

CITY OF EL CERRITO

MINUTES

SPECIAL CITY COUNCIL CLOSED SESSION

Monday, June 4, 2007, 6:45

**JOINT MEETING OF THE EL CERRITO CITY COUNCIL
THE REDEVELOPMENT AGENCY
THE PENSION TRUST BOARD
THE MUNICIPAL SERVICES CORPORATION BOARD
THE PUBLIC FINANCING AUTHORITY**

Monday, June 4, 2007, 7:30 p.m.

Meeting Location

Council Chambers, Community Center
7007 Moeser Lane, El Cerrito

ROLL CALL

Councilmembers: Abelson, Bridges, Jones, Potter, and Mayor Moore

All members were present.

6:45 p.m.

CONVENE SPECIAL CLOSED SESSION

Mayor Moore convened the special closed session meeting at 6:45 p.m.

ANNOUNCEMENT OF CLOSED SESSION

ORAL COMMUNICATIONS

No speakers

**INITIATION OF LITIGATION – CONFERENCE WITH LEGAL COUNSEL
GOVERNMENT CODE SECTION 54956.9(c)**

Albany Unified School District

ADJOURNED SPECIAL CLOSED SESSION at 7:36 p.m.

ROLL CALL

Councilmembers/Agency Members/Board Members/Authority Members: Abelson (Agency Chair), Bridges, Jones, Potter, and Mayor Moore

All members recorded as present.

7:30 p.m. CONVENE JOINT MEETING

Mayor Moore convened the concurrent joint meeting at 7:41 p.m.

1. **Pledge of Allegiance to the Flag** was led by Councilmember Bridges
2. **Possible Report out of Closed Session**

Mayor Moore reported that the City Council has given direction to the City Attorney to initiate litigation against the Albany Unified School District to enforce the requirements of CEQA if the School District's responses to comments on the EIR for Cougar Field fails to adequately address El Cerrito's concerns.

3. **Council/Staff Communications & Announcements**

Councilmember Abelson announced a seismic retrofit seminar at the Senior Center on June 23, 2007 from 10-12. The seminar is primarily focused on single-family residences and is free.

4. **Presentations** – None

5. **Oral Communication from the Public**

Peter Loubal, 6502 Morris Ave., stated that the City Council welcomed the San Pablo Avenue beautification update last month and said it was a colossal waste of money. Trees and bus benches on San Pablo Avenue squander scarce funding. A traffic plan is desperately needed. It makes no sense to consider pedestrian crossings except within the framework of the traffic problem on the Avenue. Mr. Loubal further stated that he was saddened that Ms. Mintz is wasting her talent on this project and that some beautification could have been done at Peets. Another possibility was Albertsons, the housing could be scaled down and there could have been a park that would make use of the existing mature trees. Mr. Loubal concluded by emphasizing that San Pablo Avenue is a major problem.

Dave Weinstein, 155 Ashbury, chair of the Friends of the Cerrito Theater, stated that although it was expected that the Friends would dissolve upon opening of the Theater, they are happy to see the new theater open, see movies there and see people gather there and have decided to continue their membership. Mr. Weinstein thanked Diane Bremmer and Ann Lehman for running the organization when the group was working so hard. Mr. Weinstein stated that the Friends will continue to contribute useful work such as acting as an oversight group. It is the group's goal to preserve the Theater and ensure that the Theater remain an historic building 5-10 years from now. Additionally, the Friends are attempting to request that the Theater be placed on the National Register of Historic Places and are planning on preparing an historical brochure to hand out at the Theater and at City Hall. Mr. Weinstein concluded by recalling that the contract with Speakeasy calls for twelve community days but that no one has put any thought into making the community activities happen. He also thanked the City Council for executing the community's vision and making the Theater happen.

