

Citizens' Oversight Projects (COPs)

771 Jamacha Rd #148

El Cajon, CA 92019

CitizensOversight.org

619-820-5321

raylutz@citizenoversight.org

February 22, 2015



CITIZENS' OVERSIGHT PROJECTS

CitizensOversight.org

El Cajon City Manager Douglas Williford

El Cajon City Attorney Morgan Foley

El Cajon Mayor Bill Wells

City Council Members

City of El Cajon

200 Civic Center Way

El Cajon, CA 92020

c/o City Clerk, Belinda Hawley

Belinda Hawley bhawley@cityofelcajon.us

Dear El Cajon City Representatives:

It has come to our attention that the City of El Cajon is attempting to improperly conduct closed-session discussions of the proposed use of the East County Performing Arts Center (ECPAC) theater (APN #488-111-28-00) by The Rock Church (Tenant).

The agenda item for the 2/24/2015 meeting is provided an item designated 15.1 for Closed Session as follows:

15. CLOSED SESSION:

RECOMMENDATION: That the City Council/Housing Authority/Successor Agency to the El Cajon Redevelopment Agency adjourn to Closed Sessions as follows:

15.1 CONFERENCE WITH REAL PROPERTY NEGOTIATOR – pursuant to Section 54956.8 of the Government Code:

<u>Property</u>	<u>Negotiating Parties</u>	<u>Agency Negotiator</u>
APN #488-111-28-00	Rock Church	City Manager
A portion of City-owned property (ECPAC Theater)	Mark W. Stevens	Assistant City Manager
		City Attorney

Under negotiation: For the Agency/Council to provide instructions to its negotiators regarding the price and terms for the potential lease of property owned by the City.

Joint Meeting: El Cajon City Council/
Housing Authority/Successor Agency to
the El Cajon Redevelopment Agency

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February 24, 2015
3:00 p.m.

1. According to Attorney General Opinion 10-206:

The real-estate-negotiations exception to the open meeting requirements of the Ralph M. Brown Act permits discussion in closed session of: (1) the amount of consideration that the local agency is willing to pay or accept in exchange for the real property rights to be acquired or transferred in the

particular transaction; (2) the form, manner, and timing of how that consideration will be paid; and (3) items that are essential to arriving at the authorized price and payment terms, such that their public disclosure would be tantamount to revealing the information that the exception permits to be kept confidential.¹

Thus, the information that can be discussed in a closed session is severely restricted to only the price and payment terms, and anything that would be “tantamount to revealing” the price and payment terms.

In previous discussions with Tenant, other elements of a possible agreement were discussed, such as:

- Hours, number of days and which days were desired to be used by Tenant
- Descriptions of the portions of the facility to be used by Tenant
- Changes to the facility to accommodate the use by Tenant or otherwise planned
- Proposed additional buildings to be possibly built adjacent to the existing facility for Tenant
- Environmental and other impacts to the area resulting from use by Tenant
- Whether those impacts would require an Environmental Impact Report
- Who is responsible for managing events
- Who has rights to concessions sales
- Days available for other users
- Rights for signage or other “naming rights”
- Claims of benefits to the downtown area
- Etc.

Since these details are not “price and payment terms,” discussing these in closed session is in violation of the Brown Act, per the Attorney General Opinion 10-206, cited above, as they do not fall within the “real-estate-negotiations exception.” Therefore, we request that you respect the law and refrain from such discussions at the upcoming February 24, 2015 City Council Meeting, and confirm that such discussions will not occur.

2. Furthermore, any written materials discussing any such details not explicitly covered by the Brown Act estate-negotiations exception cannot be kept confidential from the public. We therefore request that these documents be provided “without delay.” Any portions of those documents detailing price and payment terms, as defined by the Attorney General Opinion may be redacted. Please provide these documents immediately by email and provide these documents to the public prior to the Closed Session on February 24, 2015. We request these documents per California Government Code section 54957.5, the California Public Records Act (CPRA) and the Cal State Const Art 1, Sec 3.

3. Please provide a list of all proposed attendees to the closed session item 15.1.

Sincerely,



Raymond Lutz
National Coordinator, Citizens' Oversight Projects

¹ <http://oag.ca.gov/system/files/opinions/pdfs/10-206.pdf> (December 27, 2011)