shall pay an administrative fine in the amount of \$2,500. The city shall also conduct up to two compliance checks within twelve months of the first violation.

~~license shall be suspended for thirty days unless, at the election of the tobacco retailer, the tobacco retailer pays an administrative fine in accordance with Section 8.33.110(C) of this chapter. The payment of a fine in lieu of suspension does not expunge the violation and the violation will be counted for the purposes of a future finding that a second or subsequent violation has occurred.~~

2. Upon a finding by the department of a second license violation within any ~~thirty-~~ sixty- month period, the tobacco retailer shall pay an administrative fine in the amount of \$2,500 and the license shall be suspended for ~~ninety-thirty~~ ninety days ~~and (if the violation occurs within twelve months of the first violation) the tobacco retailer shall be fined an administrative fine for a second violation in accordance with Section 8.33.110(C) of this chapter.~~ The city shall also conduct up to two compliance checks within twelve months of the second violation.

3. Upon a finding by the department of a third license violation within any thirty-  
sixty-month period, the tobacco retailer shall pay an administrative fine in the amount  
of \$2,500 and the license shall be suspended for ~~one year~~sixty days, ~~and (if the~~  
~~violation occurs within twelve months of the first violation)~~ ~~the tobacco retailer shall be~~  
~~fined an administrative fine for a third violation in accordance with Section 8.33.110(C)~~  
~~of this chapter.~~ The city shall also conduct up to two compliance checks within twelve  
months of the third violation.
4. Upon a finding by the department of a fourth license violation within any thirty-  
sixty-month period, the license shall be revoked, and the tobacco retailer shall pay an  
administrative fine in the amount of \$2,500. ~~if the violation occurs within twelve~~  
~~months of the first violation the tobacco retailer shall be fined an administrative fine for~~  
~~a fourth violation in accordance with Section 8.33.110(C) of this code.~~ Further, ~~and~~ the  
proprietor or proprietors who had been issued the license shall never again be issued  
a tobacco retailer's license pursuant to this chapter.
5. A tobacco retailer with a suspended or revoked license:
  - a. Shall remove all tobacco products and tobacco paraphernalia from public  
view; and
  - b. Shall not display any advertisement relating to tobacco products or  
tobacco paraphernalia that promotes the sale or distribution of such products at  
the tobacco retailer location or that would lead a reasonable consumer to believe  
that such products can be obtained at the tobacco retailer location, including any  
use of the terms, "tobacco," or "smoke shop," or similar references in the name of  
the business operated by the tobacco retailer.;
  - c. Except in the case of that for a first or second suspension within any thirty-  
sixty-month period, instead of complying with subsections (a) and (b) of this  
section, the tobacco retailer may elect to post a clear and legible sign at each

point of sale and at every public entrance stating in seventy-two point type or larger: "TOBACCO PRODUCTS NOT FOR SALE because this store has violated a public health law regulating tobacco" and such signs must be present and remain free of obstructions for the entire duration of the suspension period.

B. Suspension of License for Failure to Pay Renewal Fee. A tobacco retailer's license that is not timely renewed pursuant to [§§section 8.33.020\(D\)](#) shall automatically be suspended by operation of law. If not renewed, a license shall be automatically revoked two years after the renewal date. To reinstate the paid status of a license that has been suspended due to the failure to timely pay the renewal fee, the proprietor must:

1. Submit the renewal fee plus a reinstatement fee of ten percent of the renewal fee; and
2. Submit a signed affidavit affirming that the proprietor has not sold any tobacco product or tobacco paraphernalia during the period the license was suspended for failure to pay the renewal fee.

C. Revocation of License Issued in Error. A tobacco retailer's license shall be revoked if the department finds, after notice and opportunity to be heard, that one or more of the bases for denial of a license under [§§section 8.33.040](#) of this chapter existed at the time application was made or at any time before the license issued. The revocation shall be without prejudice to the filing of a new application for a license.

D. Appeal of Suspension or Revocation. A decision of the department to revoke or suspend a license may be appealed by a proprietor or a tobacco retailer by means of an administrative hearing before an independent fact finder, including, but not limited to, an administrative law judge from the state Office of Administrative Hearings, [other private service providing retired judges for arbitration, or city-appointed administrative hearing officer](#). Any appeal must be filed with the city clerk within ten calendar days of mailing of the department's decision and be accompanied by the full amount of any applicable fine as

provided in [§section 1.14.100](#) (except as provided in [§section 1.14.090](#)). An appeal shall stay all proceedings in furtherance of the appealed action. A suspension or revocation pursuant to [§section 8.33.090\(B\)](#) of this chapter is not subject to appeal.

