

# **EL CERRITO CITY COUNCIL EL CERRITO REDEVELOPMENT AGENCY**

## **MINUTES**

### **SPECIAL CITY COUNCIL MEETING**

**Monday, May 4, 2009 – 6:45 p.m.**

**Hillside Conference Room**

### **SPECIAL CONCURRENT CITY COUNCIL/REDEVELOPMENT AGENCY MEETING**

**Monday, May 4, 2009 – 7:30 p.m.**

**City Council Chambers**

### **SPECIAL CONCURRENT CITY COUNCIL/REDEVELOPMENT AGENCY CLOSED SESSION**

**Monday, May 4, 2009 – Immediately Following the Special Concurrent City Council/Redevelopment  
Agency Meeting**

**Hillside Conference Room**

#### **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**

Present: Councilmembers Abelson, Lyman and Mayor Potter present.

Absent: Councilmembers Cheng and Jones.

#### **6:45 p.m. CONVENE SPECIAL CITY COUNCIL MEETING**

Mayor Potter convened the Special City Council Meeting at 6:47 p.m.

**ORAL COMMUNICATIONS FROM THE PUBLIC** – No speakers.

#### **BOARD AND COMMISSION INTERVIEWS AND APPOINTMENTS**

Conduct interviews of candidates for city boards and commissions. Interviews may result in an announcement of appointment at the meeting. The Council may also discuss scheduling of

future interviews.

**Action:** Interviews conducted. *Announcement of appointments occurred during the Concurrent City Council / Redevelopment Agency meeting. See Item 2 below.*

**ADJOURNED SPECIAL CITY COUNCIL MEETING** at 7:34 p.m.

## **ROLL CALL**

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

## **7:30 p.m. CONVENE SPECIAL CONCURRENT CITY COUNCIL/REDEVELOPMENT AGENCY MEETING**

Mayor Potter convened the Special Concurrent City Council/Redevelopment Agency meeting at 7:36 p.m.

1. **PLEDGE OF ALLEGIANCE TO THE FLAG** was led by Mayor Potter.
2. **COUNCIL / STAFF COMMUNICATIONS**

### **Council Communications**

Mayor Potter announced that a quorum of the City Council attended a state budget workshop on May 2 in which Assembly Member Skinner informed the public of the special ballot measures on the May 19 Statewide Special Election.

Mayor Potter also announced the City Council's (Absent – Cheng and Jones) commission appointments: 1) Hale Kronenberg to the Financial Advisory Board for a term ending January 1, 2013; 2) Michele Jawad to the Human Relations Commission for a term ending January 1, 2013; and 3) Paul Lupinsky to the Arts & Culture Commission for a term ending January 1, 2013.

Councilmember Jones announced that the San Pablo Avenue Specific Area Plan Committee met last week and will submit a report and recommendation to the El Cerrito and Richmond City Councils by the end of year. There will be 2-3 more public meetings and an environmental review will also be conducted. Dates of upcoming meetings will be made available by the Community Development Department soon.

Councilmember Lyman noted and acknowledged the beauty of Earth Day. Councilmember Lyman was a work party leader at Tassajara Park. Tehiyah Day School also participated in tree planting.

Mayor Potter thanked the public for their donations of art supplies for the recycled art project on Earth Day and also thanked the staff for their hard work on the event.

**Staff Communications - Bruce King Memorial Dog Park Fund** – Monica Kortz, Recreation Director.

Ms. Kortz, reported that the city has received many suggestions for honoring Bruce King. Mr. King was an avid dog lover who cared for nine dogs. With the support of his family, friends and co-workers, the city has begun accepting donations in remembrance of Mr. King for creation of a dog park in El Cerrito. Ms. Kortz reported that the Parks and Recreation Commission had been

studying the idea of a dog park for the past three years.

Michael Bond, Fire Marshall, reported that the Fire Department will begin vegetation management inspections and code compliance related to weed hazard abatement next week. The list of those who are non-compliant will come before the Council at their June meeting.

**3. ORAL COMMUNICATIONS FROM THE PUBLIC** – No general comment speakers.

**4. PRESENTATIONS**

**Fire Department Operational Overview** – *Presentation by Fire Chief Lance Maples and Battalion Chief Michael Pigoni.*

Presenter: Michael Pigoni, Battalion Chief.