Alton Chinn, 639 Lexington Ave., commended the city on its work on the Cerrito Theater and leveraging the success of the Theater on improving the area. In regard to the library, Mr. Chinn asked if the state bond is not passed in 2008 or if the city cannot secure money from the bond should it pass, would the city continue to go ahead with a land swap with the West Contra Costa Unified School District? What contingencies exist for the library? Mr. Chinn also asked about the Portola site and the feasibility of moving the library and senior center to the lower pad of the Portola site and the possibility that the Council would have to establish the

area as blighted. Mr. Chinn stated that he did not think the area would qualify as a blighted area under the terms of redevelopment law. Finally, Mr. Chin addressed the complicated nature of the proposed land swap which he summarized as closing Fairmont School, moving the library and senior center and placing a middle school on the smaller Fairmont site. All of this depends on the purchase of several properties, if necessary, by eminent domain. Mr. Chinn stated that it is his understanding that the School District cannot act on its own to expropriate these properties and that the City Council must adopt a resolution with findings. Mr. Chinn stated that before additional plans are made the City Council needs to look at all steps necessary and look each of the property owners in the eye and adopt findings that the public benefit of taking their properties outweighs the cost, that the City and the School District have explored all alternatives and that findings will stand up in court.

Councilmember Potter requested clarification from the City Attorney and stated that it is her understanding that findings would be made by the School District. If the School District pursues an eminent domain in their jurisdiction it is up to the School District to make findings.

Alexander Abbe, Assistant City Attorney, explained that the School District would be the agency to exercise eminent domain and stated that the City does not have any say in whether the School District exercises eminent domain power. Mr. Abbe emphasized the District does not need the City's approval for eminent domain, that the city does not control the decision and added that the School District is exempt from most of the city's regulations.

Ann Hotta, 639 Lexington Ave., stated that she is a professional librarian who can see the benefits of having the library next to the community center but asked the City Council to look at the tangible and intangible costs to the community. Ms. Hotta said the School District chose not to look at the Castro School because the neighborhood did not want it and raised a lot of fuss about traffic. The decision was made based on who is shouting the loudest rather than on current constraints and timelines and the best facility for children. Ms. Hotta asked that the City Council consider helping the School District find the best educational solution and the best solution for the city. Ms. Hotta also asked that the city consider something similar to a *Kitchen Democracy* website used in Berkeley and Oakland for gathering a wider range of issues.

6. **Adoption of the Consent Calendar – Items 6A through 6E**

Moved, seconded, carried (Abelson/Jones) to approve items 6A through 6E on the consent calendar. Vote: Unanimous.

A. Landscaping and Lighting Assessment District

Accept the Engineer's Report specifying assessments for the Landscaping and Lighting Assessment District, and adopt the Resolution of Intention to Order Improvements pursuant to the Landscape and Lighting Act of 1972, and setting the time, date, and place of the public hearing as June 18, 2007 at 7:30 p.m.

Action: Adopted Resolution No. 2007-38 and set the public hearing for June 18, 2007 at 7:30 p.m.

B. Revision of the Citiflex Flexible Benefit Plan

Adopt a Resolution approving a revised City of El Cerrito "Citiflex" Section 125 Plan, effective July 2007, and authorizing the City Manager or his designated representative to sign the plan documents and certification.

Action: Adopted Resolution No. 2007-39.

C. Contract with Bagley Equipment Company for Installation of an Oil Collection Area at the Recycling Center

Adopt a Resolution accepting the Bagley Equipment Company bid to install a new used motor oil and oil filter collection area at the Recycling Center and authorizing the City Manager to enter into a contract with Bagley Equipment Company in an amount not to exceed \$27,650.

Action: Adopted Resolution No. 2007-40.

D. Police Senior Records Specialist Classification

Adopt a Resolution amending the City's Job Classification Schedule to retitle the Senior Records Clerk to Senior Records Specialist.

Action: Adopted Resolution No. 2007-41.

E. Installation of Red Curb Ramps at the West Curb of 1711 Eastshore Boulevard

Adopt a Resolution authorizing the Public Works Director/City Engineer to install an additional 90 feet of red curb along the west curb of 1711 Eastshore Boulevard north of the access driveway for Orchard Supply Hardware store.

