

EL CERRITO CITY COUNCIL EL CERRITO REDEVELOPMENT AGENCY

MINUTES

SPECIAL REDEVELOPMENT AGENCY CLOSED SESSION

Monday, June 29, 2009 – 6:00 p.m.

Hillside Conference Room

SPECIAL CONCURRENT MEETING OF THE EL CERRITO CITY COUNCIL/REDEVELOPMENT AGENCY

Monday, June 29, 2009 – 8:00 p.m.

City Council Chambers

Meeting Location

El Cerrito City Hall

10890 San Pablo Avenue, El Cerrito

Sandi Potter – Mayor

Mayor Pro Tem Janet Abelson
Councilmember Greg Lyman

Councilmember/Agency Chair William C. Jones, III
Councilmember/Agency Vice-Chair Ann Cheng

ROLL CALL

Agency Members Abelson, Cheng, Lyman, Potter and Chairperson Jones all present.

6:00 p.m. CONVENE SPECIAL REDEVELOPMENT AGENCY MEETING

Chairperson Jones convened the Special Redevelopment Agency Meeting at 6:01 p.m.

ANNOUNCEMENT OF CLOSED SESSION

- 1) CONFERENCE WITH REAL PROPERTY NEGOTIATIONS**
Pursuant to Government Code Section 54956.8

Property: 11450 San Pablo Avenue
El Cerrito, CA 94530

Agency Negotiators: Scott Hanin, Executive Director
Karen Tiedemann, Redevelopment Agency Counsel
Lori Treviño, Redevelopment Agency Manager

Negotiating Party: Target Corporation

Under Negotiation: Terms

2) CONFERENCE WITH REAL PROPERTY NEGOTIATIONS
Pursuant to Government Code Section 54956.8

Property: 10070 San Pablo Avenue, El Cerrito, CA 94530

Agency Negotiators: Scott Hanin, Executive Director
Karen Tiedemann, Redevelopment Agency Counsel
Lori Treviño, Redevelopment Agency Manager

Negotiating Party: Pleasantown Motion Picture Company, LLC

Under Negotiation: Terms

3) CONFERENCE WITH LEGAL COUNSEL--ANTICIPATED LITIGATION

Significant exposure to litigation pursuant to Government Code Sections 54956.9(b) and Initiation of litigation pursuant to Government Code Section 54956.9(c): Downey Street Productions.

ORAL COMMUNICATIONS FROM THE PUBLIC – No speakers.

RECESSED INTO SPECIAL REDEVELOPMENT AGENCY CLOSED SESSION at 6:03 p.m.

POSSIBLE REPORT OUT OF CLOSED SESSION – *See Item No. 2 below.*

ADJOURNED SPECIAL REDEVELOPMENT AGENCY MEETING at 8:08 p.m.

ROLL CALL

Councilmembers/Agency Members Abelson, Cheng, Jones (Agency Chair), Lyman and Mayor Potter all present.

8:00 p.m. CONVENE SPECIAL CITY COUNCIL/REDEVELOPMENT AGENCY MEETING

Mayor Potter convened the Special City Council/Redevelopment Agency meeting at 8:15 p.m.

1. PLEDGE OF ALLEGIANCE TO THE FLAG was led by Councilmember Jones.

2. COUNCIL / STAFF COMMUNICATIONS

Redevelopment Agency Chair Jones announced the following report regarding this evening's closed session meetings:

1. Conference with Real Property Negotiators Pursuant to Government Code 54956.8 regarding Target:

The Agency Board gave direction to the negotiators.

2. Conference with Real Property Negotiators Pursuant to Government Code 54956.8 regarding the Cerrito Theater:

The Agency Board gave direction to the negotiators.

3. Conference with Legal Counsel—Anticipated Litigation Pursuant to Government Code Section 54956.9 (b) & (c)—exposure to litigation and initiation of litigation, respectively.

This action was taken in response to numerous recent threats made by Downey Street Productions, the former operators of the Cerrito Theater, against the El Cerrito Redevelopment Agency. Downey Street Productions has claimed that the Cerrito Theater is in fact the property of Downey Street Productions; not the City of El Cerrito Redevelopment Agency. Because they believe this to be true, they are threatening the Agency with filing an injunction against entering into a new lease with the proposed new operators, and are claiming that the Agency owes them damages in the neighborhood of \$4 million dollars. We have been informed that Downey Street Productions has been making similar threats of litigation directly to Rialto Cinemas.

