



# AGENDA

## MEETING OF THE CHARTER COMMITTEE

**Monday, February 26, 2018, 7:00 p.m.**

**El Cerrito City Hall**  
Hillside Conference Room  
10890 San Pablo Avenue  
El Cerrito, CA 94530

**This Meeting Place Is Wheelchair Accessible**

### Roll Call

#### 1. Oral Communications from the Public

*(Each speaker is limited to a maximum of 3 minutes.)*

#### 2. Approval of the Minutes

Approve the February 5 and 12, 2018 Committee meeting minutes.

#### 3. Review and possible Direction on Draft City Charter

The City Attorney will introduce the draft charter for the Committee's review. The Committee will provide comments and possible direction toward its completion.

#### 4. Items for next meeting

- a. Discuss draft preamble
- b. Information about potential Real Property Transfer Tax rate and characteristics
- c. Next Steps

#### 5. Adjournment

*Any writings or documents provided to a majority of the Charter Committee regarding any item on this agenda will be made available for public inspection in the City Manager's Office located at 10890 San Pablo Avenue during normal business hours.*

### COMMUNICATION ACCESS INFORMATION

*To request a meeting agenda in large print, Braille, or on compact disk, or to request a sign language interpreter for the meeting, call Cheryl Morse, City Clerk at 215-4305 at least FIVE (5) WORKING DAYS NOTICE PRIOR TO THE MEETING to ensure availability.*

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# MINUTES

## MEETING OF THE CHARTER COMMITTEE

**Monday, February 5, 2018, 7:00 p.m.**

**El Cerrito City Hall**

City Council Chambers

10890 San Pablo Avenue

El Cerrito, CA 94530

**This Meeting Place Is Wheelchair Accessible**

### **Roll Call**

Members Patterson, Eizenberg, Fadelli, Gagne, Keller, Lyman and Moore all present.

### **Convene Special Charter Committee meeting**

The Charter Committee meeting was convened at 7:00 p.m.

City Manager Scott Hanin and City Attorney Sky Woodruff also present.

### **1. Introductions**

### **2. Oral Communications from the Public – *No speakers.***

### **3. Elections of Chair and Vice Chair**

**Action:** Moved, seconded and carried unanimously to elect Dick Patterson as Chair and Melissa Eizenberg as Vice-Chair.

### **4. Overview of Charter Cities vs. General Law Cities**

Staff will provide a presentation on the differences between the two forms of local government.

Committee members received the presentation. Staff clarified questions and responded to comments from Members. No action was taken.

### **5. Description of City Council Direction Regarding Draft Charter**

The City Attorney will provide an overview of the City Council direction to the Committee and an overview of its purpose in preparing a draft Charter.

Committee members received the presentation. No action was taken

### **6. Schedule Next 2-3 Meetings**

**Action:** The Committee, by mutual consensus scheduled the following dates for future meetings:

City of El Cerrito  
Special Charter Committee Meeting Agenda

Monday, February 12th – 7:00 p.m.  
Monday, February 26th – 7:00 p.m.  
Saturday, March 10th – 9:00 a.m.  
Thursday, March 22nd – 7:00 p.m.  
Monday, April 2nd – 7:00 p.m.  
Saturday, April 7th – 10:00 a.m. (tentative)

**7. Adjourned** at 8:43 p.m.



# MINUTES

## MEETING OF THE CHARTER COMMITTEE

**Monday, February 12, 2018, 7:00 p.m.**

**El Cerrito City Hall**

City Council Chambers

10890 San Pablo Avenue

El Cerrito, CA 94530

**This Meeting Place Is Wheelchair Accessible**

### **Roll Call**

Present: Members Fadelli, Gagne, Keller, Lyman, Moore, and Chair Patterson.

Absent: Member Eizenberg (excused).

### **Convene Special Charter Committee meeting.**

Chairperson Patterson convened the Charter Committee meeting at 7:00 p.m.

City Manager Scott Hanin and City Attorney Sky Woodruff also present.

### **1. Review of Existing City Charters**

Staff will facilitate a discussion on the elements of other City Charters and how they relate to the City Council direction in El Cerrito.