E. An administrative hearing to appeal a decision of the department to [issue a fine and](#) revoke or suspend a license held pursuant to [subdivision ~~Section 8.33.100\(A\)~~ paragraphs \(2\) through \(4\) of this section, and subdivision \(BD\) of this section](#) is civil in nature and therefore the burden of proof required is a preponderance of the evidence. [In such an appeal the administrative hearing officer shall only determine whether the violations of this chapter occurred in the time periods set forth in subdivision \(A\), paragraphs \(2\), \(3\) or \(4\), or subdivision \(D\) of this section. The administrative hearing officer shall not consider the appropriateness of the amount of the fine or whether the length of suspension of a license, or revocation of the license, creates a financial hardship on the tobacco retailer; nor shall the administrative hearing officer grant the applicant any stay of execution or delay of enforcement of a suspension or revocation sustained following the hearing. There is no right for a tobacco retailer to appeal the finding of a violation resulting only in a fine as set forth in subdivision \(A\) of this section.](#)

F. The rules of evidence in an administrative hearing to appeal a decision of the department to revoke or suspend a license held pursuant to [§section 8.33.4090\(BA\) or \(D\)](#) shall be in accordance with California Government Code [§sections 11513 and 11514](#) as those sections are amended from time to time. [Except as provided in this subdivision \(F\), the provisions of administrative adjudication for the State of California \(Chapter 5 of Part 1 of Division 3 of Title 2 of the California Government Code\) shall not apply to any administrative hearing under this chapter.](#)

### **8.33.100 Administrative fine.**

A. Grounds for Fine. In addition to any other remedies available at law or in equity, if the department finds, based on substantial evidence, that any unlicensed person, including

a person named on a revoked or suspended license, has engaged in tobacco retailing in violation of [§](#)section 8.33.020 of this chapter, the department shall impose an administrative fine on that person pursuant to [§](#)section 8.33.110(C) of this chapter.

B. Appeal to Superior Court of Limited Jurisdiction. Notwithstanding the provisions of [§](#)section 1094.5 or 1094.6 of the Code of Civil Procedure, and in accordance with [§](#)section 1.14.150 of this code, within twenty days after mailing or personal service of the hearing officer's decision and findings, any person subject to a fine may seek review of the hearing officer's decision and findings by the superior court of limited jurisdiction. A copy of the notice of appeal to the superior court shall be timely served in person or by first-class mail upon the department by the contestant. The appeal shall be heard de novo, except that the contents of the department's file in the case shall be received in evidence. A copy of the records of the department of the notices of the violation and of the hearing officer's decision and findings shall be admitted into evidence as prima facie evidence of the facts stated therein.

C. Failure to Pay Fine. If no timely notice of appeal to the superior court is filed, or the department is not timely served with a copy of a notice of appeal, the hearing officer's decision and findings shall be deemed confirmed and the fine shall be collected pursuant to [§](#)section 1.14.130 of this code.

### **8.33.110 Enforcement.**

The remedies provided by this chapter are cumulative and in addition to any other remedies available at law or in equity.

A. Causing, permitting, aiding, abetting or concealing a violation of any provision of this chapter shall constitute a violation.

B. Violations of this chapter shall constitute a misdemeanor except that notwithstanding any provision of this subdivision any violation may, in the discretion of the

city attorney, be charged and prosecuted as an infraction in accordance with [§](#)section 1.24.010 of this code.

C. Any person violating this chapter is subject to a civil action brought by the city attorney, punishable by a fine of one thousand dollars for each violation. Any continuing violation shall constitute a separate offense for each day of the violation.

D. Violations of this chapter are hereby declared to be public nuisances.

E. Violations of this chapter are hereby declared to be unfair business practices and are presumed to at least nominally damage each and every resident of the community in which the business operates.

F. In addition to other remedies provided by this chapter or by other law, any violation of this chapter may be remedied by a civil action brought by the city attorney including, for example, administrative or judicial nuisance abatement proceedings, civil or criminal code enforcement proceedings and suits for injunctive relief.

G. Any person acting for the interests of itself, its members, or the general public may bring an action for injunctive relief to prevent future such violations or to recover such actual damages as he or she may prove.

AN ORDINANCE OF THE CITY COUNCIL OF THE  
CITY OF EL CAJON, CALIFORNIA, AMENDING CHAPTER 8.33  
OF THE EL CAJON MUNICIPAL CODE TO REGULATE RETAILERS  
OF TOBACCO PRODUCTS AND ELECTRONIC VAPOR DEVICES AND  
ESTABLISHING A LICENSE FOR SUCH ACTIVITIES

The City Council of the City of El Cajon does ordain as follows:

Section 1. Chapter 8.33 of Title 8 of the El Cajon Municipal Code is hereby repealed.

Section 2. Chapter 8.33 is hereby added to Title 8 of the El Cajon Municipal Code to read as follows:

**Chapter 8.33 LICENSURE OF TOBACCO RETAILERS**

**8.33.010 Definitions.**

The following words and phrases, whenever used in this chapter, shall have the meanings defined in this section unless the context clearly required otherwise:

- A. **“Authorized address”** means the name and mailing address authorized by each proprietor to receive all license-related communications and notices.
- B. **“Department”** means the community development department.
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- D. **“Electronic vapor inhalation substance products”** means cartridges, cartomizers, e-liquid, smoke juice, tanks, tips, atomizers, vaporizers, electronic smoking device batteries, electronic smoking device chargers, and any other item specifically designed for the preparation, charging, or use of electronic vapor devices.
- E. **“Electronic vapor device retailers”** means any establishment that sells electronic cigarettes or any products used in conjunction with electronic cigarettes, including, but not limited to, kits, e-liquids and “juice.”



