CITY OF EL CERRITO

MINUTES

MARCH 19, 2007

CITY COUNCIL MEETING

Meeting Location
Council Chambers, Community Center
7007 Moeser Lane, El Cerrito

ROLL CALL
Council members: Abelson, Bridges, Jones, Potter, and Mayor Moore

All members were present.

7:30 p.m. CONVENE CITY COUNCIL MEETING

Mayor Moore convened the City Council meeting at 7:32 p.m.

1. Pledge Of Allegiance To The Flag was led by Mayor Moore.

2. Council/Staff Communications/Announcements. (Informational reports on matters of general interest by Council & Staff.)

The next regularly scheduled City Council meeting falls on Passover. Due to the holiday and a lack of any pressing agenda items staff requested that this meeting be cancelled. The next regularly scheduled City Council meeting will be held on Monday, April 16, 2007.

Mayor Pro Tem Jones stated that he was disturbed to hear that a large East Bay cinema chain was pressuring distributors to refrain from giving movies to the Cerrito Theater when they needed it, including after an agreement had been signed and after advertising had been initiated. Mayor Pro Tem Jones stated that based on an article in the paper he read, that the practice could be a serious violation and asked staff to write a letter to the District Attorney and Attorney General to look into the matter based on the article in the paper.

Janet Coleson, City Attorney, asked the Council to place the item on a future agenda if they wished to discuss the matter.

Scott Hanin, City Manager, informed the Council that the Cerrito Theater never envisioned playing first run movies and that this was not in their business plan. The Theater is essentially getting late first-run movies now. City Manager Hanin, said he would check in with the Fishers [Operators of the Cerrito Speakeasy Theater] to share the Council’s concerns.

Mayor Pro Tem Jones stated that aside from the impact on business interests [the City] needs to ensure that any anti-trust practices not happen and asked that the matter be agendized for a future meeting.
3. Presentations

Recreation Programs and Services – presented by Monica Kortz, Recreation Director

Monica Kortz, Recreation Director, expressed appreciation for and introduced her supervisors: Chris Jones, Adult and Youth Services Programs Supervisor; Cori Diaz, Childcare Administration Supervisor; Ellen Paasch, Senior Services Program Supervisor; and Miriam Abelson, Aquatic Program Supervisor. Ms. Kortz stated that the Recreation Department creates programs for the entire community to enjoy and outlined the department’s vision for the 21st Century: 1) Provide Recreation Services for shifting demographics; 2) Operate a fiscally responsible budget; 3) Offer a balance of activities and community events for all ages; 4) Strengthen Community Partnerships; and 5) Address deferred maintenance issues and expand infrastructure.

Ms. Kortz provided a review of Fiscal Years 2003-2007 and highlighted the growth in programs and staff including a significant increase in PERS costs. General Fund support remained about the same in 2003-2007 despite expansions in programs and staff. PERS increased 105% in FY 2005-2006 and a 15% increase in FY 2006-2007. During FY 2006-2007 the level of support rose less than CPI. Ms. Kortz also discussed additional department services and programs as listed below.

Childcare Administration highlights included: 1) Offering extended hours at pre-schools; 2) Experienced full or nearly full enrollment at all sites; 3) Fairmont program re-opened then expanded with Proposition 49 funds; and 4) the Department continued to offer and adapt a comprehensive summer day camp program that offers a variety of choices for children aged 22 months to 15 years old.

Youth Services increased for all age groups by expanding: 1) After school enrichment programs at all El Cerrito Elementary schools; 2) Increased the number of programs and activities for all age groups; 3) Continued operation of Portola After School Program with district funding; and 4) Created additional summer specialty and sports camps to meet growing demand and diversity offerings.

The Swim Center experiences a substantial rise in revenue during early spring and summer. The Department improved office practices and expanded online services while increasing aquatic programs and activities such as swim camps, Junior Lifeguard programs, Adult Swim Programs, Pee Wee Swim classes, Water Polo, Scuba and Family Swim. The City requested Measure A reimbursement of capital maintenance expenses in FY 06-07.

