MINUTES

CITY COUNCIL CLOSED SESSION MEETING
Monday, June 18, 2007 – 7:00 p.m.
Community Center Conference Room

CONCURRENT CITY COUNCIL / REDEVELOPMENT AGENCY MEETING
Monday, June 18, 2007, 7:30 p.m.

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

ROLL CALL
Present: Councilmembers Abelson, Bridges, Jones and Mayor Moore.
Absent: Councilmember Potter

7:00 p.m. CONVENE SPECIAL CLOSED SESSION MEETING

ANNOUNCEMENT OF CLOSED SESSION
Mayor Moore convened the special closed session meeting at 7:00 p.m.

Conference with Labor Negotiators Pursuant to Government Code Section 54957.6
Unions: El Cerrito Police Employees Association
City Negotiators: Scott Hanin, City Manager
              Scott Kirkland, Police Chief
              Glenn Berkheimer, IEDA, Chief Negotiator
              Sandy Chapek, Employee Services Manager

ORAL COMMUNICATIONS
No speakers.

POSSIBLE REPORT OUT OF CLOSED SESSION – No Report.

ADJOURNED SPECIAL CLOSED SESSION at 7:33 p.m.

7:30 p.m. CONVENE CONCURRENT CITY COUNCIL / REDEVELOPMENT AGENCY MEETING
Mayor Moore convened the concurrent City Council / Redevelopment Agency meeting at 7:35 p.m. All members were present with the exception of Councilmember Potter who arrived at 7:58.
1. **Pledge of Allegiance to the Flag** was led by Mayor Moore.

2. **Council/Staff Communications/Announcements**

   Mayor Moore announced that city staff has heard that the Cougar Field hearing set for Saturday, June 23rd has been cancelled by the Albany Unified School District and that the issues will be discussed at their regular meeting on June 26th. The City has not received official notice and cannot confirm the cancellation at this time. However, staff will post breaking information on the city’s website as soon as they have confirmation of the meeting cancellation. For those of you without access to the internet, please contact the Albany Unified School District offices at 510-558-3750 for more information.

   Mayor Moore also announced that it is the city’s understanding that the West Contra Costa Unified School District Board has an item on their agenda for their meeting this Wednesday that will ask them to consider rescinding their decision to relocate Portola Middle School to the current Fairmont Elementary site. Mayor Moore asked those who wished to speak to this issue during public comment, to note that while the public is welcome to comment on this or any topic, there will be no discussion of this topic by the City Council as it is not listed on the evening’s agenda. The Council encourages those interested in this issue to address the School Board at their meeting on June 20, 2007 at 6:30 in the multi-purpose room of the De Jean Middle School, 3400 MacDonald Avenue, Richmond.

   Mayor Pro Tem Jones conveyed condolences for the tragic loss of a treasured Albany resident, Ruth Meniketti, who was a tireless volunteer in a number of areas, including youth, library, and creeks. Ms. Meniketti was also an usher for Zellerbach Auditorium youth concerts and performances. Mayor Pro Tem Jones served with Ms. Meniketti when he was on City of Albany staff when Ruth was a Parks and Recreation Commissioner. Ms. Meniketti was the longest serving commissioner, over thirty years. Mayor Pro Tem Jones concluded by stating that the City of Albany lost one her favorite daughters, one who served the people of the community for many years.

3. **Presentations**

   **A. Doctors Medical Center Business Options**

   Presented by Supervisor John Gioia and Tim Weis, Doctors Medical Hospital Interim CEO.

   Supervisor John Gioia announced that he is chair of the Doctors Hospital Joint Powers Committee and wanted to provide the Council with a business update for the hospital. Supervisor Gioia stated that although there are challenges, he is optimistic about the great opportunity to make the hospital sustainable. The hospital filed for bankruptcy last year and formed a partnership with the County. The County provided approximately $10 million in funding and the federal government provided an additional $10 million which provided some time for planning and development of a sustainable business plan. The County and the West Contra Costa Health District formed a joint powers authority where the major management decisions of the hospital would be made by a seven member Joint Powers Authority Board. There is a short term need for cash for capital and operating expenses to get to a sustainable point.