Up to this point, it has not been the desire of the Redevelopment Agency to pursue litigation against or to seek monies due to the Agency by Downey Street Productions. Our interest has been in moving forward with a new operator once Downey Street Productions broke off negotiations by informing the Agency of their intent to close the Cerrito Theater. However, in the event that any litigation is filed against the Redevelopment Agency or the City of El Cerrito by Downey Street Productions, the Agency Board has authorized Agency Counsel to not only defend the Redevelopment Agency and the City against any potential litigation or injunction, but to also file a counter suit against Downey Street Productions to recoup all monies and attorneys fees due the Agency for unpaid rent, loans and taxes. While we hope this action is not necessary, it is important that the Agency protect its investment in the Cerrito Theater.

This information and all other related information will be posted on the City website – www.el-cerrito.org.

Councilmember Lyman reminded all residents that the National Night Out block parties will occur on Tuesday, August 4, 2009 and encouraged interested residents to host a party. Those who are interested in hosting a party can sign up in a number of ways: 1) email crimeprev@eccpc.org; 2) visit the Crime Prevention Committee booth at the 4th of July event; or 3) come to a host meeting at City Hall on July 16 or July 23.

Mayor Potter reported that she and Councilmember Cheng attended the city sponsored second annual home improvement expo on June 28 and thanked community development and building department staff and the community for attending.

Councilmember Cheng reported that there were 10-15 booths at the Expo and multiple workshops on how to work with contractors and the permitting process. Approximately 200 people attended.

Mayor Potter reported that she will be attending the Mayors Conference in Brentwood on July 2, 2009.

3. ORAL COMMUNICATIONS FROM THE PUBLIC

4. PRESENTATIONS – None

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

Moved, seconded (Jones/Abelson) and carried unanimously to adopt Consent Calendar Item Nos. 5A through 5C in one motion as indicated below.

A. Proclamation Congratulating Denise Pace on Her Appointment as United States Postmaster for the City of El Cerrito

Approve a proclamation proclaiming June 30, 2009, as Denise Pace Day in the City of El Cerrito and calling upon all residents to join in this day of acclaim for Ms. Pace, and her staff, who so admirably serve our community.

Action: Approved proclamation.

B. Environmental Quality Committee Appointments

Approve a recommendation by the Environmental Quality Committee to appoint the following individuals to the Committee effective June 30, 2009: Natasha Benjamin, Mildred Dandridge, Ellen Spitalnik, Frank Wong, and Rebecca Benassini.

Action: Approved recommendation and appointed Natasha Benjamin, Mildred Dandridge, Ellen Spitalnik, Frank Wong and Rebecca Benassini to the Environmental Quality Committee effective June 30, 2009.

C. Support WCCTAC Efforts to Exclude I-80 for Express Lane Consideration if Assembly Bill 744 is not Modified

Upon recommendation of Mayor Pro Tem Abelson, adopt a resolution supporting West Contra Costa Transportation Advisory Committee (WCCTAC) in its efforts to lobby for the exclusion of I-80 in Contra Costa County for express lane consideration as an amendment to Assembly Bill 744 if amendments are not included in legislation to the satisfaction of WCCTAC and supporting WCCTAC's lobbying efforts in this regard.

Action: Adopted Resolution No. 2009-43.

6. PUBLIC HEARING

Cerrito Theater Operator Selection and Lease Agreement

Conduct a public hearing and upon conclusion adopt:

A City Council resolution making certain findings and approving the lease of the Cerrito Theater property to Pleasantown Motion Picture Company, LLC; and

A Redevelopment Agency resolution making certain findings and authorizing the Executive Director to enter into a five-year Lease Agreement with Rialto Cinemas, Inc. (dba Pleasantown Motion Picture Company, LLC) for the operation of a movie theater and restaurant operation at the Cerrito Theater.

Presenters: Lori Treviño, Redevelopment Manager.

Ky Boyd, Rialto Cinemas, stated that Rialto was pleased to be recommended by Redevelopment Agency staff to the City Council and said Rialto was excited about the prospect of operating the Theater. Mr. Boyd said that Rialto doesn't endorse the previous operators policy on age restrictions and that Rialto is in the process of applying for a Type 41 beer and wine license which will allow minors in the Theater. Mr. Boyd stated that Rialto will develop policies and procedures to prevent minors from being served alcohol. Rialto's vision for the Theater is to move it forward and play films in a much more timely basis. July 15 is the goal for opening the theater. Ticket prices will rise but will be slightly under market compared to surrounding communities.