FY 2003-04 was the last year of the Senior Services Open House Trust Fund. Program and Funding highlights included: 1) Increased day trips and excursions; 2) Reimbursement of the General Fund by Measure C for related services and associated staffing costs; 3) Increased the number and variety of classes, services and workshops; 4) Implementation of an activity pass system in FY 2004-2005; and 5) Lost Bingo revenue in FY 06-07.

In the area of Adult/Community Services revenue from Recreation Administration was transferred to Adult/Community Services in FY 05-06. Additionally, Adult Softball was resurrected after a five year hiatus. Special events include: coordination of Cinema in the Park, 4th of July 2007, Golf Tournament, Egg Hunt, Halloween and a Pancake Breakfast. A variety of adult fee classes were offered.

The majority of revenue in Recreation Administration was transferred to Adult/Community Services in FY 05-06. Recreation Administration provides direction and support to all divisions. This division spearheaded community partnerships by providing administrative support, acted as liaison to Commissions, the City Council and other departments and facilitated the joint facilities use agreement with the West Contra Costa Unified School District.

Ms. Kortz provided a partial listing of Community Partnerships that receive free or reduced price services including facility usage, maintenance services and/or administrative support.

In conclusion, Ms. Kortz described infrastructure needs as: upgrade of the Community Center, Senior Center, Gymnasium and Fitness Center; Huber Park ADA issues, Ohlone Greenway, Teen Center/Program Area, Additional Program Space and the need to establish a Swim Center maintenance and major equipment replacement fund.

COUNCIL COMMENTS

Mayor Moore asked Ms. Kortz to expand on the Ohlone Greenway activities and additional program space.

Ms. Kortz replied that there is a parcours and possibility of a dog run and that Parks Commissioners wished to see additional plantings and restrooms for the Greenway. Additional space needs included transforming Council Chambers back to other use space after the new City Hall is completed, the social hall is being used as a gym for pre-school and younger kids, and that there is desire by the Department to provide more services if it had additional space.

Councilmember Bridges asked if there were many swim meet events held at the Swim Center that were not related to existing swim programs.

Miriam Abelson, Aquatic Program Supervisor, replied that there was one regional meet in the past three years, and 2-3 meets within the last year from far away as Fresno and Tahoe on weekends. The Masters Water Polo Team expanded to four practices and they are planning a 2nd tournament for summer.

Councilmember Bridges inquired as to whether the closing of Portola School impacted the City's use of the gym.

Chris Jones, Adult and Youth Services Program Supervisor, replied that basketball season had just ended and is limited. The city was unable to do a team format. Basketball is a workshop by age group.

Councilmember Bridges asked for an explanation of what is needed for a Community Center upgrade.

Ms. Kortz stated that an interior face lift is required if the City wishes to continue to rent out the facility. The Community Center has been referred to as a rustic facility and is need of light, paint, acoustic, and entry way upgrades.

Councilmember Bridges also inquired about space needs for additional programs.
Ms. Kortz replied that most after-school use involves the swim center however, the social hall is turned into a gymnasium for gymnastics, dance, pewee basketball and soccer.

Councilmember Abelson asked about the sound system and noted that it was not very good at the recent commission workshop. Councilmember Abelson also asked Ms. Kortz to elaborate on the concept of a dog run at the Ohlone greenway.

Ms. Kortz replied that a quote for a sound system is being conducted now and that she hopes to implement sound improvements this year. Ms. Kortz further replied that she has looked at the Tanaka design and the possibility of a dog run in certain areas which would also encourage more people to use the greenway.

Mayor Pro Tem Jones inquired about the maintenance and major equipment fund and asked if an analysis had been done on what is needed over a 20 year period.

Ms. Kortz stated that pool covers, for example, need to be replaced in 4-5 years at a cost of $5,000 per piece. If all ten covers need to be replaced at once the City will incur a significant cost. Recreation is also looking at a new CO2 system as an alternative to the current acid system which is $30,000.

Mayor Pro Tem Jones also asked if the pool was currently generating enough revenue to cover expenses.

City Manager Hanin responded by stating that there is approximately $450,000 in surplus funds in the Measure A swim center fund right now. Staff will request seed money for the fund at the time fee rates are set. In terms of the parcel tax revenue, the rate is set to cover the debt service plus ten percent coverage. Pool revenues do not exceed expenses right now.

