

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

November 12, 2019

A Regular Joint Meeting of the El Cajon City Council/Housing Authority/ Successor Agency to the El Cajon Redevelopment Agency, held Tuesday, November 12, 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:	Mitchell, City Manager/Executive Director DiMaggio, Assistant City Manager Foley, City Attorney/General Counsel Cortez, City Clerk/Secretary

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 22, 2019, meeting and the Agenda of the November 12, 2019, meeting in accordance with State Law and El Cajon City/Housing Authority/Successor Agency to the El Cajon Redevelopment Agency Policy.

PRESENTATIONS:

Presentation: Veteran of the Year Award

Presentation: Insurance Services Office

Proclamation: Small Business Saturday

AGENDA CHANGES:

City Manager Mitchell stated that the current sewer billing contractor, Global Water Management, announced they will be going out of business as of November 30, 2019.

City Attorney Foley explained that per §B2 of §54954.2, an emergency item may be added by a 2/3rd vote to the current agenda, to consider the procurement of alternate sewer billing options, and a subsequent vote would approve the changes to the Agenda.

MOTION BY WELLS, SECOND BY McCLELLAN, to ADD an item to the November 12, 2019 Agenda to execute temporary interim contracts in order to maintain sewer billing services for the City.

MOTION CARRIED BY UNANIMOUS VOTE.

MOTION BY WELLS, SECOND BY McCLELLAN, to ACCEPT the changes to the Agenda.

MOTION CARRIED BY UNANIMOUS VOTE.

CONSENT ITEMS: (1 – 12)

MOTION BY WELLS, SECOND BY McCLELLAN, to APPROVE Consent Items 1 to 12.

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 22, 2019, Meeting 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.

CONSENT ITEMS: (Continued)

3. Approval of Reading Ordinances by Title only

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

Reviews and approves the submitted road closures and traffic control plan for the Holiday Lights on Main.

5. Wells Park Improvements - Security Gates Project

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

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)

Adopts the Resolution No. 106-19 to:

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 overtime costs and \$400 for training, and travel costs.

CONSENT ITEMS: (Continued)

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

Adopts Resolution No. 107-19 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

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

Adopts Resolution No. 108-19 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)

As the City Council/El Cajon Housing Authority receives the 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

1. Adopts Resolution No. 109-19, 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:

Jim Cirigliano thanked David Chenoweth for his request to post Fair Political Practices Commission (FPPC) Forms 460 and 700 on the City's website.

Dolores Landers spoke about the lack of transparency regarding the work done on Helix View Drive.

Bonnie Price stated that the Closed Session item in regard to Waste Management compromises the competitive bidding process for refuse services.

Mayor Wells and City Manager Mitchell clarified that the item on the agenda pertains to the lease of a property and not for refuse services.

Ruth Thorton acknowledged the City's 107th Anniversary. She spoke of the excellent work by East County Transitional Living Center (ECTLC) in regard to the homeless population. Ms. Thorton praised the Veterans' Day Ceremony and Mother Goose Parade, both events in the City.

WRITTEN COMMUNICATIONS: None

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.

DISCUSSION

Director of Public Works, Dirk Epperson, provided a summary of the Item.

Mayor Wells opened the public hearing.

No one came forward to speak.

PUBLIC HEARINGS: (Item 13 - Continued)

MOTION BY WELLS, SECOND BY McCLELLAN, to CLOSE the Public Hearing.

MOTION CARRIED BY UNANIMOUS VOTE.

MOTION BY McCLELLAN, SECOND BY KENDRICK, to ADOPT RESOLUTION NO. 110-19A through 110-19E, confirming the list of property owners as delinquent in the payment of their mandatory trash service bills; and 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.

MOTION CARRIED BY UNANIMOUS VOTE.

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.

DISCUSSION

Director of Public Works, Dirk Epperson, provided a summary of the Item.

Mayor Wells opened the public hearing.

No one came forward to speak.

MOTION BY WELLS, SECOND BY McCLELLAN, to CLOSE the Public Hearing.

MOTION CARRIED BY UNANIMOUS VOTE.

PUBLIC HEARINGS: (Item 14 - Continued)

MOTION BY McCLELLAN, SECOND BY KENDRICK, to ADOPT RESOLUTION NO. 111-19A through 111-19H, confirming the list of property owners as delinquent in the payment of their mandatory sewer service bills; and 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.

MOTION CARRIED BY UNANIMOUS VOTE.

ADMINISTRATIVE REPORTS:

15. Update on Electronic Vapor Devices and Products

RECOMMENDATION:

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

DISCUSSION

City Manager Mitchell provided detailed information of the Item.

Discussion ensued among Council and Staff concerning the following:

- Dangers of vaping products;
- Additional dangers of non-regulated products;
- Increasing numbers amongst school aged children using vaping products;
- New vaping devices utilized by youth; and
- Consideration of Ordinance to prohibit sale of vaping devices to minors.

Molly Sylvester thanked City Manager Mitchell for gathering information on the subject. She thanked Councilmembers Phil Ortiz, Deputy Mayor Steve Goble, and Mayor Wells for meeting with Communities for Safer Vaping. Ms. Sylvester supports the idea of not selling to anyone under the age of 21 years old.