F. **“Hookah”** means a pipe commonly, but not always, made of glass, used for vaporizing and smoking tobacco, flavored tobacco, non-flavored tobacco, shisha, dried fruits, or other substances in which vapor or smoke is passed through a water basin before inhalation.

G. **“Person”** shall have the definition set forth in section 1.04.020 of the El Cajon Municipal Code.

H. **“Proprietor”** means a person with an ownership or managerial interest in a business. An ownership interest shall be deemed to exist when a person has a ten percent or greater interest in the stock, assets or income of a business other than the sole interest of security for debt. A managerial interest shall be deemed to exist when a person can or does have, or can or does share ultimate control over the day-to-day operations of a business.

I. **“Tobacco product”** means: (1) any substance containing tobacco leaf, including but not limited to cigarettes, cigars, pipe tobacco, dipping tobacco, bidis or any other preparation of tobacco; (2) any product or formulation of matter containing biologically active amounts of nicotine that is manufactured, sold, offered for sale or otherwise distributed with the expectation that the product or matter will be introduced into the human lungs or mouth; (3) any electronic vapor device, electronic vapor inhalation substance, and hookahs; and (4) any plant, weed, or plant product that is manufactured, sold, offered for sale, or otherwise distributed with the expectation that the product or matter will be introduced into the human lungs or mouth in smoke or vapor form, using any tobacco paraphernalia, but does not include any product specifically approved by the Federal Food and Drug Administration for use in treating nicotine or tobacco product dependence.

J. **“Tobacco paraphernalia”** means cigarette papers or wrappers, pipes, holders of smoking materials of all types, cigarette rolling machines and any other item designed

for the smoking or ingestion of tobacco products, hookahs, electronic vapor devices and electronic vapor inhalation substances.

K. **“Tobacco retailer”** means any person or proprietor who – personally or through an agent, employee, contractor, or other intermediary – sells, offers for sale or does or offers to exchange for any form of consideration, tobacco, tobacco products or tobacco paraphernalia, hookahs, electronic vapor devices and electronic vapor inhalation substances. “Tobacco retailing” shall mean the doing of any of these things. This definition is without regard to the quantity of tobacco, tobacco products or tobacco paraphernalia sold, offered for sale, exchanged or offered for exchange.

**8.33.020 Requirement for tobacco retailer license.**

A. It shall be unlawful for any person to act as a tobacco retailer without first obtaining and maintaining a valid tobacco retailer’s license pursuant to this chapter for each location at which that activity is to occur.

B. A license may only issue to authorize tobacco retailing at a specified, fixed, address, legally zoned for commercial activities at the location. For example, tobacco retailing by persons on foot and tobacco retailing from vehicles are prohibited.

C. No license may be issued to authorize tobacco retailing at any location that is licensed under state law to serve alcoholic beverages for consumption on the premises (e.g., an “on-sale” license issued by the California Department of Alcoholic Beverage Control) and no license may be issued to authorize tobacco retailing at any location offering food for sale for consumption by guests on the premises. For example, tobacco retailing in bars and restaurants is prohibited.

D. The license fee established pursuant to section 8.33.060 confers paid status upon a license for a term of one year. Each tobacco retailer shall apply for the renewal of his or her tobacco retailer’s license no later than thirty days prior to expiration of the payment term.

E. Nothing in this chapter shall be construed to grant any person obtaining and maintaining a tobacco retailer's license any status or right other than the right to act as a tobacco retailer at the location in the city identified on the face of the license. For example, nothing in this chapter shall be construed to render inapplicable, supersede, or apply in lieu of any other provision of applicable law, including, without limitation, any condition or limitation on smoking in enclosed places of employment made applicable to business establishments by California Labor Code section 6404.5.

### **8.33.030 Application procedure.**

Application for a tobacco retailer's license shall be submitted in the name of each proprietor proposing to conduct retail tobacco sales and shall be signed by each proprietor or an authorized agent thereof. It is the responsibility of each proprietor to be informed of the laws affecting the issuance of a tobacco retailer's license. A license that is issued in error or on the basis of false or misleading information supplied by a proprietor may be revoked pursuant to section 8.33.090(C) of this chapter. All applications shall be submitted on a form supplied by the department and shall contain the following information:

- A. The name, address and telephone number of each proprietor.
- B. The business name, address and telephone number of the single fixed location for which a tobacco retailer's license is sought.
- C. The authorized address for each proprietor. If an authorized address is not supplied, each proprietor shall be understood to consent to the provision of notice at the business address specified in subsection 2 above.
- D. Whether any proprietor has previously been issued a license pursuant to this chapter that is, or was at any time, suspended or revoked and, if so, the dates of the suspension period or the date of revocation.
- E. Such other information as the department deems necessary for the administration or enforcement of the ordinance codified in this chapter.