   Supervisor Gioia referenced a county study which indicated that a closure of the hospital would result in a critical shortage of emergency beds, longer ambulance transport and waiting times. He announced that a community meeting will be on June 20 to present the business plan and take public comment.

*Version: 8/20/2007*
Tim Weiss, Interim CEO, Doctors Medical Center, stated that the hospital had previously lost $3.5 million a month for the second half of 2006. The average loss for the first quarter in 2007 was $1.9 million per month. The hospital is in an oversized, dated facility resulting in efficiencies. Capital upgrades for medical technology are needed. Seismic upgrades are also required. The business plan does not address these upgrades or a settlement that has yet to be negotiated with creditors as a result of the bankruptcy filing. Sixteen million dollars is owed to creditors. Mr. Weiss summarized an assessment of future state options and components, including relocation back to Pinole. The plan commits $25 million in capital investment however partial commitment would be expected to be made after 18-24 months of plan implementation. It is recommended that the time frame for approval take place by the end of June with implementation commencing in July after funding is secured. Mr. Weiss highlighted potential improvement initiatives including potential synergies between Doctors Medical Center and Contra Costa Regional Medical Center. Mr. Weiss said there has been a lot of disruption and a 25% reduction in workforce.

Cancer and heart disease are the two main causes of death in Contra Costa County. The Cancer Center is highly regarded with good accreditation results in outcomes. Medical equipment is aging and requires significant capital investment. The oncology center needs to have proper reimbursement rates with payers paying the full cost of care. Third party payers along with key stakeholders need to contribute to the plan in order to have a viable Doctors Medical Center. Cardiology represents 20% of in-patient care. The Center will need to spend $1.3 million in staffing and another $1.3 million for capital improvement for on-site cardiac surgery. The cardiology unit shows a negative contribution unit and is burning $1.2 million per year. The Medical Center has approximately $17 million in the bank but is burning approximately $1.2 million a month. Short term funding of five million dollars by August and another 5 million dollars in January is needed to implement the plan. There are significant upside opportunities but it is not enough to handle the entire loss of the organization. The Center is looking at synergies with the County however there will always be challenges and long term funding of $4-6 million per year is needed to address the structural deficit. Mr. Weiss reminded everyone about the community forum and encouraged everyone to visit the website at doctorsmedicalcenter.org.

Mayor Moore emphasized that this is an important issue for our community which impacts all hospitals. Mayor Moore encouraged citizens to pay attention to this item, stay involved and help keep Doctors Medical Center viable and open.

B. National Night Out – El Cerrito Crime Prevention Committee Announcement

Councilmember Bridges reminded citizens that National Night Out is available for everyone and is organized around crime and safety. Neighborhoods that are not organized can attend the large happening at the Community Center on August 7. The Committee will have a booth at the July 4th fair. Councilmember Bridges also noted that the Crime Prevention Committee had received national recognition and awards for its work on National Night Out several years in a row.

Eugene Go, Crime Prevention Committee Member, asked everyone to be active in the community and CERT and to work together as a community of neighbors. Mr. Go encouraged citizens to contact the Police Department or Susan Garman or 215-4414 x30 for questions.
Mayor Moore also encouraged all neighbors to organize and attend a National Night Out event at a neighborhood block party or at the Community Center on August 7. This is an opportunity to get to know your neighbors.