Councilmember Lyman requested clarification regarding key California Constitution provisions and Councilmember Fadelli requested information and clarification regarding timelines and reiterated that most things discussed could be reconsidered at a later date with a Charter Amendment if it were the will of the people. Committee members Keller, Moore and Chair Patterson offered suggestions for moving forward with charter review and development. All members participated in discussions on components that would be included and consistent with City Council direction.

Sky Woodruff, City Attorney, discussed the scope of the charter power and highlighted the different approaches contained in charters from the following cities: Auburn, Carlsbad, Emeryville, Lafayette, Palm Desert and San Ramon.

*Item Nos. 1 and 2 were combined and discussed together.*

### **2. Discussion of Potential City Charter Components**

Discussion and possible direction on specific elements to be considered in the El Cerrito draft charter.

**Action:** The Charter Committee reviewed and discussed various provisions of charter language from the cities identified above. The Committee, by mutual consensus, decided on the following points for inclusion into a draft charter:

1. The draft charter should include a preamble that staff will draft after charter language is developed;
2. Municipal affairs/Powers of the City/Home Rule – broad powers particularly as it relates to municipal ability to levy taxes and assessments and a real property transfer tax specifically;
3. There will be language that does not change public contracting or the prevailing wage.
4. Boilerplate language such as amendments and severability will be included.

### **3. Oral Communications from the Public**

Howdy Goudey, El Cerrito, thanked staff for publicizing the meeting and encouraged committee members to be transparent and communicate with the broader public. Mr. Goudey commented on the structure of the charter and suggested distinguishing between issues that the committee wants to stay the same that would require a vote of the public to change versus those things that would not. He also said it is important to identify and communicate what the money will be used for in public outreach if the real property transfer tax measure is enacted.

### **4. Items for next meeting**

City Attorney Woodruff will present a draft charter for review and discussion at the Committee's February 26, 2018 meeting.

### **5. Adjourned** at 9:06 p.m.

**CHARTER OF THE CITY OF EL CERRITO**

**STATEMENT OF PURPOSE (PREAMBLE)**

**ARTICLE I. ESTABLISHMENT OF HOME RULE, POWER OVER MUNICIPAL AFFAIRS, GENERAL LAW POWERS**

Section 100. Powers of the City. The City of El Cerrito (the "City") shall have full power and authority to adopt, make, exercise, and enforce all legislation, laws, ordinance, resolutions, and regulations with respect to municipal affairs, subject only to the limitations and restrictions imposed on that power by this Charter, the Constitution of the State of California, and the laws of the United States.

Section 101. Municipal Affairs. Municipal affairs encompass all matters of local concern as determined by the City Council consistent with the meaning of "municipal affairs" under the constitutional, statutory, and judicially defined law of the State of California. Each of the matters set forth in this Charter are declared to be municipal affairs, consistent with the laws of the State of California. The municipal affairs set forth in this Charter are not intended to be an exclusive list of municipal affairs over which the City Council may govern. The exercise of home rule over each matter set forth in this Charter uniquely benefits the citizens of the City and addresses peculiarly local concerns within the City.

Section 102. Powers under State Law.

- (a) In addition to the power and authority granted by this Charter and the Constitution of the State of California, the City shall have the power and authority to adopt, make, exercise, and enforce all legislation, laws, ordinances, resolutions, and regulations and to take all actions and to exercise any and all rights, powers, and privileges heretofore or hereafter established, granted or prescribed by any law of the State of California or by any other lawful authority. In the event of any conflict between this Charter and the general laws of the State of California related to a municipal affair, this Charter shall control.
- (b) Nothing in this Charter is intended to restrict the City in exercising any right, power or authority granted under the general laws of the State of California. However, the provisions of this Charter shall prevail in the event of any conflict with general law, unless preempted by state law on matters of statewide concern.

**ARTICLE II. CONTINUATION OF BOUNDARIES, FORM OF GOVERNMENT,  
AND EXISTING LAW**

Section 201. Incorporation and Succession. The City shall continue to be a municipal corporation known as the City of El Cerrito. The boundaries of the City shall continue as established prior to this Charter taking effect until changed in the manner authorized by law. The City shall remain vested with and shall continue to own, have, possess, control, and enjoy all property rights and rights of action of every nature and description owned, had, possessed, controlled, or enjoyed by it at the time this Charter takes effect. The City shall be subject to all debts, obligations, and liabilities of the City at the time this Charter takes effect. All lawful ordinances, resolutions, rules, and regulations, or portions thereof, enforced at the time this Charter takes effect and not in conflict with or inconsistent herewith, are hereby continued in force until the same have been duly repealed, amended, changed, or superseded by proper lawful action.