### **8.33.040 Issuance of license.**

Upon the receipt of an application for a tobacco retailer's license and the license fee, the department shall issue a license unless reasonable evidence in the record demonstrates one of the following bases for denial:

- A. The application is incomplete or inaccurate; or
- B. The application seeks authorization for tobacco retailing by a proprietor for which or whom a suspension is in effect pursuant to section 8.33.090 of this chapter; or
- C. The application seeks authorization for tobacco retailing by a proprietor for which or whom a suspension is in effect pursuant to section 8.33.090 of this chapter; or at a location which has had a license revoked pursuant to section 8.33.090(A)(4) of this chapter provided; however, this subsection shall not constitute a basis for denial of a license if the applicant provides the city with documentation demonstrating by clear and convincing evidence that the applicant (1) was not a proprietor at the time that (a) a violation of this chapter occurred, or (b) an appeal of a citation for a violation of this chapter was pending; and (2) has acquired or is acquiring the premises or business in an arm's length transaction. For the purposes of this subsection, an "arm's length transaction" is defined as a third-party sale in good faith and for valuable consideration that reflects the fair market value in the open market between two informed and willing parties, neither under any compulsion to participate in the transaction. A sale between relatives, related companies or partners, proprietors, or a sale for the primary purpose of avoiding the effect of the violation of this chapter that occurred at the location, is presumed not to be an "arm's length transaction;" or
- D. The application seeks authorization for tobacco retailing that is prohibited pursuant to section 8.33.020 of this chapter (e.g., mobile vending), that is unlawful pursuant to Title 17 of this code (i.e., the zoning code), or that is unlawful pursuant to any other local, state or federal law.

### **8.33.050 Other requirements and prohibitions.**

- A. Display of License. Each license shall be prominently displayed in a publicly visible location at the licensed premises.
- B. Positive Identification Required. No person shall engage in tobacco retailing without first examining the identification of each purchaser and confirming that the proposed sale is to a purchaser who is at least the minimum age in state law for being sold the tobacco product or tobacco paraphernalia.
- C. Minimum Age for Persons Selling Tobacco. No person shall engage in tobacco retailing if the person is younger than the minimum age in state law for being sold or for possessing any tobacco product.

### **8.33.060 Fees for license.**

- A. The fee to issue or to renew a tobacco retailer's license shall be established by resolution of the city council. The fee shall be calculated so as to recover the total cost of both license administration and license enforcement, including, for example, issuing the license, administering the license program, retailer education, retailer inspection and compliance checks, documentation of violations, and prosecution of violators, but shall not exceed the cost of the total program. All fees shall be used to fund the program. Fees are nonrefundable except as may be required by law.
- B. A proprietor, in possession of a tobacco retailer's license, who has not been found to be in violation of this chapter for a period of 36 months immediately preceding the issuance or renewal of a tobacco retailer's license, shall receive a twenty percent (20%) discount on the annual tobacco retailer's license fee. This discounted fee will be applied to the annual license fee following a proprietor's compliance after 36 consecutive months.

### **8.33.070 Licenses nontransferable.**

A tobacco retailer's license is nontransferable except between existing proprietors holding a license at the same location. If the information required in the license application

pursuant to section 8.33.030, subsections (A)(1), (2) or (3) changes, a new tobacco retailer's license is required before the business may continue to act as a tobacco retailer. For example, if a proprietor to whom a license has been issued changes business location, that proprietor must apply for a new license prior to acting as a tobacco retailer at the new location. Also, if the business is sold, the new owner must apply for a license for that location before acting as a tobacco retailer.

### **8.33.080 License violation and compliance monitoring.**

- A. Violation of Tobacco-Related Laws. It shall be a violation of a tobacco retailer's license for a licensee or his or her agent or employee to violate any local, state or federal tobacco-related law.
- B. License Compliance Monitoring.
  - 1. Compliance with this chapter shall be monitored by the department. Any peace officer or code enforcement official also may enforce this chapter.
  - 2. The department shall check the compliance of each tobacco retailer at least one time during a twelve-month period and shall conduct additional compliance checks within that period as warranted. The compliance checks shall be conducted to determine, at a minimum, if the tobacco retailer is complying with tobacco laws regulating underage sales. The department, or the police department, in assisting the department in performing compliance checks, shall use underage decoys and comply with the city's protocols for the compliance checks developed in consultation with the San Diego County Department of Health and Human Services, the San Diego County District Attorney, and the City Attorney's Office. When appropriate, the compliance checks shall determine compliance with other tobacco-related laws.
  - 3. The city shall not enforce any tobacco-related minimum age law against a person who otherwise might be in violation of such law because of the person's age (the "underage decoy") if the potential violation occurs when:

- a. The underage decoy is participating in a compliance check supervised by a peace officer or a code enforcement official; or
- b. The underage decoy is participating in a compliance check funded in part by the San Diego County Department of Health and Human Services or funded in part, either directly or indirectly through sub-contracting, by the California Department of Health Services.

**8.33.090 Penalties for Violation.**

A. Suspension or Revocation of License for Violation. In addition to any other penalty authorized by law, an administrative fine shall be paid, and a tobacco retailer's license may be suspended or revoked if the department finds, after notice to the licensee and opportunity to be heard, that the licensee, or his or her agents or employees, has or have violated the requirements or prohibitions of this chapter including the conditions of the license imposed pursuant to section 8.33.080 of this chapter.

