



**CITY OF BELL GARDENS  
CITY COUNCIL/COMMUNITY DEVELOPMENT COMMISSION  
REGULAR MEETING - CLOSED SESSION  
MONDAY, APRIL 11, 2011, 5:00 P.M.  
MINUTES**

**LOCATION: CITY COUNCIL CHAMBER, 7100 GARFIELD AVENUE, BELL GARDENS, CA**

**CALL TO ORDER** – Mayor Pro-Tem Infanzon called the meeting to order at 5:05 p.m.

**ROLL CALL OF CITY COUNCIL/COMMUNITY DEVELOPMENT COMMISSION MEMBERS**

**PRESENT:** Aceituno (Arrived at 5:07 p.m.), Crespo, Flores, Infanzon

**ABSENT:** Rodriguez

**PUBLIC COMMENTS ON AGENDA ITEMS ONLY (Three minutes per person, subject to a total period of 30 minutes) – None.**

**CLOSED SESSION:**

The Council/Commission recessed to Closed Session at 5:07 p.m. to discuss the following matters:

- a. CONFERENCE WITH REAL PROPERTY NEGOTIATORS**  
(Government Code Section 54956.8)

**AGENCY DESIGNATED REPRESENTATIVES:** G. Steve Simonian, City Manager; Phil Wagner, Assistant City Manager; Aldo Schindler, Community Development Director

**NEGOTIATIONS TO INCLUDE BOTH PRICE AND TERMS:**

- 6544–6550 ½ Specht Avenue (APN: 6328-006-901 & 6328-006-902)
- 6911-6913 ½ Emil Avenue (APN: 6358-017-912)
- 7512 Eastern Avenue (APN: 6227-008-900)

- b. PUBLIC EMPLOYEE DISCIPLINE/DISMISSAL/RELEASE**  
(Government Code Section 54957(b))

- c. CONFERENCE WITH LABOR NEGOTIATORS**  
(Government Code Section 54957.6)

**AGENCY DESIGNATED REPRESENTATIVES:** City Council  
**UNREPRESENTED EMPLOYEE:** City Manager

Mayor Rodriguez reconvened the meeting to order at 6:07 p.m.

**INVOCATION** – was given by Pam Wasserman, Recreation & Community Services Director

**PLEDGE OF ALLEGIANCE** – was led by John Oropeza, Public Works Director

## ROLL CALL OF CITY COUNCIL/COMMUNITY DEVELOPMENT COMMISSION MEMBERS

PRESENT: Aceituno, Crespo, Flores, Infanzon, Rodriguez

ABSENT:

### CITY ATTORNEY/AGENCY COUNCIL REPORT FROM CLOSED SESSION

Assistant City Attorney John Lam stated that the City Council/Commission members convened to Closed Session with the exception of Mayor Rodriguez. Regarding Item a, direction was given by the City Council but no final action was taken. Regarding Item b, City Council voted 4-0 to uphold the Hearing Officer's decision in the Ruiz and Acosta matter. Regarding Item c, all City Council/Commission members, including Mayor Rodriguez, were present with respect to this item but no final action was taken.

### PRESENTATIONS

- Recognition of the Bell Gardens Youth Football and Cheer Association
- Recognition of Antonia Perez as honoree of the Women of Distinction Award
- Proclamation proclaiming April 10 – April 16, 2011 as National Library Week

### PUBLIC HEARINGS (Item No. 1)

#### **COMMUNITY DEVELOPMENT COMMISSION ITEMS**

#### **CITY COUNCIL ITEMS**

#### **1. FIRST READING OF ORDINANCE NO. 840 - ZONE CODE AMENDMENT NO. 2011-013**

According to the Federal Controlled Substances Act (21 USC Chapter 13), marijuana is classified as a Schedule I Drug. This classification of drugs are substances that have a high potential for abuse, have no current accepted medical use in treatment in the United States, and there is an absence of any accepted safety for use of the substance under medical supervised treatment (21 USC § 812). Accordingly, the growth, cultivation, use or possession of marijuana is a violation of Federal law. On June 8, 2009, the Bell Gardens City Council enacted Ordinance No. 823-U ("Moratorium"), a 45-day moratorium on the establishment of medical marijuana dispensaries. The City Council enacted a 10 month and 15-day moratorium extension on July 13, 2009. The moratorium was again extended for an additional 12 months on May 10, 2010. Now that the moratorium is scheduled to expire on June 9, 2011, having been extended for the maximum duration under the law (two years), staff is recommending that the Zoning Code be amended to prohibit medical marijuana dispensaries. On June 16, 2010, the Planning Commission voted five to zero to adopt Planning Commission Resolution #PC 2011-02 recommending to the City Council the adoption of Ordinance No. 840 approving Zoning Code Amendment No. 2011-013 to prohibit the operation and establishment of medical marijuana dispensaries within City limits and prohibit land uses not expressly authorized under the City of Bell Gardens Zoning Code.