Action: Adopted Resolution No. 2007-42.

7. PUBLIC HEARINGS

Consideration of the City's Fiscal Year 2007-2008 Budget

Continue the public hearing from the meeting of May 21, 2007 to consider the City's Fiscal Year 2007-2008 Budget and upon conclusion adopt Resolutions of the City of El Cerrito, the El Cerrito Redevelopment Agency, the El Cerrito Public Financing Authority, the El Cerrito Municipal Services Corporation and of the El Cerrito Pension Trust Board, which implement the Fiscal Year 2007-08 annual operating and capital improvement budgets for all Funds and Component Units of the City of El Cerrito.

Mary Dodge, Finance Director, provided a summary of current proceedings by stating the Council had conducted a public hearing on May 21, 2007 which was continued to this evening's meeting. Questions raised at the May 21 meeting have all been addressed. Ms. Dodge reported that the Financial Advisory Board (FAB) had met on April 10, May 8 and May 15, 2007 and had recommended some modification on presentation and format.

Lori Treviño, Redevelopment Agency and Economic Development Program Manager, reported on the Redevelopment Agency budget. Ms. Treviño explained that the Agency is required to make findings for appropriations for public improvements as outlined in the staff report.

COUNCIL COMMENTS

Mayor Pro Tem Jones requested information regarding PERS projections and projections on interest earning rates.

Ms. Dodge replied that PERS has developed a rate-smoothing program and the city expects PERS rates to remain at a fairly high level but the city does not anticipate huge spikes as in the past.

PUBLIC COMMENT

Mayor Moore opened the public hearing continued from May 21, 2007 for additional public testimony.

Peter Loubal, 6502 Morris Ave., noted that there was not a single citizen comment during the first budget hearing. Mr. Loubal said the city is squandering money and that pension deficits will begin to kick in several years from now and that there are lean years ahead. Mr. Loubal stated that he is concerned with development issues and doesn't understand fiscal issues that much. Mr. Loubal spoke of issues relating to the Portola/Fairmont plan and stated that the plan needs to be aborted as soon as possible. He stated the plan ignores changing demographics. The library and senior center need to be accessible and near busses in the future. Mr. Loubal identified his second issue as budgetary concerns involving landscaping and dieing trees.

Rick Arroyo, 6618 Lincoln Ave., spoke about a proposed Portola School land swap and asked if eleven families [are impacted] by eminent domain, what would happen if the city chose not to swap land.

Mayor Moore reminded the public present that this is a public hearing on the budget and explained that the Council cannot answer questions relating to items that are not on the agenda. Mayor Moore clarified that the city owns land underneath the library and owns the senior center building and that the city has not initiated, asked for or suggested that the School District move Portola Middle School to Fairmont and further stated that the School Board can exercise a great deal of latitude in implementing its options. If the School District intends to go forward the city will be evicted. Regardless of whether a land swap occurs, the Council has recognized that the current library is not large enough for the community. In terms of what will happen with the bond or what the School District can or cannot do, Mayor Moore said the School District can do a great deal without any discussion with the City Council. If the School District says it is going forward with its deal the senior center will need to move.

If the School District decides to exercise its eminent domain power, the City Council does not have a say in this issue. The issue with the land swap is dependent upon whether the city will be forced to move from the senior center. The city will be left with a small piece of property that it cannot use. Mayor Moore stated that it was her opinion that the city is better off trying to get something for this small piece of property. The city is not encouraging the school district. It does not want to be taken advantage of because it is a small landowner. The city wants to have a joint meeting with the school district. Mayor Moore concluded by stating that she does not want to create expectations that El Cerrito will be able to compel the school district to take alternative action. It is the school district's decision but the City Council will do its best to work with them.

Greg Chang, 5811 Columbia Ave., Richmond, expressed disappointment that the agenda was not posted on the web over the weekend. Mr. Chang further stated that he opposed the school district's plan.

Mayor Moore reminded Mr. Chang that this was a budget public hearing and asked Mr. Chang to focus on budget items.