1. Upon a finding by the department of a first license violation within any thirty-six-month period, the tobacco retailer shall pay an administrative fine in the amount of \$2,500. The city shall also conduct up to two compliance checks within twelve months of the first violation.
2. Upon a finding by the department of a second license violation within any thirty-six-month period, the tobacco retailer shall pay an administrative fine in the amount of \$2,500 and the license shall be suspended for thirty days. The city shall also conduct up to two compliance checks within twelve months of the second violation.
3. Upon a finding by the department of a third license violation within any thirty-six-month period, the tobacco retailer shall pay an administrative fine in the amount of \$2,500 and the license shall be suspended for sixty days. The city shall also conduct up to two compliance checks within twelve months of the third violation.

4. Upon a finding by the department of a fourth license violation within any thirty-six-month period, the license shall be revoked, and the tobacco retailer shall pay an administrative fine in the amount of \$2,500. Further, the proprietor or proprietors who had been issued the license shall never again be issued a tobacco retailer's license pursuant to this chapter.

5. A tobacco retailer with a suspended or revoked license:

a. Shall remove all tobacco products and tobacco paraphernalia from public view; and

b. Shall not display any advertisement relating to tobacco products or tobacco paraphernalia that promotes the sale or distribution of such products at the tobacco retailer location or that would lead a reasonable consumer to believe that such products can be obtained at the tobacco retailer location, including any use of the terms, "tobacco," or "smoke shop," or similar references in the name of the business operated by the tobacco retailer.

c. Except in the case of a first or second suspension within any thirty-six-month period, instead of complying with subsections (a) and (b) of this section, the tobacco retailer may elect to post a clear and legible sign at each point of sale and at every public entrance stating in seventy-two point type or larger: "TOBACCO PRODUCTS NOT FOR SALE because this store has violated a public health law regulating tobacco" and such signs must be present and remain free of obstructions for the entire duration of the suspension period.

B. **Suspension of License for Failure to Pay Renewal Fee.** A tobacco retailer's license that is not timely renewed pursuant to section 8.33.020(D) shall automatically be suspended by operation of law. If not renewed, a license shall be automatically revoked two years after the renewal date. To reinstate the paid status of a license that has been suspended due to the failure to timely pay the renewal fee, the proprietor must:



1. Submit the renewal fee plus a reinstatement fee of ten percent of the renewal fee; and
2. Submit a signed affidavit affirming that the proprietor has not sold any tobacco product or tobacco paraphernalia during the period the license was suspended for failure to pay the renewal fee.

C.           Revocation of License Issued in Error. A tobacco retailer's license shall be revoked if the department finds, after notice and opportunity to be heard, that one or more of the bases for denial of a license under section 8.33.040 of this chapter existed at the time application was made or at any time before the license issued. The revocation shall be without prejudice to the filing of a new application for a license.

D.           Appeal of Suspension or Revocation. A decision of the department to revoke or suspend a license may be appealed by a proprietor or a tobacco retailer by means of an administrative hearing before an independent fact finder, including, but not limited to, an administrative law judge from the state Office of Administrative Hearings, other private service providing retired judges for arbitration, or city-appointed administrative hearing officer. Any appeal must be filed with the city clerk within ten calendar days of mailing of the department's decision and be accompanied by the full amount of any applicable fine as provided in section 1.14.100 (except as provided in section 1.14.090). An appeal shall stay all proceedings in furtherance of the appealed action. A suspension or revocation pursuant to section 8.33.090(B) of this chapter is not subject to appeal.

E.           An administrative hearing to appeal a decision of the department to issue a fine and revoke or suspend a license held pursuant to subdivision (A) paragraphs (2) through (4) of this section, and subdivision (D) of this section is civil in nature and therefore the burden of proof required is a preponderance of the evidence. In such an appeal the administrative hearing officer shall only determine whether the violations of this chapter occurred in the time periods set forth in subdivision (A), paragraphs (2), (3) or (4), or

subdivision (D) of this section. The administrative hearing officer shall not consider the appropriateness of the amount of the fine or whether the length of suspension of a license, or revocation of the license, creates a financial hardship on the tobacco retailer; nor shall the administrative hearing officer grant the applicant any stay of execution or delay of enforcement of a suspension or revocation sustained following the hearing. There is no right for a tobacco retailer to appeal the finding of a violation resulting only in a fine as set forth in subdivision (A) of this section.

F. The rules of evidence in an administrative hearing to appeal a decision of the department to revoke or suspend a license held pursuant to section 8.33.090(A) or (D) shall be in accordance with California Government Code sections 11513 and 11514 as those sections are amended from time to time. Except as provided in this subdivision (F), the provisions of administrative adjudication for the State of California (Chapter 5 of Part 1 of Division 3 of Title 2 of the California Government Code) shall not apply to any administrative hearing under this chapter.

### **8.33.100 Administrative fine.**

A. Grounds for Fine. In addition to any other remedies available at law or in equity, if the department finds, based on substantial evidence, that any unlicensed person, including a person named on a revoked or suspended license, has engaged in tobacco retailing in violation of section 8.33.020 of this chapter, the department shall impose an administrative fine on that person pursuant to section 8.33.110(C) of this chapter.