**Recommendation:** It is staff's recommendation that the City Council:

- 1.) Conduct a public hearing to receive testimony from the community; and
- 2.) Introduce the first reading of Ordinance No. 840, amending the City of Bell Gardens Zoning Code to prohibit the operation and establishment of Medical Marijuana

Dispensaries within City limits and prohibit land uses not expressly authorized under the City of Bell Gardens Zoning Code.

Community Development Director Aldo Schindler gave the presentation on Public Hearing Item No. 1.

Mayor Rodriguez opened the public hearing to receive public comments. After seeing no one wishing to comment on this item, Mayor Rodriguez closed the public hearing and moved to Council Member comments.

Council Member Crespo inquired about future regulations on medical marijuana dispensaries.

A motion was made by Council Member Crespo and seconded by Council Member Flores to introduce the first reading of Ordinance No. 840, amending the City of Bell Gardens Zoning Code to prohibit the operation and establishment of Medical Marijuana Dispensaries within City limits and prohibit land uses not expressly authorized under the City of Bell Gardens Zoning Code. Motion carried by a vote of 5-0.

AYES: Aceituno, Crespo, Flores, Infanzon, Rodriguez  
NOES: None  
ABSENT: None

**PUBLIC COMMENTS ON AGENDA ITEMS ONLY (Three minutes per person, subject to a total period of 30 minutes) – None**

**CONSENT CALENDAR (Item No.'s 2 – 8)**

***JOINT COUNCIL/COMMISSION ITEMS***

**2. GENERAL MOTION TO READ ALL ORDINANCES BY TITLE ONLY**

In order to expedite the conduct of business at Council/Commission meetings, California State law (California Code Section 36934) allows Ordinances to be read by title if a majority of the legislative body supports the motion to waive the full reading.

**Recommendation:** It is staff's recommendation that the City Council/Community Development Commission approve a general motion to waive full reading and approve Ordinances by title only pursuant to California Government Code Section 36934.

A motion was made by Council Member Flores and seconded by Mayor Pro-Tem Infanzon to read all Ordinances by title only and waive the full reading. Motion carried by a vote of 4-0 with Council Member Crespo abstaining.

AYES: Aceituno, Flores, Infanzon, Rodriguez  
NOES: None  
ABSTAIN: Crespo  
ABSENT: None

**3. MINUTES**

March 28, 2011 – Regular Meeting Minutes

**Recommendation:** It is staff's recommendation that the City Council/Community Development Commission approve the minutes for the Regular Meeting of March 28, 2011.

A motion was made by Council Member Flores and seconded by Mayor Pro-Tem Infanzon to approve the minutes for the Regular Meeting of March 28, 2011. Motion carried by a vote of 5-0.

AYES: Aceituno, Crespo, Flores, Infanzon, Rodriguez  
NOES: None  
ABSENT: None

**COMMUNITY DEVELOPMENT COMMISSION ITEMS**

**4. WARRANT REGISTERS AND WIRE TRANSFERS**

**Recommendation:** It is staff's recommendation that the Community Development Commission receive and file the following transactions:

Warrant Registers	03/14/11 (Check #'s 12477 – 12478)	\$	65,581.33
Warrant Registers	03/21/11 (Check #'s 12479 – 12483)	\$	5,190.35
	Total	\$	70,771.68

In approving the action of receiving and filing the warrant registers, the official minutes of the Bell Gardens Community Development Commission should state that each individual member of the Community Development Commission is not voting on, influencing the outcome of, or participating in approving, accepting, receiving, or filing any warrant which bears the name of the same Commission member, or pays for any costs or expenses, or otherwise benefits the same named Commission member. Each Commission member will not be participating, influencing, or voting on any such warrant bearing their name or which benefits the same named Commission member, but with that exception is voting in favor of receiving and filing all other warrants contained in this report, unless otherwise noted on the record at the time of the approval of the action required by this report.