**Action:** Presentation heard.

**5. ADOPTION OF THE CONSENT CALENDAR – Items 5A through 5F**

*[This item was considered after Agenda Item 6 to accommodate the large number of people present for Item 6 – Cerrito Theater.]*

Moved, seconded (Abelson/Jones) and carried unanimously to adopt Consent Calendar Items 5A through 5F as indicated below.

JOINT CITY COUNCIL/REDEVELOPMENT ITEMS

**A. Minutes for Approval**

Approve the April 20, 2009 Special Concurrent City Council/Redevelopment Agency meeting, Special City Council Closed Session and Special Redevelopment Agency meeting minutes.

**Action:** Approved minutes.

**B. Disposal of Personal Property and Plans for Interim Use of the Former Conwill Property Located at 10860 and 10840 San Pablo Avenue**

Approve a recommendation approving the disposal of personal property at 10860 and 10848 San Pablo Avenue through a public sale to benefit the City of El Cerrito's Fourth of July Fund; authorize staff to dispose of any remaining personal property subsequent to the public sale; and authorize staff to utilize the former Conwill property for appropriate interim uses.

**Action:** Approved recommendation.

CITY COUNCIL ITEMS

**C. Ordinance for Second Reading** (*First Reading April 20, 2009; Ayes – Abelson, Jones, Lyman and Potter; Noes – None; Absent – Cheng*)

Waive further reading and adopt Ordinance 2009–03 amending El Cerrito Municipal Code Chapters 19.06, 19.14, 19.20, 19.26, 19.27, 19.47 and portions of the official zoning map contained in Title 19 ("Zoning Ordinance").

**Action:** Adopted Ordinance No. 2009–03.

**D. Claim Against the City**

Reject Derek Prosser claim, No. GL – 009073, per claims administrator.

**Action:** Rejected claim per claim administrator.

**E. March 31, 2009 Quarterly Investment Report**

Receive and file the March 31, 2009 Quarterly Investment Report.

**Action:** Received and filed.

**F. Environmental Quality Committee Appointment**

Approve an Environmental Quality Committee recommendation to appoint Sam Krueger to the Environmental Quality Committee.

**Action:** Approved recommendation.

**6. POLICY MATTERS****REDEVELOPMENT AGENCY ITEM****Resolution of Lease Obligations with Downey Street Productions for the Cerrito Theater and Purchase of Theater Equipment**

Adopt a resolution which: 1) Authorizes Redevelopment Agency staff to transition the operation of the Cerrito Theater from Downey Street Productions to a new operator, including the acquisition of Downey Street Production's equipment and fixtures at the Cerrito Theater to aid in that transition; 2) Appropriates up to \$100,000 in Redevelopment funds for equipment acquisition; and 3) Authorizes staff to take the necessary steps to terminate the Cerrito Theater Lease Agreement with Downey Street Productions in conjunction with finding a new operator for the Cerrito Theater.

*[The City Council/Redevelopment Agency, in deference to the large amount people present to speak on this item, re-ordered the agenda to place this policy item before the consent calendar and public hearing.]*

**Presenter:** Lori Treviño, Redevelopment Manager.

**Speakers:** Dave Weinstein, El Cerrito, Chairperson, Friends of Cerrito Theater, thanked the Redevelopment Agency for their support of the Cerrito Theater, noted that the theater is a vibrant part of downtown and acknowledged the public in attendance in support of the theater. Mr. Weinstein stated that he would hate to see the theater go dark and encouraged the City to keep it as a viable business and thanked the Fischers for the energy they have put into the theater.

Ken Berndt, El Cerrito, stated that out of forty requests for proposals were sent out by the city only one was received. Mr. Berndt stated that he wanted a theater but not at its current cost or expense. Mr. Berndt referred to an April 2000 email in the agenda packet which indicated that the theater was too expensive. In 2001 Speakeasy said it was interested but did not have the funds to proceed. The Parkway Theater is closed. Mr. Berndt said that there were a lot of accusations on both sides and requested performance of an audit or investigation of the entire issue.

Michael Beer, Richmond, expressed his interest in civic mindedness, particularly his attendance in a recent CERT Training and noted that the theater is really a positive amenity in the community. Mr. Beer encouraged the Agency to support the Theater, noted that the entire block

is going into revitalization, and expressed appreciation for the selection of films at the theater.

Jessica Jones, El Cerrito, expressed her support for the Cerrito Theater and stated that the Theater was a big draw for friends coming to El Cerrito.