4. **Oral Communication from the Public**

Robert Brower, an attorney representing and El Cerrito citizen, summarized the content of his last appearance before the City Council on June 4 and stated that it is unreasonable to build a new library and a new senior center on the lower pad of Portola Middle School. He discussed the conclusion of three experts which have stated that the landslide on the Portola site is active. Mr. Brower suggested going out to Moeser Lane and to look north at a retaining wall just east of the basketball stands. Although the wall was built straight and true it now has a bulge where the slide has moved since the wall was built. Expert geologists and technical engineers have estimated the amount of ground shaking that will occur as a result of an earthquake along the Hayward Fault. Geologists hired by the School District have determined that the Portola site will move if the ground shaking is 5%g. Since the slide is active and the force that would initiate movement of the landslide is below the force that is anticipated to occur at the site, Mr. Brower stated that it is reasonable to conclude that the lower pad is an unsafe place to build a school. Quoting a Portola private architect, Mr. Brower stated that a hazard is posed should there be a significant seismic event, and it is recommended that an alternative solution for housing students at [Portola] be immediately considered.

Thad Smith, El Cerrito, reported that a school board trustee has said the district wants to close Fairmont to save $5,000 a month on operational costs and encouraged the City Council to consider becoming seriously involved and to talk to the trustee directly. Mr. Smith said he does not see much leadership on the Board, that some direction needs to be taken, and that the City Council can help with this.

Gregory Chang, Richmond, stated that when his son cracked his head he received excellent service at Doctors Hospital. Mr. Chang stated that the School Board may be reconsidering its decision to relocate Portola Middle School to Fairmont and reported that at the last meeting some trustees said they would like to see City Council involvement as the Board moves forward in its process. Mr. Chang stated that it would be helpful for the Council to take an active and visible role in helping the Board manage the process. The issue is divisive and consensus and leadership is needed rather than protecting individual interests. Everyone needs to keep the health and safety of the kids in mind and find a solution to the problem in an expeditious manner. Mr. Chang provided the City Council with a petition containing over 1,100 signatures that had been presented to the School Board.

5. **Adoption of the Consent Calendar – Items 5A through 5J**

Moved, seconded, carried (Bridges /Potter) to adopt Consent Calendar items 5A through 5J.

**CITY COUNCIL ITEMS**

**A. Approval of Minutes**

Approve the minutes of the: 1) May 21, 2007 Redevelopment Agency Closed Session, Joint City Council, Redevelopment Agency, Pension Trust Board, Municipal Services Corporation Board and Public Financing Authority Meeting and City Council Closed Session; and 2) June 4, 2007 Joint City Council, Redevelopment Agency, Pension Trust Board, Municipal Services Corporation Board and Public Financing Authority Meeting.

**Action:** Approved minutes.
B. Ordinance for Second Reading – Measure A Parcel Tax Rate for FY 2007–08 *(First Reading May 21, 2007 – Unanimous)*

Waive full reading and adopt Ordinance 2007-05 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.

**Action:** Adopted Ordinance No. 2007–05.

C. Claims Filed Against the City

1. Susan Lindheim – Reject Claim No. GL-007376 per Claims Administrator.
3. Franklin Yee – Reject Claim No. GL-007313 per Claims Administrator.

**Action:** Rejected Claim Nos. GL-007376, GL-007377 and GL-007313 per Claims Administrator.

D. Amendment to Classification Plan and Confidential and Management Resolutions

Adopt a Resolution which: 1) Authorizes staff to revise the Senior Engineer classification to provide flexibility in the engineering licensure requirements; and 2) Amends Resolution Nos. 2005–84 and 2006–52 which specify compensation and working conditions for confidential employees and non-public safety management.

**Action:** Adopted Resolution No. 2007–47.

E. Growth Management Program Compliance Checklist

Adopt a Resolution authorizing the City Manager or his designee to execute the Growth Management Program Compliance Checklist for calendar years 2004 and 2005.

**Action:** Adopted Resolution No. 2007–48.

F. Destruction of Encroachment Permits

Adopt a Resolution authorizing the destruction of Encroachment Permit records pursuant to the City’s Records Retention Schedule.