A motion was made by Council Member Flores and seconded by Mayor Pro-Tem Infanzon to approve the Warrant Registers and Wire Transfers. Motion carried by a vote of 4-0 with Council Member Crespo abstaining.

AYES: Aceituno, Flores, Infanzon, Rodriguez  
NOES: None  
ABSTAIN: Crespo  
ABSENT: None

**5. REJECTION OF BIDS FOR THE REPLACEMENT OF THE CIVIC CENTER MEDIAN SIGN**

On September 12, 2010 the City Civic Center Median sign located on Garfield Avenue, south of Loveland Street was struck by a moving vehicle. The sign was completely demolished and not repairable. Unfortunately, the driver of the vehicle was not insured and did not survive the accident. The median sign was installed in 2006 through the City's initial Gateway & Wayfinding Sign Program improvement project. It is staff's intent to replace the sign with an identical sign. On March 9, 2011 the City received two bids for this project. The lowest bid was \$24,911.04. In light of current budget constraints

staff has determined that in order to maximize the budget allocated for this project, the engineering team will re-evaluate the project and scope of work. The City's property insurance provider through the California Joint Powers Insurance Authority will determine the appropriate coverage and deductible upon completion of the project bid. The deductible will be paid with Redevelopment Tax Increment funds. These tax increment funds are included within the Community Development Department's Redevelopment Project budget for Fiscal Year 2010 – 2011.

**Recommendation:** It is staff's recommendation that the Community Development Commission adopt Commission Resolution No. 2011-08, rejecting all bid proposals submitted for the replacement of the Civic Center Median Sign located on Garfield Avenue.

A motion was made by Council Member Flores and seconded by Mayor Pro-Tem Infanzon to adopt Commission Resolution No. 2011-08, rejecting all bid proposals submitted for the replacement of the Civic Center Median Sign located on Garfield Avenue. Motion carried by a vote of 5-0.

AYES: Aceituno, Crespo, Flores, Infanzon, Rodriguez  
 NOES: None  
 ABSENT: None

**CITY COUNCIL ITEMS**

**6. WARRANT REGISTERS AND WIRE TRANSFERS**

**Recommendation:** It is staff's recommendation that the City Council receive and file the following transactions:

Warrant Registers	03/14/11 (Check #'s	136318 – 136400)	\$ 493,185.19
Wire Transfers	03/10/11 (Check #'s	822-823 & Payroll)	\$ 444,352.29
Warrant Registers	03/21/11 (Check #'s	136401 – 136473)	\$ 318,375.26
<b>Total</b>			<b>\$ 1,255,912.74</b>

In approving the action of receiving and filing the warrant registers, the official minutes of the Bell Gardens City Council should state that each individual member of the City Council is not voting on, influencing the outcome of, or participating in approving, accepting, receiving, or filing any warrant which bears the name of the same Council member, or pays for any costs or expenses, or otherwise benefits the same named Council member. Each Council member will not be participating, influencing, or voting on any such warrant bearing their name or which benefits the same named Council member, but with that exception is voting in favor of receiving and filing all other warrants contained in this report, unless otherwise noted on the record at the time of the approval of the action required by this report.

A motion was made by Council Member Flores and seconded by Mayor Pro-Tem Infanzon to approve the Warrant Registers and Wire Transfers. Motion carried by a vote of 4-0 with Council Member Crespo abstaining.

AYES: Aceituno, Flores, Infanzon, Rodriguez  
 NOES: None  
 ABSTAIN: Crespo  
 ABSENT: None

**7. CONSIDERATION OF CLAIM REJECTION**

The Claimant alleges that the City of Bell Gardens discontinued Claimant's employee separation health benefits on December 1, 2010. Claimant is seeking unspecified damages for the discontinuation of Claimant's employee separation health benefits. The City Attorney's Office has recommended that this claim be rejected.

**Recommendation:** It is staff's recommendation that the City Council reject the claim filed on March 3, 2011 by Marta Zermeno ("Claimant").

Council Member Crespo inquired on obtaining copies of the separation agreements and release packages for former City Manager John Ornelas, former Chief of Police Keith Kilmer, former Community Development Director Gilbert Livas, former Finance Director Misty Cheng, and former City Clerk Marta Zermeno. Council Member Crespo also asked for a copy of Resolution No. 2008-09 with respect to AB 1234 and a copy of the minutes approving this resolution. He also asked for the names of the 13 individuals who qualify under this resolution to receive medical benefits under the "Employee Separation Health Benefits Policy."