Greg Chang stated that many people believe that [a land swap] is an ill advised use of taxpayer money. Mr. Chang said he is extremely concerned about \$250,000 in redevelopment funds earmarked for building a new library and senior center. He is also concerned about funds be earmarked for a conceptual and schematic design for a new library. Mr. Chang stated that this designation of funds is premature and the city should not pave the road for the project to be completed. Mr. Chang asked that this money be kept in reserve until a thorough study has been completed and the project proved to be cost effective. Money could be used to survey the public. Mr. Chang concluded by asking the Council to amend the budget and remove all items related to the Portola relocation until further studies and discussion occur.

Robert Brower, El Sobrante, stated that he is an attorney representing an El Cerrito resident who owns two commercial properties and one residential property. The citizen has a significant gift in his estate for the library and senior center. Mr. Brower's client is also concerned about the \$250,000 line item. Mr. Brower stated that the lower pad identified in a revised school district plan is unsafe for a school and asked if the site is therefore, unsafe for a senior center or library. Mr. Brower concluded by stating that is unreasonable for El Cerrito to spend \$250,000 to amend the redevelopment plan to build a new senior center or library on the Portola lower pad as it is considered reasonably unsafe for a school.

Moved, seconded, carried (Jones/Abelson) to close the public hearing.

COUNCIL COMMENTS

Mayor Pro Tem Jones commented that the City Council passed an aggressive budget last year to accomplish goals and projects this year. He stated that the operating budget in the general fund is in good shape and that he likes where the reserve is and that the city is going in the right direction. Mayor Pro Tem Jones said he looks at the \$250,000 referenced by speakers this evening as a placeholder in the event the city needs it or is forced to vacate. If the library or senior center requires vacating the city has to move quickly. Mayor Pro Tem Jones further stated that money for plans have been in the budget for the past three years and that the city has not been committed to anything as yet. Mayor Pro Tem Jones asked if the FAB needed another meeting to look at the budget and commented on the cooperation of bargaining units needed to keep medical costs down and requested that the city support health care reform.

Ms. Dodge replied that the FAB had three meetings on the budget and that the FAB compiled a very comprehensive, useful list.

Councilmember Potter stated that she was very pleased with the budget and that the city has steady revenue, has projects on schedule and that the city is earning an appropriate interest on funds. She expressed concern with the public comments today and stated that the city has been working for three years on the library completely independent of the school district and added that a consultant recently reported on the state of the library, standards and a needs assessment. The current library site does not allow for a modern, comfortable library. Councilmember Potter clarified that the comments were really about Portola Middle School and that the city needs to keep its focus on meeting the city's needs and to modernize our senior center.

Councilmember Bridges explained that part of the needs assessment was done before the

School Board decision and the city needs to have work done and completed in order to go after bond money. Councilmember Bridges emphasized that work on the library arose out of an identified need and placing the city in a position to go after bond money had nothing to do with Portola. Councilmember Bridges also stated that the FAB was very comfortable with the budget and that the city had obtained good bond ratings for City Hall. There has been good movement with projects and she has heard a lot of positive comments. The City finished an award winning project at Baxter Creek, provides good service for residents, provides good response time for police and demonstrates a commitment to service, and better communication with residents. She also commented on the electronic recycling events. Councilmember Bridges concluded by stating that this is a very good budget with good staff support, and \$30,000 to implement the Urban Forest Plan. Councilmember Bridges thanked staff, particularly Mary for such a good budget this year.

Councilmember Abelson stated that in a previous legislative session the Council supported a senate bill regarding a single payer health plan. She thanked staff for an immense amount of work and the many hours spent putting the budget book together. Councilmember Abelson concluded by stating the budget is stable and that she looks forward to completing a number of projects this coming year and is particularly excited about San Pablo Avenue improvements.