**Action:** Adopted Resolution No. 2007–49.
G. Modification or Removal of Red Curb Markings at Various Locations

Adopt a Resolution directing the City Engineer to do the following:

1. Install red curbing at Cutting Boulevard south of Glen Mawr Avenue, 52 feet of curb that serves as a bus stop for the AC Transit 683/684 service line and 14 feet of curb in front of 6702 Glen Mawr Avenue; Cutting Boulevard south of Snowdon Avenue, 20 feet of curb to improve intersection sight distance; 921 Pomona Avenue, 22 feet of curb to prevent parking in front of a driveway; Arlington Boulevard south of Thors Bay Road, lengthen the existing red curb an additional 15 feet to improve intersection sight distance; Schmidt Lane, 40 feet of curb at the delivery driveway entrance for the shopping center; Schmidt Lane south of Waldo Avenue, 24 feet of curb to improve intersection sight distance; and at any of the newly constructed handicapped access ramps installed under Capital Improvement Project #3027A, 3 feet of curb on either side of the ramp to comply with California Vehicle Code section 22522 for enforcement purposes.

2. Remove existing red curb in the 400 block of Liberty Street at Fairmount Avenue at two abandoned AC Transit bus stops (75’ on the east side, and 30’ on the west side.)


H. Appraisal Services Contracts

Adopt a Resolution authorizing the City Manager to execute agreements with Carnegie-Blum & Partners in an amount not to exceed $50,000 and with Hulberg & Associates Inc for an amount not to exceed $50,000, for as-needed professional appraisal services.


I. Agreement with New World Systems for the Purchase of Environmental Sensitivities Research Institute (ESRI) Embedded Software

Adopt a Resolution authorizing the City Manager or his designated representative to enter into an agreement with New World Systems for the purchase of new mapping software to be used in the Police Department’s portion of the Consolidated Computer Aided Dispatch System and Records Management System.


REDEVELOPMENT AGENCY ITEM

J. Graffiti Abatement Contract

Adopt a Resolution authorizing the Executive Director to enter into an agreement with Graffiti Control Services in an amount not to exceed $60,000.

Action: Adopted Agency Resolution No. 568.
6. PUBLIC HEARINGS

A. Appeal to the City Council by Franklin Leong of the Planning Commission's Approval of an Environmental Mitigated Negative Declaration Prepared for a Use Permit Amendment to Allow Changes to the Adopted Master Plan for Windrush School located at 1800 Elm Street

1. Staff Report and Recommendation

Conduct a public hearing and upon conclusion adopt a resolution denying the appeal and affirming the decision of the Planning Commission to approve the mitigated negative declaration.

2. Appeal


3. Communications – None

The Mayor opened the public hearing.

STAFF PRESENTATION

Jennifer Carman, Planning Manager, summarized the history of the project and stated that the Planning Commission approved a mitigated negative declaration and changes in the use permit on May 16, 2007. The approvals allow the school to make changes to its Master Plan in four phases over a 20 year period. The changes include an increase in enrollment from 250 children to 347 children on campus. This site was originally the site of the Chung Mei Home for Boys established in 1935. From 1956 to present the site has been used as a College, a preparatory school and since 1987, as Windrush School. In January 1998 noise assessment of the play area was conducted in response to complaints lodged by neighbors. A sound wall was built in order to mitigate the noise impacts. In June 1999 a traffic plan was proposed and a formal complaint procedure was put into place. Since the filing of this plan there have been no complaints requiring formal conflict resolution. The environmental review conducted for the use permit addresses traffic, noise and aesthetics. Noise effects are the basis for the present appeal.

The environmental review found that while the increase in enrollment would contribute to an increase in existing noise levels it would not exceed the 60 decibels allowed by the General Plan and the City's Noise Ordinance. LSA Associates, a consultant hired by the City, conducted a noise analysis on January 17, 2007 at 15-20 minute intervals during lunch and recess periods and found that the added number of children of 347 would bring the maximum possible noise level to 57 decibels, well under the allowable limit. When the Planning Commission approved the use permit they added several new conditions addressing neighborhood concerns. As to noise, the Commission required the applicant to complete an evaluation with a noise consultant of the existing sound wall to determine: 1) if there was a decrease in the function; and 2) determine if the function could be improved with new technology or materials. They also required that a new noise evaluation would
be conducted if three formal complaints were received over a 120 day period.