Ms. Sylvester answered questions from the Council in regard to banning USB look-a-like vaping devices and eliminating nicotine from vaping liquids.

Remon Mansour, representing Communities for Safer Vaping, stated that banning all vaping products is not the answer to keeping youth from utilizing the product.

James Mitchell, representing Communities for Safer Vaping, spoke in opposition of an Ordinance banning vaping products in the City.

ADMINISTRATIVE REPORTS: (Item 15 – Continued)

Giselle Brambila, representing Communities for Safer Vaping, spoke of the ability of youth to purchase vaping products online with no age verification required.

Shannon Cozzens, representing Communities for Safer Vaping, spoke in opposition of an Ordinance banning vaping products which would only drive online sales on non-regulated products.

Kelly Edmondson, representing Communities for Safer Vaping, stated that a ban that would encourage youth to purchase unsafe products from online venues is a flawed idea.

Chris Messick, representing Communities for Safer Vaping, stated that banning vaping products would increase the use of cigarettes or more dangerous products.

Ramy Gurguis, representing Communities for Safer Vaping, stated that vaping is a better alternative to smoking cigarettes.

Samar Yousif, representing Communities for Safer Vaping, spoke in opposition of a vaping ban.

Kurt Bergquam, representing Harvest Time Church, stated that if vaping products are banned, teenagers will find other products, not regulated and more dangerous, and shared a prayer for wisdom to protect the youth in the community.

Jean Duffy spoke in support of strengthening tobacco regulations.

Dana Stevens, representing Communities Against Substance Abuse (CASA), provided a handout to Council with information about vaping devices and flavored tobacco products. Ms. Stevens stated that vaping product ingredients are not labeled properly, and she stated her support of the banning of vaping products.

Bonnie Price supports the banning of all tobacco and vaping products.

Amanda McGimpsey spoke in opposition of vaping products. She requested a temporary ban, until long term effect studies are available.

Julie Vish stated that vaping is a healthier alternative to smoking cigarettes. She suggested making the youth responsible for their actions if found to be using vaping devices in schools.

Carol Green, representing the California National Parent Teacher Association, stated that a large group of school age children complain of vaping in their schools.

ADMINISTRATIVE REPORTS: (Item 15 – Continued)

Conversation continued amongst Councilmembers regarding the harmful effects of vaping by minors. Discussion continued considering drafting an ordinance to ban devices disguised as other everyday use items, such as USB devices.

MOTION BY KENDRICK, SECOND BY McCLELLAN, to DRAFT an Ordinance banning vaping devices designed to look like something other than a vaping device.

Discussion continued amongst Councilmembers regarding:

- Water-based products sold by permitted vaping stores v. oil based products sold online;
- Concern about restricting parental rights;
- The right of adults' ability to purchase vaping products;
- Suggestion to collect data of confiscated items by schools;
- How to protect children without limiting adults' rights; and
- Suggestion for an ordinance with 'sunset' clause to expire when FDA provides findings on effects of vaping.

Councilmember Kendrick rescinded the previous motion, second by Councilmember McClellan.

MOTION BY KENDRICK, SECOND BY McCLELLAN, to DRAFT and present Ordinances banning vaping devices designed to look like something other than a vaping device, including an ordinance with a sunset provision to expire with findings from the Food and Drug Administration.

Mayor Wells stated he would be voting against the proposed Motion. Mayor Wells added that although he is not in favor of smoking, he must protect the freedom of individuals to choose what is best for them.

**MOTION FAILED BY A 3 - 2 VOTE
Goble, Ortiz and Wells – NO
Kendrick and McClellan - YES**

*Recess called at 5:32 p.m.
Meeting called back to order at 5:39 p.m.*

ADMINISTRATIVE REPORTS: (Continued)

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.

DISCUSSION

City Manager Mitchell provided detailed information of the Item.

Julie Elkins, representing the American Cancer Society, Cancer Action Network, spoke in support of the proposed Ordinance.

Molly Sylvester, representing Communities for Safer Vaping, spoke in support of the item.

Remon Mansour, representing Communities for Safer Vaping, spoke in support of the item.

James Mitchell, representing Communities for Safer Vaping, spoke in support of the item, and suggested offering a rebate on the fines imposed if training is provided by the store owner for employees.

Councilmember McClellan spoke against the proposal for a rebate on fines.

Dana Stevens, representing CASA, spoke in support of the proposed Ordinance.

Conversation ensued among Council, Staff and Ms. Dana Stevens regarding:

- The proposed fines are less than the existing amounts;
- Consideration of refunds to businesses who were cited and receive identification training by CASA;
- Consider refunds if fines are substantially raised;
- Consideration of not adopting the proposed Ordinance to change again;
- Administrative Hearing Judges being too lenient; and
- Consideration of extended suspension periods.

Mayor Wells spoke in opposition of making changes to the submitted Ordinance, and reminded Councilmembers that what is being presented is what was approved by Council a few weeks ago.