Michael O'Rand, Rialto Cinemas, responded to accessibility concerns raised by Mayor Pro Tem Abelson.

Dave Corkill, Cinema West – Petaluma, stated that Cinema West had two days to put a proposal together and needed more time to respond to the City's Request for Proposal and expressed his disappointment with the selection process. Mr. Corkill stated that Cinema West is a very experienced and financially strong operator. Cinema West proposes introducing a Powell's Sweet Shop into the Theater. Cinema West is the only theater operator in California that has made a commitment to digital projectors throughout its chain. Mr. Corkill also responded to accessibility concerns raised by Mayor Pro Tem Abelson.

Chairperson Jones opened the public hearing. Six speakers.

Speakers: Dave Weinstein, El Cerrito, speaking on behalf of the *Friends of the Cerrito Theater*, thanked everyone who was working on the Theater and stated that the Friends were not taking a position on a choice of operator for the Theater. Mr. Weinstein stated that the Cerrito Theater is a beautiful work of art and emphasized the importance of historic preservation and recommended that federal historic architectural standards be applied to any work done in the building and that it was his opinion that the Cerrito Theater is eligible for designation on the National Register of Historic Places.

Linda Moss, El Cerrito, said she was happy to hear that the Cerrito Theater will be opening soon and expressed support for the Theater. Ms. Moss stated that she was impressed with the proposals and said the new operators should think carefully about seating and that the tables are essential for food and beverage service. Additionally, the type of food served is really important.

Linda VonBraskat-Crowe, El Cerrito, commented on the advertisement of matinee pricing which she felt was ambiguous and the lack of advertising done by the previous operators of the Cerrito Theater. Ms. Von Brasket also stated that the signature Theater Blade was originally red rather than the current blue.

Dianne Brenner, El Cerrito, stated that she is looking forward to the Cerrito Theater opening soon and commented on the importance of maintaining the donor plaques throughout the Theater which represent the huge outpouring of community support and suggested sparkly black concrete for the front of the Theater. Ms. Brenner also stated that the rear window captioning was never thought out or implemented very well and suggested that a new operator could tend to this. Ms. Brenner also stated that the *Friends* will work with and support the new operators.

Al Miller, El Cerrito, reported on a split-pricing scheme that he observed at the Sundance Theater in Madison, Wisconsin. Mr. Miller encouraged continuation of the public community events that have been held at the Theater and stressed the importance of community access and use of community days at the Theater.

Mark Scott, Chamber of Commerce, stated that the Chamber of Commerce does not have an official position on the Cerrito Theater. Mr. Scott thanked staff for an excellent staff report and the technical work on the lease and that the Theater will enhance the community, businesses and property values.

Action: Moved, seconded (Potter/Abelson) and carried unanimously to close the public hearing.

Moved, seconded (Abelson/Potter) and carried unanimously to approve the findings as identified, approve the lease agreement as amended and to adopt City Council Resolution No. 2009-44.

Moved, seconded (Potter/Cheng) and carried unanimously to adopt Redevelopment Agency Resolution No. 588 and the agreement as amended.

7. POLICY MATTERS – None

SUPPLEMENTAL REPORTS

Item No. 6 Cerrito Theater Operator Selection and Lease Agreement

Powerpoint presentation – presented by Lori Treviño, Redevelopment Manager.

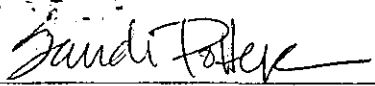
Moved, seconded (Potter/Abelson) and carried unanimously to suspend council rules and extend the meeting to 10:35 p.m.

8. ADJOURNED CONCURRENT EL CERRITO CITY COUNCIL/REDEVELOPMENT AGENCY MEETING at 10:31 p.m.

This is to certify that the foregoing is a true and correct copy of the minutes of the Special Redevelopment Agency and Concurrent City Council/Redevelopment Agency meeting of June 29, 2009 as approved by the El Cerrito City Council and Redevelopment Agency.



Cheryl Morse, City Clerk and Secretary to the Redevelopment Agency



Sandi M. Potter, Mayor



William C. Jones, III, Agency Chair