B. Appeal to Superior Court of Limited Jurisdiction. Notwithstanding the provisions of section 1094.5 or 1094.6 of the Code of Civil Procedure, and in accordance with section 1.14.150 of this code, within twenty days after mailing or personal service of the hearing officer's decision and findings, any person subject to a fine may seek review of the hearing officer's decision and findings by the superior court of limited jurisdiction. A copy of the notice of appeal to the superior court shall be timely served in person or by first-class mail

upon the department by the contestant. The appeal shall be heard de novo, except that the contents of the department's file in the case shall be received in evidence. A copy of the records of the department of the notices of the violation and of the hearing officer's decision and findings shall be admitted into evidence as prima facie evidence of the facts stated therein.

C. Failure to Pay Fine. If no timely notice of appeal to the superior court is filed, or the department is not timely served with a copy of a notice of appeal, the hearing officer's decision and findings shall be deemed confirmed and the fine shall be collected pursuant to section 1.14.130 of this code.

### **8.33.110 Enforcement.**

The remedies provided by this chapter are cumulative and in addition to any other remedies available at law or in equity.

A. Causing, permitting, aiding, abetting or concealing a violation of any provision of this chapter shall constitute a violation.

B. Violations of this chapter shall constitute a misdemeanor except that notwithstanding any provision of this subdivision any violation may, in the discretion of the city attorney, be charged and prosecuted as an infraction in accordance with section 1.24.010 of this code.

C. Any person violating this chapter is subject to a civil action brought by the city attorney, punishable by a fine of one thousand dollars for each violation. Any continuing violation shall constitute a separate offense for each day of the violation.

D. Violations of this chapter are hereby declared to be public nuisances.

E. Violations of this chapter are hereby declared to be unfair business practices and are presumed to at least nominally damage each and every resident of the community in which the business operates.

F. In addition to other remedies provided by this chapter or by other law, any violation of this chapter may be remedied by a civil action brought by the city attorney including, for example, administrative or judicial nuisance abatement proceedings, civil or criminal code enforcement proceedings and suits for injunctive relief.

G. Any person acting for the interests of itself, its members, or the general public may bring an action for injunctive relief to prevent future such violations or to recover such actual damages as he or she may prove.

Section 3. This ordinance shall become effective thirty (30) days following its passage and adoption.



City Council  
Agenda Report

**DATE:** November 12, 2019  
**TO:** Honorable Mayor and City Councilmembers  
**FROM:** Graham Mitchell, City Manager  
**SUBJECT:** Mayor and City Council Cafeteria Benefits Review

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**RECOMMENDATION:**

That the City Council adopts the next Resolution, in order, adjusting the cafeteria benefit allotment from \$1,150 per month to \$1,200 per month, effective January 2020, for Mayor and City Councilmembers.

**BACKGROUND:**

The City periodically reviews compensation and benefits for all of its employees, including the Mayor and City Councilmembers. Last year, Mayor and Councilmembers' cafeteria benefit allotment was readjusted to match the amount general employees receive. Staff would like to maintain the cafeteria benefit allotment in line with the amount issued to the general employees for the 2020 plan year.

Currently, the cafeteria benefit allotment is \$1,150/month. In comparison, the cafeteria benefit allotment for City staff will increase to \$1,200/month effective January 2020. Staff recommends that the Mayor and City Councilmembers' cafeteria benefit allotment be adjusted to \$1,200/month effective January 2020. This change will align with the anticipated City staff amount effective January 2020.

**FISCAL IMPACT:**

This recommended adjustment will result in an increase of \$1,500 in FY2019-20 and \$3,000 in FY 2020-21. There are sufficient funds in the FY19-20 budget for this year's expenditure.

Prepared By: Marisol Thorn, Director of Human Resources

Reviewed By:

Approved By: Graham Mitchell, City Manager

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Attachments

Resolution

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RESOLUTION NO. \_\_\_\_-19

RESOLUTION REVISING THE CITY'S CONTRIBUTION  
TO THE IRS SECTION 125 "CAFETERIA PLAN" FOR  
THE MAYOR AND CITY COUNCIL MEMBERS

WHEREAS, California Government Code section 36516 et seq. defines the requirements and limitations for compensation and benefits for mayors and city councilmembers; and

WHEREAS, the Mayor and City Councilmembers recognize the significant increases in costs related to medical, dental and vision care and the cafeteria benefit has fallen behind the amount eligible for City staff as well as the amounts paid to other members of city councils in San Diego County; and

WHEREAS, the Mayor and City Councilmembers currently receive \$1,150 each month in in City contributions to their Internal Revenue Code section 125 "Cafeteria Plan" accounts; and

WHEREAS, the current cafeteria benefit allotment for City staff will increase to \$1,200 per month effective January 2020; and

WHEREAS, it is recommended that the Mayor and City Councilmembers' cafeteria benefit allotment be adjusted to \$1,200 per month effective January 2020, which will align with anticipated City staff amount effective January 2020.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL CAJON AS FOLLOWS:

Section 1. That the foregoing recitals are true and correct, and are findings of fact of the El Cajon City Council.

Section 2. That beginning January 2020, the City of El Cajon will contribute the Mayor's and Councilmembers' cafeteria benefit allotment in the amount of \$1,200 per month.

11/12/19 CC Mtg.