ADMINISTRATIVE REPORTS: (Item 16 - Continued)

MOTION BY GOBLE, SECOND BY KENDRICK, to DIRECT Staff to revise the proposed Ordinance to include; 1st offense \$2500 fine with a \$500 rebate for compliance of training for legal owner and their employees within 90 days of citation; 2nd offense \$2500 fine, 60 day suspension, training by CASA; 3rd offense \$2500 fine, 120 day suspension; and 4th offense revocation of Tobacco Retailer's License.

**MOTION CARRIED BY A 4 - 1 VOTE
(Wells – NO).**

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.

DISCUSSION

City Manager Mitchell provided information of the Item.

No one came forward to speak.

MOTION BY KENDRICK, SECOND BY ORTIZ, to ADOPT Resolution No. 112-19 to adjust the cafeteria benefit allotment from \$1,150 per month to \$1,200 per month, effective January 2020, for Mayor and City Councilmembers.

MOTION CARRIED BY UNANIMOUS VOTE.

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.

18. Council Activities Report/Comments

Report as stated.

ACTIVITIES REPORTS/COMMENTS OF MAYOR WELLS: (Continued)

19. Legislative Update: 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.

DISCUSSION

Mayor Wells spoke about the increasing problem of reckless driving in the City, and suggested an education program for citizens to report offenders.

Deputy Mayor Goble supports the idea and suggests procuring grant funding to implement the program.

No motion was required.

ACTIVITIES REPORTS OF COUNCILMEMBERS:

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

Council Activities Report/Comments.

Report as stated.

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

Council Activities Report/Comments.

Report as stated.

ACTIVITIES REPORTS OF COUNCILMEMBERS: (Continued)

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.

Council Activities Report/Comments.

Report as stated.

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

Council Activities Report/Comments.

In addition to the submitted report, Councilmember Ortiz stated that on November 5, 2019, he had a telephone conversation with Republic Services.

JOINT COUNCILMEMBER REPORTS: None

GENERAL INFORMATION ITEMS FOR DISCUSSION: None

ORDINANCES: FIRST READING - None

ORDINANCES: SECOND READING AND ADOPTION - None

The following Item was added per Action taken under Agenda Changes:

Resolution waiving bidding and authorizing open market acquisition of sewer-billing services and authorizing the City Manager to execute temporary interim contracts in order to maintain sewer-billing services.

RECOMMENDATION:

That the City Council adopts the next Resolution, in order, waiving bidding and authorizing open market acquisition of sewer-billing services; and authorizing the City Manager to execute agreements in order to maintain sewer-billing services within the City of El Cajon, in the not-to-exceed amount authorized in the Fiscal Year 2019-20 Annual Budget of \$608,210.

Item added per Action taken under Agenda Changes: (Continued)

DISCUSSION

Director of Public Works, Dirk Epperson, shared that Global Water Management announced they will be going out of business as of the end of November 2019. Authorization is needed to utilize the funds within the current budget to execute agreements to maintain sewer-billing services.

In answer to questions by Council, City Attorney Foley stated he will review the agreement with Global Water to figure out if a breach of contract is to be considered.

City Manager Mitchell clarified that this is a temporary solution. A proposal for a permanent plan will be presented to Council in the future.

No one came forward to speak.

MOTION BY McCLELLAN, SECOND BY KENDRICK, to ADOPT Resolution No. 113-19 to waive bidding and authorize open market acquisition of sewer-billing services; and authorize the City Manager to execute agreements in order to maintain sewer-billing services within the City of El Cajon, in the not- to-exceed amount authorized in the Fiscal Year 2019-20 Annual Budget of \$608,210.

MOTION CARRIED BY UNANIMOUS VOTE.

CLOSED SESSIONS:

RECOMMENDATION: That the City Council/Housing Authority/Successor Agency to the El Cajon Redevelopment Agency adjourned Closed Session as follows:

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

DISCUSSION

Kristine Costa, Waste Management Representative, submitted letters of support from community partners, in favor of Waste Management continuing at the current location.

CLOSED SESSIONS: (Continued)

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

DISCUSSION

Michael Simonsen, introduced himself as the Republic Services Representative and encouraged Council to consider their proposal for the 1001 West Bradley Ave property.

MOTION BY WELLS, SECOND BY KENDRICK, to ADJOURN to Closed Session at 6:47 p.m.

MOTION CARRIED BY UNANIMOUS VOTE.

RECONVENE TO OPEN SESSION AT 7:15 p.m.

City Attorney Foley reported the following actions:

Item 25: Council agreed to finalize negotiations with Waste Management Inc., for the lease of the property located at: 1001 West Bradley Ave., giving directions to negotiators. This decision renders Item 26 moot.

Adjournment: Mayor Wells adjourned the Regular Joint Meeting of the El Cajon City Council/Housing Authority/Successor Agency to the El Cajon Redevelopment Agency held this 12th day of November 2019, at 7:15 p.m., to Tuesday, December 10, 2019, at 3:00 p.m.

ANGELA L. CORTEZ, CMC
City Clerk/Secretary