Section 202. Form of Government. The government of the City shall continue to be the Council-Manager form of government as established by the El Cerrito Municipal Code at the time that this Charter takes effect and by the laws of the State of California. The Council-Manager form of government of the City may be changed in the same ways and using the same procedures as a general law city.

Section 203. City Council, City Manager, and City Attorney.

- (a) The City Council shall establish the policy of the City. The City Manager shall carry out that policy.
- (b) The City Manager, as the chief administrative officer of the City, shall appoint all department heads other than the City Attorney. Involvement in administrative matters by the City Council or by any individual Councilmember shall occur only by direction of the City Manager.
- (c) The City Council shall appoint the City Attorney. The City Attorney may be an employee of the City or an independent contractor providing legal services pursuant to a contract.

Section 204. Continuation of Existing Local Laws. All ordinances, codes, resolutions, regulations, rules, and portions thereof, in force at the time this Charter takes effect, and not in conflict or inconsistent herewith, shall continue in force until repealed, amended, changed, or superseded in the manner provided by this Charter and any other applicable laws.

Section 205. General State Laws. Except as provided in this Charter and in any ordinance, code, resolution, or other law adopted by the City Council regarding a matter

that is a municipal affair, the City shall be governed by the general laws of the State of California.

**ARTICLE III. MUNICIPAL REVENUE**

Section 300. Revenue Raising Power. The City may exercise all powers of a charter city to generate revenue, including but not limited to taxes, fees, assessments, and other charges.

Section 301. Real Property Transfer Tax. Without limiting the general power of the City, as expressed in Section 300 above, to generate revenue, the City may impose a tax on the conveyance of real property, based upon the price paid for the real property (“real property transfer tax”). Any real property transfer tax imposed by the City shall be in addition to any similar tax authorized by the general laws of the State of California.

**ARTICLE IV. PREVAILING WAGES FOR PUBLIC WORKS AND PUBLIC CONTRACTING**

Section 400. State Prevailing Wage Law. The City shall comply with the laws of the State of California applicable to general law cities regarding the payment of prevailing wages for public works projects.

Section 401. Contracting for Public Works. The City shall comply with the laws of the State of California applicable to general law cities regarding contracting for public works. The City’s laws, ordinances, codes, resolutions, and policies implementing State laws regarding contracting for public works shall continue to apply when this Charter takes effect and may be amended thereafter.

**ARTICE V. LABOR RELATIONS**

Section 500. State Labor Relations Law. The City shall comply with the laws of the State of California applicable to general law cities regarding labor relations. The City’s laws, ordinances, codes, resolutions, and policies implementing State laws regarding labor relations shall continue to apply when this Charter takes effect and may be amended thereafter.

**ARTICLE VI. ELECTIONS**

Section 600. State Elections Law. The City shall comply with the laws of the State of California applicable to general law cities regarding elections. The City’s laws, ordinances, codes, resolutions, and policies implementing State laws regarding elections shall continue to apply when this Charter takes effect and may be amended thereafter.

Section 601. Initiative, Referendum, and Recall. Without limiting the general applicability of Section 600 of this Charter, the City shall comply with the laws of the State of California applicable to general law cities regarding initiative, referendum, and recall.

**ARTICLE VII. INTERPRETATION, SEVERABILITY, AND AMENDMENT**

Section 700. Construction and Interpretation. The language of this Charter is intended to be permissive rather than exclusive or limiting and shall be liberally and broadly construed in favor of the exercise by the City of its power to govern with respect to any matter that is a municipal affair. Every reference in this Charter to state or federal law shall mean that law as it exists when this Charter takes effect or as it may thereafter be amended.

Section 701. Severability. If any provision of this Charter should be held by a court of competent jurisdiction to be invalid, void, or otherwise unenforceable, the remaining provisions shall remain enforceable to the fullest extent permitted by law.

Section 702. Amendment of Charter. As provided by state law, this Charter, and any of its provisions, may be amended by a majority vote of the electors voting on the question. Amendment or repeal may be proposed by initiative or by the City Council.