Mayor Moore stated that the budget reflects what the Council has asked for in terms of priorities. The city has invested in staff and improved efficiencies, the website, newsletter, changes in planning and recreation and in making capital improvements. Mayor Moore further stated that there are a number of capital projects that need attention and added that dedicated funding for streets is also needed. This Council is committed to making sure that dollars are invested in El Cerrito. The budget suggests that the city is in a stable position though healthcare costs and PERS are outside the city's control along with the Fairmont site. The city will adjust and is planning very well. Mayor Moore concluded by stating that she appreciates the work everyone does and that she is pleased to see the Council putting money into the community.

A. Annual Budget Representing Appropriations from all Funds Except Recreation

Adopt a Resolution of the City Council adopting the annual budget representing appropriations from all funds of the City of El Cerrito except funds pertaining to the Recreation Department for Fiscal Year 2007-2008.

Action: Moved, seconded, carried (Potter/Abelson) to adopt Resolution No. 2007-43.

B. Annual Budget Representing Appropriations from the Recreation Department

Adopt a Resolution of the City Council adopting the annual budget representing appropriations from the Recreation Department of the City of El Cerrito for Fiscal Year 2007-2008.

Action: Mayor Pro Tem Jones recused himself and stepped outside the chambers due to the appearance of a possible conflict of interest. Moved, seconded, carried (Potter/Abelson; Absent – Jones) to adopt Resolution No. 2007-44.

C. Redevelopment Agency Funding – City Council Findings and Approvals

Adopt a Resolution of the City Council making findings and approvals in connection with Redevelopment Agency funding of public improvements in the El Cerrito Redevelopment Project Area.

Action: Councilmember Jones resumed his seat at the dais. Moved, seconded, carried (Bridges/Abelson) to adopt Resolution No. 2007–45.

D. Redevelopment Agency Fiscal Year 2007-08 Budget

Adopt a Resolution of the El Cerrito Redevelopment Agency adopting the Redevelopment Agency’s Fiscal Year 2007-2008 Budget and annual work program and making required findings pursuant to Health and Safety Code Sections 33445 and 3334.3(D).

Action: Moved, seconded, carried (Moore/Bridges) to adopt Agency Resolution No. 567.

E. Public Financing Authority Fiscal Year 2007-08 Budget

Adopt a Resolution of the El Cerrito Public Financing Authority adopting the Fiscal Year 2007-2008 budget.

Action: Moved, seconded, carried (Jones/Potter) to adopt El Cerrito Financing Authority Resolution No. 2007–01.

F. Municipal Services Corporation Fiscal Year 2007-08 Budget

Adopt a Resolution of the El Cerrito Municipal Services Corporation adopting the Corporation’s Fiscal year 2007–08 budget.

Action: Moved, seconded, carried (Abelson/Jones) to adopt Municipal Services Corporation Resolution No. 2007–01.

G. Pension Trust Board Fiscal Year 2007-08 Budget

Adopt a Resolution of the El Cerrito Pension Trust Board adopting the Board’s Fiscal Year 2007-2008 budget.

Action: Moved, seconded, carried (Abelson/Potter) to adopt Pension Trust Fund Board Resolution No. 2007–01.

8. POLICY MATTERS

Establishing the Measure A Parcel Tax Rate for FY 2007-08 and Appropriation of Surplus Funds for Capital Needs Relating to the Swim Center

- 1) Adopt an Ordinance establishing the Measure A Parcel Tax rate for FY 2007-08; and
- 2) Adopt a Resolution appropriating surplus funds generated from the Measure A Parcel Tax for capital needs relating to the Swim Center.

(ACTION 1): Approve Ordinance by Title – Voice Vote; 2) Adopt First Reading – Roll Call Vote; 3) Adopt Resolution)

Karen Pinkos, Assistant City Manager, summarized this item by stating that each year since bond issuance the City Council has reviewed the revenue capabilities of the parcel tax rate and has voted to reduce the annual tax. Staff recommends establishing the rate at \$38.61 per single family residence. The swim center is used year round and staff has found that in order to keep the swim center in good operating condition additional money is needed. Staff will be developing a long term capital plan to address future needs of the swim center that will be approved each year through the capital improvement program. The Measure A fund can only be used for capital improvements and not maintenance or operating expenses. Staff believes that any surplus amount in the Measure A fund to address needs of the swim center is consistent with Measure A and is the most fiscally prudent use of this balance. Replacing and improving substandard equipment will only add to the value and enhance the reliability and safety of the swim center. If these funds are not appropriated for this use then additional general funds appropriation would need to be considered by the City Council.