Assistant City Attorney Lam and City Manager Simonian gave further explanation as to the discontinuing of the employee separation health benefits.

A motion was made by Mayor Rodriguez and seconded by Council Member Aceituno to reject the claim filed on March 3, 2011 by Marta Zermeno ("Claimant"). Motion carried by a vote of 4-0 with Council Member Crespo abstaining.

AYES: Aceituno, Flores, Infanzon, Rodriguez  
NOES: None  
ABSTAIN: Crespo  
ABSENT: None

**8. AUTHORIZATION TO EXECUTE AGREEMENT WITH PACIFIC WEST ENGERGY SOLUTIONS FOR LIGHTING UPGRADES**

On October 25, 2010, City Council approved and authorized the City Manager to execute agreements with Southern California Edison (SCE) for the On-Bill Financing (OBF) and Incentive Programs to install energy efficient lighting at various city facilities. As part of SCE's OBF loan program, the city is able to finance up to \$250,000 at 0% interest to replace lighting equipment such as occupancy sensors and fluorescent retrofits at the following city facilities: City Hall Complex, Marlow Park, Public Works Building, Veterans Park, Youth Center, Parks & Recreation, Golf Course Facility, and Resource Center. These improvements are calculated to reduce energy usage of 283,167 KWh/year, which amounts to an estimated savings of \$38,000 per year. As part of these energy upgrades, the city will be receiving an additional \$21,301.39 in energy incentives. Along with significant energy savings and better light quality, the upgrade will also reduce ongoing maintenance and replacement material costs. The City's current lighting system is outdated (over 30 years old) and very inefficient. The scope of work for the proposed contract includes performing the turnkey lighting upgrades (replacement and installation), energy engineering for conformance with lighting standards, performance assurance, commissioning and testing, project management, and warranty. Staff sent out requests for proposals to four qualified companies in the industry and only one proposal was received from Pacific West Energy Solutions. Terms of the contract have been negotiated with Pacific West Energy Solutions and the contract will be in the amount of \$266,601. Funding for this project will be provided by the SCE's OBF loan program in the amount of \$245,301, which will be repaid in full from

realized energy cost savings and by SCE's energy upgrade incentives in the amount of \$21,300.

**Recommendation:** It is staff's recommendation that the City Council award a contract to Pacific West Energy Solutions, Inc. to install energy efficient lighting at various city facilities in the amount of \$266,601.

Council Member Aceituno inquired on the type of lighting that will be used for this particular project and the number of bids received.

Public Works Manager Chau Vu explained that fluorescent lighting would be used and that only one bid was submitted out of the four requests for proposals sent by staff.

Council Member Flores inquired on the cost savings.

Public Works Manager stated that there is no City contribution towards this project and that this is guaranteed per the contract.

A motion was made by Council Member Crespo and seconded by Mayor Pro-Tem Infanzon to award a contract to Pacific West Energy Solutions, Inc. to install energy efficient lighting at various city facilities in the amount of \$266,601. Motion carried by a vote of 4-0.

AYES: Aceituno, Crespo, Flores, Infanzon, Rodriguez  
NOES: None  
ABSENT: None

**DISCUSSION ITEMS – None**

**PUBLIC COMMENTS ON NON-AGENDA ITEMS UNDER THE SUBJECT MATTER JURISDICTION OF THE CITY COUNCIL/COMMUNITY DEVELOPMENT COMMISSION (Three minutes per person, subject to a total period of 30 minutes) – None**

Luis Gonzalez, representative from the Office of Assembly Member Ricardo Lara, announced that the Office of Assembly Member Lara had moved to a new location with the new address being 12132 S. Garfield Ave., South Gate, CA. He also stated that the new phone number of the office was (562) 529-3250. Mr. Lara also invited the City Council to Sacramento to be recognized during the Regular Floor Session Legislative Meeting on April 21, 2011 for the upcoming 50<sup>th</sup> Anniversary of the City.

**CITY COUNCIL/COMMUNITY DEVELOPMENT COMMISSION MEMBER COMMENTS**

Council Member Crespo gave general comments.

Council Member Aceituno gave general comments.

Council Member Flores gave general comments.

Mayor Pro Tem Infanzon gave general comments.

Mayor Rodriguez gave general comments.

**ADJOURNMENT** – Mayor Rodriguez adjourned the meeting at 7:11 p.m.

A handwritten signature in black ink, appearing to read 'R. Conde', written over a horizontal line.

Rosalia A. Conde, CMC  
City Clerk