Mayor and CC Cafeteria Benefits Review eff 01-01-20 102819



City Council  
Agenda Report

**DATE:** November 12, 2019  
**TO:** Honorable Mayor and City Councilmembers  
**FROM:** Mayor Wells  
**SUBJECT:** Council Activity Report

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**RECOMMENDATION:**

That the City Council accepts and files the following report of Council/Mayor activities attended during the current agenda period.

**BACKGROUND:**

Government Code Section 53232.3(d) requires members of a legislative body to provide brief reports on meetings attended at the expense of the local agency at the next regular meeting of the legislative body.

**REPORT:**

Since the last City Council meeting, I have attended the following events on behalf of the City of El Cajon:

- October 19 - Sharp Grossmont Hospital Gala
- October 21 - Meeting w/ San Diego County Apartment Association
- October 23 - Meeting w/ San Diego County Apartment Association and the City Manager
- October 24 - Grossmont Community College Dinner
- October 25 - SANDAG Board Meeting
- October 25 - SANDAG Executive Committee Meeting
- October 25 - SANDAG Audit Committee Meeting
- October 25 - Hauntfest
- October 27 - Stand With Us Gala
- October 30 - Meeting w/ San Diego County Airport Authority - Airport Development Plan
- November 2 - Salvation Army East County Red Shield Community Center Grand Opening
- November 4 - LAFCO Meeting
- November 6 - Meeting w/ Supervisor Dianne Jacob and Dr. Noori Barka
- November 8 - SANDAG Audit Committee Meeting
- November 8 - SANDAG Board Meeting
- November 12 - Meeting w/ International Rescue Committee Executive Director
- November 12 - City Council Meeting

I will be happy to answer any questions you may have.

Submitted By: Bill Wells, Mayor

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City Council  
Agenda Report

DATE: November 12, 2019  
TO: Honorable Mayor and City Councilmembers  
FROM: Bill Wells, Mayor  
SUBJECT: Street Racing and Excessive Speeding

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RECOMMENDATION:

That the City Council directs staff to develop an information campaign and strategies to address street racing and excessive speeding in the community.

BACKGROUND:

Many communities face the challenge of street racing or excessive speeding. While only very few residents participate in this illegal behavior, this activity can impact the entire community. I know that the City's Police Department is aware of this challenge. I applaud the Department's recent use of Twitter to bring awareness of street racing and to solicit the community's help in identifying street racing spots. The City Manager informed me the Department's Tweet was the second most viewed on the Police Department Twitter account in the past 30 days—it had 2,309 impressions, 71 likes, 13 comments, and 5 re-tweets.

I understand that traditional enforcement efforts can be expensive and may not effectively address the challenge of street racing. I recommend that the City Council directs staff to develop an information campaign (through use of social media, press releases, and etc.) and strategies to address street racing and excessive speeding in our community. I seek the City Council's suggestions to pass along to staff during the November 12<sup>th</sup> City Council meeting. I recommend that staff, based on the direction provided by the City Council, return in six months to provide an overview of the plan that was implemented and the results of that plan.

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City Council  
Agenda Report

**DATE:** November 12, 2019  
**TO:** Honorable Mayor and City Councilmembers  
**FROM:** Councilmember Kendrick  
**SUBJECT: COUNCILMEMBER GARY KENDRICK**  
METRO Commission/Wastewater JPA; Heartland Communications;  
Heartland Fire Training JPA.

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**RECOMMENDATION:**

That the City Council accept and files the following report of Council/Mayor activities attended during the current agenda period.

**BACKGROUND:**

Government Code Section 53232.3(d) requires members of a legislative body to provide brief reports on meetings attended at the expense of the local agency at the next regular meeting of the legislative body.

**REPORT:**

Since the last City Council meeting, I have attended the following events on behalf of the City of El Cajon:

- October 31 - Heartland Communication Facility Authority
- October 31 - Hauntfest - Costume Judge
- November 5 - AWP JPA Meeting
- November 12 - City Council Meeting

I will be happy to answer any questions you may have.

Submitted By: Gary Kendrick, Councilmember

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City Council  
Agenda Report

**DATE:** November 12, 2019  
**TO:** Honorable Mayor and City Councilmembers  
**FROM:** Councilmember McClellan  
**SUBJECT: COUNCILMEMBER BOB MCCLELLAN**  
MTS (Metropolitan Transit System Board); Harry Griffen Park Joint Steering Committee; Heartland Communications – Alternate.

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**RECOMMENDATION:**

That the City Council accepts and files the following report of Council/Mayor activities attended during the current agenda period.

**BACKGROUND:**

Government Code Section 53232.3(d) requires members of a legislative body to provide brief reports on meetings attended at the expense of the local agency at the next regular meeting of the legislative body.

**REPORT:**

Since the last City Council meeting, I have attended the following events on behalf of the City of El Cajon:

- October 30 - Meeting w/ Darrell Issa at Foothills Church
- October 31 - San Diego Building Authority/MTS Meeting
- November 2- Salvation Army Red Shield Community Center Grand Opening
- November 12 - City Council Meeting

I will be happy to answer any questions you may have.

Submitted By: Bob McClellan, Councilmember

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City Council  
Agenda Report

Agenda Item 23.