Ms. Kortz stated that the difference between revenue and expenses is approximately $151,000.

PUBLIC COMMENT

Peter Loubal, 6502 Morris, stated that there is no question that Ms. Kortz and her staff are very effective and do good work however the cost of recreation deprives other essential programs. For example, at Canyon Trails Park kids are playing but trees are dieing. There is ivy covering the trees. Trees at various parks are doing very poorly. Mr. Loubal commented that the Vallier report said $650,000 is needed to bring the landscape up to par and suggested that Council do something for maintenance of the parks rather than recreation and put one person in charge of Parks.

4. Oral Communication from the Public

Mr. Loubal noted that he was the only citizen present. He stated that he had attended the Goal Setting Session and reported that one topic involved discussion on maintaining decorum at meetings. Mr. Loubal quoted Section 54954.3C of the Brown Act regarding the public's right to speak. He also stated that he does not believe the Council is a good steward of the Parks.
5. **Adoption of The Consent Calendar – Items 5A through 5F**

Moved, seconded, carried (Abelson/Bridges) to adopt the items 5A through 5E on the consent calendar. Vote: Unanimous.

**A. Minutes for Approval**

Approve the minutes of February 20, 2007 (City Council Special and Regular).

**Action:** Approved minutes

**B. Claims Against the City**

**Frank Castro and Claire Content** – Reject Fer Claims Administrator.

**Action:** Rejected Claim

**C. East Bay Regional Public Safety Communications System – Letter of Intent**

Adopt a Resolution authorizing the City Manager to sign a Letter of Intent to support the formation of the East Bay Regional Communications System (EBRCS) governed by a Joint Powers Authority for Alameda and Contra Costa Counties.

**Action:** Adopted Resolution 2007-16 as revised.

**D. Stormwater Utility Area Assessment – Equivalent Runoff Unit Rate for FY 2007/2008**

Adopt a Resolution establishing the annual National Pollution Discharge Elimination System (NPDES) Program assessment equivalent run-off rate for FY 2007/2008 at the current rate of $38.00.

**Action:** Adopted Resolution 2007-17.

**E. 2007 Curb Ramp Construction Program**

Adopt a Resolution approving plans, accepting bids, and authorizing the City Manager to execute a contract in the amount of $157,720 with Sposeto Engineering, Inc. and to approve change orders in an amount not to exceed $15,772 for the construction of the 2007 Curb Ramp Construction Program, Contract No. 07-3027-A.

**Action:** Adopted Resolution 2007-18.

**F. University of California Young Musicians Program Proclamations**

Approve a proclamation recognizing the outstanding academic achievement of El Cerrito’s citizens, Ms. Donna Wing and Mr. Khris Carey Sanchez and proclaiming March 21, 2007 as the Chancellor’s 4.0 Club Day in the City of El Cerrito.

**Action:** Removed from the Consent Calendar by Mayor Moore to read into the record as an expression of the Council’s pride and appreciation for Ms. Wing and Mr. Sanchez’ achievements. Moved, seconded, carried (Potter/Abelson) to approve the proclamation.
6. **PUBLIC HEARING**
None

7. **POLICY MATTERS**

A. **Utility Users Excise Tax Clarification**

Adopt first reading of an Ordinance amending El Cerrito Municipal Code Sections 4.40.030(B) and 4.40.030(D) to clarify the Utility Users Excise Tax. (ACTION: 1) Approve by Title - Voice Vote; 2) Adopt First Reading – Roll Call Vote)

City Attorney Coleson, explained that this ordinance amendment is a very minor language change to the Utility Users Tax recommended by the city’s consultant in response to an anticipated repeal of the federal excise tax. The amendment is merely a language clarification.

**Action:** Moved, seconded, carried, (Potter/Bridges) to adopt by title only, an ordinance amending El Cerrito Municipal Code Sections 4.40.030(B) and 4.40.030(D) as amended in the revised ordinance presented at the Council meeting to clarify the Utility Users Excise Tax.

Moved, seconded, carried (Jones/Bridges) to adopt first reading of an ordinance amending El Cerrito Municipal Code Sections 4.40.030(B) and 4.40.030(D) as amended in the revised ordinance presented at the Council meeting, to clarify the Utility Users Excise Tax.