Ann Lehman, El Cerrito, stated that a Dog Park in Mr. King's honor was a wonderful idea and encouraged the Redevelopment Agency to support the theater and continue the operation of the theater. Ms. Lehman noted that the Theater has brought success to the community.

Peter Loubal, El Cerrito, said it would be sad to have the theater boarded up, asked the Agency to discuss the City's exposure in regard to Downey Street's debts and requested more openness regarding the BBI litigation and payment of delinquent property taxes. Mr. Loubal said too much information was hidden.

Jim Wright, El Cerrito, expressed his support for the Cerrito Theater, commended the city for launching the theater and commented on how the theater has benefited the community.

Betty Tran, El Cerrito, said that she has seen how the theater has increased traffic and visibility and noted the positive effects on nearby businesses. Ms. Tran encouraged the Council to keep Downey Street as the operator and keep the Theater as a viable business.

Todd Price, El Cerrito, expressed his support for the Cerrito Theater, stated that he was happy to see his taxes go toward the theater, and noted that the area has a lot of charm.

Henri Norris, San Francisco, identified herself as an early investor in Downey Street Productions and stated that she has a lot of faith in the operators to make the business work.

Martha Davis, El Cerrito, expressed her appreciation for the political and family film programming and encouraged the Redevelopment Agency to support the Theater.

Arlin Robbins, El Cerrito, suggested utilizing the Downey Street skills set to run the Theater, by employing [the Fischers] and suggested that the City take over the management and financial aspects of the operation, perhaps by having a small committee in charge of operations.

Sara Baxter, El Cerrito, expressed her love for the community and stated that the Theater means a lot to her family.

Peter Prato, Oakland, identified himself as the lead organizer for the Parkway Theater, commented on the emotions surrounding the Theater and expressed the Oakland community's support for the Cerrito Theater.

Fletcher Oakes, Richmond, expressed appreciation for the art-deco restoration of the Theater, the revitalization occurring in El Cerrito, the importance of the Theater to the community and encouraged the Redevelopment Agency to support the Theater.

Lea Rude, El Cerrito, expressed her appreciation for the uniqueness of the Cerrito Theater.

**Action:** Moved, seconded (Lyman/Abelson) and carried unanimously to authorize the appropriation of \$100,000 of redevelopment funds for the acquisition of equipment from Downey Street Productions contingent on Agency Board approval and on Downey Street Productions obtaining a dismissal of the Agency and the City from litigation with BBI Construction, Downey Street's contractor, to which the Agency and the City are parties.

**Action:** Moved, seconded (Potter/Lyman) and carried unanimously to authorize Redevelopment Agency staff to transition operation of the Cerrito Theater from Downey Street Productions to a new operator, including the acquisition of Downey Street Production's equipment and fixtures at the Cerrito Theater to aid in this transition.

**Action:** Moved, seconded (Potter/Cheng; Ayes – Abelson, Cheng, Jones and Potter; Noes – Lyman) and carried to authorize staff to take the necessary steps to terminate the current Cerrito Theater Lease Agreement with effort towards a cure with Downey Street Productions in conjunction with finding a new operator for the Cerrito Theater.

**Action:** Adopted a revised Redevelopment Agency Resolution No. 584.

Moved, seconded (Abelson/Lyman) and carried unanimously to suspend council rules and extend the meeting to 11:00 p.m.

## 7. PUBLIC HEARING

### **Appeal of a Planning Commission Condition of Approval to Limit a Fence to 3 Feet High in the RS – 5 (Single Family Residential) Zoning District at 1460 Navellier Street**

Conduct a public hearing and upon conclusion adopt a resolution granting an appeal to delete a condition of approval of a Planning Commission decision for Use Permit PL09-0032 that limits a fence height to 3 feet (3') along the front setback and allow a 5 feet (5') high open work wrought iron fence to be constructed within the front setback on the subject site.

Presenters: Noel Ibalio, Senior Planner, Community Development Department.

Mark Menges, appellant, representing the applicant, Ms. Som.

Mayor Potter opened the public hearing. No speakers.

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

**Action:** Moved, seconded (Lyman/Jones; Ayes – Lyman, Jones and Potter; Noes – Abelson and Cheng) and carried to deny the appeal and uphold the Planning Commission's findings and decision to add a condition of approval to limit a fence to 3 feet high in the RS-5 (Single Family Residential) Zoning District at 1460 Navellier Street.