Mayor Moore confirmed with Ms. Finkos that the swim center capital fixes are included in the Capital Improvement Plan.

Councilmember Bridges asked if these funds would address problems with the locker rooms.

Monica Kortz, Recreation Director, replied that one of the main issues staff is dealing with is the acid tank which is located in a small room. This poses a problem with plumbing contractors. Staff wants a smaller CO₂ unit to reduce chemical expenses for the next year. Ms. Kortz also said the locker room floors are getting looked at.

Mayor Pro Tem Jones stated that since 2004 the City Council has adopted the lowest rate possible and Council is trying to keep the rate as low as possible for the residents. In terms of the resolution, using funds for capital improvements provides an opportunity to create a lifecycle fund and dedicated funds for improvements. This will take pressure off the general fund and is an appropriate use of funding. Mayor Pro Tem Jones asked staff to come back with a lifecycle analysis report and a plan for use of the funds.

Action: Moved, seconded, carried (Abelson/Potter) by voice vote to adopt an ordinance by title.

Moved, seconded, carried (Abelson/Potter) by roll call vote to adopt first reading of an ordinance setting a reduced tax rate only for Fiscal Year 2007-08 for the special tax imposed pursuant to Chapter 4.56 of the El Cerrito Municipal Code.

Moved, seconded, carried (Potter/Jones) to adopt Resolution No. 2007-46 appropriating surplus funds generated from the Measure A Parcel Tax for capital needs relating to the Swim Center.

9. COUNCIL ASSIGNMENTS/LIAISON REPORTS

A. Mayor Moore – No report.

B. Mayor Pro Tem Jones reported on the Gilman JPA Sports Field started today and is expected to be complete at the end of October.

C. Councilmember Abelson – No report.

D. Councilmember Bridges – No report.

E. Councilmember Potter reported on her attendance last week at the West Contra Costa County Unified School District Bond Oversight Committee which meets on the fourth Wednesday of the month at 6:00 p.m. at the Administration Building at Potrero and Richmond. At these meetings the district administration goes through an update of all the bond related projects including those in El Cerrito. Councilmember Potter referred to the map submitted earlier by Mr. Brower and stated that it had been presented previously at the Bond Oversight Committee meeting. Councilmember Potter explained that lines which demarcate the instability area are very specific to K-8 public schools and that any determination of unsafe conditions on the lower pad area are caused by the grading that was needed to construct the field. If the land is left ungraded and unaffected then the lower area is still acceptable. Councilmember Potter concluded by inviting the public to attend the meetings to look over the documents and engage in dialog. The next meeting will be Wednesday, June 27, 2007 at 6:00 p.m.

SUPPLEMENTAL COMMUNICATIONS

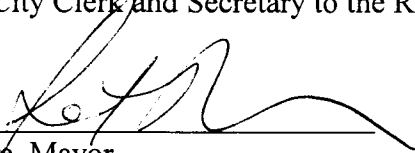
Fairmont School Remarks submitted by Robert Brower

9. ADJOURNED JOINT MEETING at 8:52 p.m.

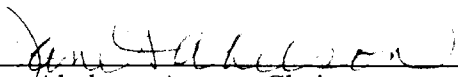
This is to certify that the foregoing is a true and correct copy of the minutes of the City Council Closed Session and Concurrent City Council, Redevelopment Agency, Pension Trust Board, Municipal Services Corporation Board and Public Financing Authority meeting of June 4, 2007 as approved by the El Cerrito City Council.



Cheryl Morse, City Clerk and Secretary to the Redevelopment Agency



Letitia D. Moore, Mayor



Janet Abelson, Agency Chair