B. **San Pablo Avenue Specific Plan Advisory Committee Appointments**

Appoint two Councilmembers, six El Cerrito representatives and one West Contra Costa Transportation Advisory Committee (WCCTAC) representative to the San Pablo Avenue Specific Plan Advisory Committee (SPAAC) by minute action.

Jennifer Carman, Planning Manager, informed the Council that one of the first tasks in moving forward with the San Pablo Avenue Specific Plan is to establish an advisory committee to help guide the consultants along with staff. Ms. Carman identified a potential roster of 17 members for this committee. The San Pablo Avenue Specific Plan Advisory Committee (SPAAC) will consist of eight members from El Cerrito, eight members from Richmond and one member from West Contra Costa County Transportation Authority. Staff is also asking two councilmembers to participate on the committee. The proposed committee represents a mix of appointed and elected officials and members of the community who have development and business experience.

Mitch Oshinsky, Community Development Director, informed the Council that Richmond’s Planning Director had agreed to the format of the committee and that the Richmond City Council will consider its appointments to SPAAC after El Cerrito votes on the matter.

Mayor Pro Tem Jones asked if any conflict of interest exists if SPAAC members own property on San Pablo Avenue.

City Attorney Coleson replied that the SPAAC is advisory regarding design and there will be no decision making for contracts.

Ms. Carman stated that staff did not choose anyone who has a project along the Avenue at this time.
PUBLIC COMMENT

Mr. Loubal stated that the staff report references a January 25 meeting and asked for clarification on the joint purpose identified in the report. Mr. Loubal stated that San Pablo Avenue would be open to massive housing development and that incremental taxes along the Avenue do not go to the general fund but to the Redevelopment Agency to generate profit for staff, developers, the Redevelopment Agency and political purposes.

Mayor Moore asked for volunteers from the Council.

Councilmember Potter noted that she had an alternative take on the efforts to partner on the San Pablo effort including improving economic development, smart growth, and improving transportation to reduce Global Warming. Councilmember Potter further stated that although she is very interested in San Pablo Avenue regrettably, she cannot participate on the committee at this time in a formal way due to other commitments.

Councilmember Abelson stated that she was very interested in participating on the Committee, particularly transportation issues.

City Attorney Coleson asked whether the Council wished to allow for alternates for the private developer and business owner categories for flexibility.

Ms. Carman provided clarification by stating that the Council had flexibility in developing the form of the committee and said that individuals identified in the report confirmed availability to serve on the committee.

Mayor Moore asked that the issue of alternates come back to Council in the event members who were selected to serve on the committee were unable to do so and invited discussion on the format of the committee.

Mayor Pro Tem Jones recommended Dale Power of Nations Hamburgers to serve as a third business owner member. Mr. Power owns 33 stores with the headquarters located in El Cerrito and has had a business in El Cerrito for 35 years. Mr. Power has served on the Economic Development Board, has broad business experience, MBA from University of California's HAAS Business School, a law degree from UC Berkeley BOALT Hall and is interested conceptually in serving on the SPAAC.

Mayor Moore said the Mr. Power is a welcome addition to any group and questioned the process for appointing Mr. Power.

Mayor Pro Tem Jones said if there was agreement among the Council and by Mr. Power then he would suggest Mr. Power as a good addition to the SPAAC and suggested a membership of three business owners than two.

Mayor Moore inquired as to whether a committee of nine from El Cerrito rather than eight would pose any obstacles for Richmond.

Mr. Oshinsky responded no.
Mayor Moore confirmed agreement that Council wished to have three business owners on the committee and assigned Mayor Pro Tem Jones as the contact for business owner representatives in the event Mr. Power is unable to serve.

Mayor Pro Tem Jones volunteered to serve on the SPAAC.

Mayor Moore obtained agreement from the Council on acceptance of the proposed SPAAC format with membership as proposed in the staff report.

**Action:** Moved, seconded, carried (Bridges/Potter) to approve the San Pablo Avenue Advisory Committee format and membership as listed in the staff report consisting of six El Cerrito Representatives, an addition of a third person to the business owner category, one West Contra Costa County Transportation Advisory Committee representative and appointing Councilmember Abelson and Mayor Pro Tem Jones.