Moved, seconded (Cheng/Jones) and carried unanimously to suspend Council Rules and extend the meeting to 11:10 p.m.

## 8. COUNCIL ASSIGNMENTS/LIAISON REPORTS

A. Mayor Potter reported that the West County Mayors and Supervisors Association meeting was cancelled in April. Many on the City Council are looking forward to attending the Mayors Conference on May 7, as the State Controller will be speaking.

B. Mayor Pro Tem Abelson reported on her attendance at the April 22 Regional I-80 Corridor Summit attendance and a discussion on *Hot Lanes*. The subject of *Hot Lanes* in Contra Costa County was also discussed at the West Contra Costa County Transportation Advisory Committee (WCCTAC) where there was unanimous support for three alterations to a bill proposed by the Metropolitan Transportation Commission. Ultimately, two of the conditions were included in the proposed bill. There is a proposal to place a hot lane in Contra Costa County and Mayor Pro Tem Abelson believes it will make most residents unhappy.

Mayor Pro Tem Abelson also attended an April 23 SB 375 ABAG General Assembly and a May 4 Climate Action Conference.

- C. Councilmember Cheng commented on the work of the San Pablo Avenue Specific Area Plan Committee and said that the Committee will release a draft plan in July to discuss actual content. The last community workshop is scheduled for August.
- D. Councilmember Jones reported that the San Pablo Avenue Specific Area Plan Committee will be meeting through summer and expects everything to be complete by the end of the year. The committee's report and recommendations will go to El Cerrito and Richmond for consideration.
- E. Councilmember Lyman – No report.

## 9. ANNOUNCEMENT OF CLOSED SESSION

### REDEVELOPMENT AGENCY ITEM

#### 1) CONFERENCE WITH REAL PROPERTY NEGOTIATORS

*Pursuant to Government Code Section 54956.8*

**Property:** 11450 San Pablo Avenue  
El Cerrito, CA 94530

**Agency Negotiators:** Scott Hanin, Executive Director  
Lori Treviño, Redevelopment Agency Manager

**Negotiating Party:** Target Corporation

**Under Negotiation:** Terms

### CITY COUNCIL/REDEVELOPMENT AGENCY ITEM

#### 2) CONFERENCE WITH LEGAL COUNSEL – LITIGATION

*Pursuant to Government Code Section 54956.9: One case.*

BBI vs. Downey Street Productions, City of El Cerrito, Redevelopment Agency of the City of El Cerrito, Contra Costa Superior Court Case No. C-08-02249

**RECESSED INTO CONCURRENT CITY COUNCIL/REDEVELOPMENT AGENCY  
CLOSED SESSION at 11:06 p.m.**

**POSSIBLE REPORT OUT OF CLOSED SESSION – No reportable action.**

### **SUPPLEMENTAL COMMUNICATIONS**

**Item No. 6 Resolution of Lease Obligations with Downey Street Productions for the Cerrito Theater and Purchase of Theater Equipment**

1. Gabriel Palmer
2. Camille Mulligan
3. Ann Manheimer
4. Arthur Swislocki

**Item No. 7 Appeal of a Planning Commission Condition of Approval to Limit a Fence to 3 Feet High in the RS – 5 (Single Family Residential) Zoning District at 1460 Nayellier Street**

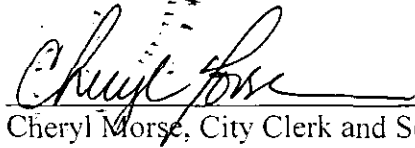
5. Carol Ballanti

**Other**

6. SB375 Fact Sheet – *Submitted by Mayor Pro Tem Abelson*

**10. ADJOURNED CONCURRENT CITY COUNCIL/REDEVELOPMENT AGENCY  
MEETING at 12:18 a.m.**

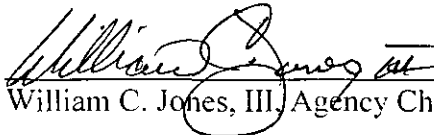
This is to certify that the foregoing is a true and correct copy of the minutes of the concurrent City Council and Redevelopment Agency meeting of May 4, 2009 as approved by the El Cerrito City Council and Redevelopment Agency.



Cheryl Morse, City Clerk and Secretary to the Redevelopment Agency



Sandi M. Potter, Mayor



William C. Jones, III, Agency Chair