**DATE:** November 12, 2019

**TO:** Honorable Mayor and City Councilmembers

**FROM:** Deputy Mayor Goble

**SUBJECT: DEPUTY MAYOR STEVE GOBLE**

SANDAG – Board of Directors – Alternate; SANDAG Public Safety Committee – Alternate; METRO Commission/Wastewater JPA – Alternate; Chamber of Commerce – Government Affairs Committee; MTS (Metropolitan Transit System Board) – Alternate.

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**RECOMMENDATION:**

That the City Council accepts and files the following report of Council/Mayor activities attended during the current agenda period.

**BACKGROUND:**

Government Code Section 53232.3(d) requires members of a legislative body to provide brief reports on meetings attended at the expense of the local agency at the next regular meeting of the legislative body.

**REPORT:**

Since the last City Council meeting, I have attended the following events on behalf of the City of El Cajon:

- October 28 - Meeting with Jordan Marks - Assessor's Office
- October 28 - Panelist at St. Paul's Event
- October 29 - Meeting with Kristine Costa - Waste Mgmt
- October 29 - Email to Jim Cirigliano re: FPPC Forms
- October 29 - Email from 174 Roanoke re: Furniture on Sidewalk
- October 30 - Email from Todd S re: Homeless on Property
- October 31 - Phone Call from Ed G re: Homeless on Property
- November 1 - East County Chamber First Friday Breakfast
- November 1 - Email to David Chenoweth re: Vaping
- November 2 - Salvation Army Grand Opening Event
- November 2 - El Cajon Firefighters Octoberstache Event
- November 4 - Phone Call with Dana Stevens @ CASA re: Vaping
- November 5 - East County Chamber Government Affairs Meeting
- November 7 - SDG&E Emergency Operations Center Tour
- November 7 - Boy Scout Troop Event/Interview in Council Chambers
- November 8 - Meeting with Remon Mansour of CA Vape Council
- November 11 - Meeting with City Manager
- November 12 - Council Meeting

I will be happy to answer any questions you may have.

Submitted By: Steve Goble, Deputy Mayor

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City Council  
Agenda Report

**DATE:** November 12, 2019  
**TO:** Honorable Mayor and City Councilmembers  
**FROM:** Councilmember Phil Ortiz  
**SUBJECT: COUNCILMEMBER PHIL ORTIZ**  
East County Economic Development Council; League of California Cities,  
San Diego Division.

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**RECOMMENDATION:**

That the City Council accepts and files the following report of Council/Mayor activities attended during the current agenda period.

**BACKGROUND:**

Government Code Section 53232.3(d) requires members of a legislative body to provide brief reports on meetings attended at the expense of the local agency at the next regular meeting of the legislative body.

**REPORT:**

Since the last City Council meeting, I have attended the following events on behalf of the City of El Cajon:

- October 22 - East County Chamber - Government Affairs Meeting
- October 24 - Meeting with Kristine - Waste Management
- October 24 - Call with Michael - Republic Services
- October 25 - Interview with Kevin Connover- KPRZ
- October 25 - Darryl Issa Lunch
- October 31 - East County Chamber- Board Meeting
- November 1 - Heartland Fire Fighters Charity Fundraiser
- November 5 - Meeting with business owner Frank

I will be happy to answer any questions you may have.

Submitted By: Phil Ortiz, Councilmember

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City Council  
Agenda Report

**DATE:** November 12, 2019  
**TO:** City Clerk  
**FROM:** City Attorney/General Legal Counsel  
**SUBJECT:** Closed Session - Conference with Real Property Negotiator - pursuant to Section 54956.8 of the Government Code: 1001 West Bradley Ave., - Waste Management, Inc.

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**RECOMMENDATION:**

That the following Closed Session be scheduled for the Tuesday, November 12, 2019, Joint City Council/Housing Authority/Successor Agency to El Cajon Redevelopment Agency agenda at 3:00 p.m.

Closed Session - Conference with Real Property Negotiator - pursuant to Section 54956.8 of the Government Code:

Property:

1001 West Bradley Avenue

Negotiating Parties:

Waste Management, Inc.

Agency Negotiators:

City Manager  
Assistant City Manager  
City Attorney  
Housing Manager

Under negotiation: Price and terms for lease of property.

Morgan L. Foley  
City Attorney/General Legal Counsel

MLF:ac

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City Council  
Agenda Report

Agenda Item 26.

**DATE:** November 12, 2019  
**TO:** City Clerk  
**FROM:** City Attorney/General Legal Counsel  
**SUBJECT:** Closed Session - Conference with Real Property Negotiator - pursuant to Section 54956.8 of the Government Code: 1001 West Bradley Ave., - Republic Services

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**RECOMMENDATION:**

That the following Closed Session be scheduled for the Tuesday, November 12, 2019, Joint City Council/Housing Authority/Successor Agency to El Cajon Redevelopment Agency agenda at 3:00 p.m.

Closed Session - Conference with Real Property Negotiator - pursuant to Section 54956.8 of the Government Code:

Property:

1001 West Bradley Avenue

Negotiating Parties:

Republic Services

Agency Negotiators:

City Manager  
Assistant City Manager  
City Attorney  
Housing Manager

Under Negotiation: Price and terms for lease of property.

Morgan L. Foley  
City Attorney/General Legal Counsel

MLF:ac

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