**C. Support Senate Bill 286 – Accelerated Distribution of Proposition 1B Funds for Local Streets and Roads**

Adopt a Resolution supporting Senate Bill 286 and send a letter to Senator Torlakson and Assemblywoman Hancock expressing the City Council’s support for SB 286 which contains a formula for accelerated distribution of Proposition 1B funds for local streets and roads.

Jerry Bradshaw, Director of Public Works, offered background on the passage and content of Proposition 1B which passed in the November 2006 elections. Proposition 1B authorized $19 billion in funds spread over many programs which take legislative action to disperse funds. The Dutton bill, SB 286, allows for fairly rapid dispersal of fund proceeds to local governments.

Councilmember Abeleson asked if there is any financial penalty for getting the money early.

Mr. Bradshaw replied no.

**Action:** Moved, seconded, carried (Abelson/Jones) to adopt Resolution 2007-19 in support of Senate Bill 286 which contains a formula for accelerated distribution of Proposition 1B funds for local streets and roads and authorize the Mayor to send a letter to Senator Torlakson and Assemblywoman Hancock expressing the City Council’s support for Senate Bill 286.

**D. Contract with Richards, Watson and Gershon**

Approve a recommendation authorizing the City Manager to execute an amendment to the City’s existing contract for city attorney and other legal services with the law firm of Richards, Watson and Gershon to be effective for attorney time billed beginning in March 2007.

City Manager Hanin stated that the most specific change in the contract with Richards, Watson and Gershon is an adjustment to the rates which have not been adjusted at any time during the life of the contract. The rates proposed in the amendment are equivalent to the cost of living adjustment in the five years since the contract was initially awarded, approximately three per cent per year. Mr. Hanin also suggested that a CPI adjustment be tied to the rates so that a small budget adjustment could be made every year rather than one big increase every five years.
Action: Moved, seconded, carried (Bridges/Abelson) to approve the City Manager’s recommendation.

8. COUNCIL ASSIGNMENTS/LIAISON REPORTS

A. Mayor Moore – no report.

B. Mayor Pro Tem Jones reported on the Sports Field JPA with five cities and stated that Berkeley is looking for final authorization of its agreement on March 20, 2007 to accept the bid and initiate construction. The project consists of three fields and parking and has been a true regional effort. Mayor Pro Tem Jones noted that in the future the Council will see more agencies pulling together on land and resources for facilities and stated that the sports field will serve our youth well.

C. Councilmember Abelson reported on her attendance at the East Bay League of California Cities presentation on Proposition 1B funds as well as another Transportation meeting in Sacramento. Discussion occurred regarding the allocation of money for capital projects. Councilmember Abelson said that Contra Costa County did really well compared to other counties in the state because of preliminary work had been done well by the Transportation Authority and due to the passage of Measure J. Approved projects include the Caldecott Tunnel and a project on I-80 which improves the flow of traffic on I-80 although there may not be enough money allocated to improve connections off of San Pablo Avenue such as Central Avenue and that this may cause some back up onto San Pablo Avenue.

D. Councilmember Bridges – no report.

E. Councilmember Potter – no report.

SUPPLEMENTAL AND REVISED ITEMS

Item No. 3 Powerpoint Presentation of Recreation Programs and Services

Item No. 7(A) Utility Users Excise Tax Clarification

Revised Ordinance – The City’s consultant has added one change in the attached ordinance by inserting the date, May 25, 2006 at ECMC 4.40.030(D)(2)(c) at line 4.

Item No. 7(C) Support Senate Bill 286 – Accelerated Distribution of Proposition 1B Funds for Local Streets and Roads

Metropolitan Transportation Commission Presentation, Proposition 1B: Funding for the Bay Area, League of California Cities – East Bay Division, March 15, 2007 (Distributed by Councilmember Abelson)

ADJOURNED REGULAR MEETING AT 8:43 p.m.
This is to certify that the foregoing is a true and correct copy of the minutes of the City Council meeting of March 19, 2007 as approved by the El Cerrito City Council.

Cheryl Morse, City Clerk

Letitia D. Moore, Mayor