The applicant hired Illingworth & Rodkin to conduct an evaluation of the sound wall. Illingworth found that the sound wall was still functioning to the standards of the original wall and that no additional modifications were necessary. The appellant raises three specific points as to the noise analysis. Appeal point No. 1 challenges the decision that noise monitoring was done on one day only. LSA staff visited the site on 4 occasions but only monitored on one day. In Table 2, page 65 of MND, measurements are noted with dates and shift times. Forty-five to 60 children were at play during recess periods. LSA believed that single day monitoring was reasonable for a project this size. Monitoring was conducted on a typical school day. Appeal Point No. 2 claims that Table 2 should indicate that 90 children were playing however Table 2 indicates that only 45 children were playing. One of the noise monitoring locations was in the backyard of a resident adjacent to the school. Students were spread throughout the playfield at the time of the monitoring as is typical during the recess period. All students contributed to the ambient noise levels. Ms. Carman emphasized that the table is correct in indicating 45 children. Appeal point No. 3 alleges that 60 children were noted in Figure 10 however 120 children were playing. The table clearly shows that only 60 children were present and that the noise monitoring is accurate. The appeal asserts that the Planning Commission closed the public hearing even though neighborhood residents wished to speak further. The Planning Commission followed standard parliamentary procedure based on Sturgis Rules. All citizens wishing to speak at the public hearing were given an opportunity to do so. No time limit was enforced. Mr. Leong was permitted to speak twice during the hearing for a total of 11 minutes. Mr. Leong tried to engage the commission in dialog after the public hearing had closed which is not allowed.

Finally, the appeal questions the enrollment limit and whether there are guidelines. Staff looked at the Department of Education rules for public schools as a comparison. These rules recommend that the size of school buildings be calculated at 59 sq. ft. per pupil in K-6 and 80 sq. ft. per pupil for grades 7-8. Staff determined that approximately 25,000 square feet of classroom space would be required. Windrush School has 35,000 sq. ft. and proposes to expand to over 58,000 which is twice as much is required were it a public school. These rules also recommend 125,000 sq. ft. of outdoor area space based on the proposed number of students at the different grade levels. This number does not include the use of staggered recess times. Under these guidelines, Windrush School would need 125,000 sq. feet to meet the requirements of a California public school. Windrush exceeds this requirement with approximately 172,000 square feet of area in classrooms, buildings and open area combined. Ms. Carman concluded by stating that based on the preceding analysis of the appeal points staff recommends that the appeal be denied and that Council uphold the decision of the Planning Commission to approve the Mitigated Negative Declaration.

Councilmember Bridges requested an explanation of measurements taken by Illingworth & Rodkin in June 2007.
APPELLANT PRESENTATION

Franklin Leong, Appellant, stated that when neighbors first learned of the Windrush School plan to increase enrollment the neighbor's first concern was the potential for additional noise impacts in the neighborhood. The houses on Manor Circle are only 5' away from the school's field and basketball court. Mr. Leong said he questions the accuracy of noise monitoring performed on January 17, 2007, specifically, the map on page 64 and the Table 2 noise measurements on page 65 and explained that he had calculated 122 children at play. Mr. Leong said he arrived at two possible explanations for the discrepancy [in the number of children monitored]. First, the children were monitored under a controlled environment, meaning the children were told to be quiet for twenty minutes while being monitored or there were no children in the playfield. On January 17, Mr. Leong said he was eight feet away from the playfield and he did not hear any children from the playfield from 11:55 a.m. to 1:15 p.m. Mr. Leong said he spoke with Matthew of LSA who did the monitoring in his yard. Mr. Leong said he made a comment that LSA should come back to do monitoring again because there was no one in the playfield and Matthew agreed with him. Mr. Leong concluded by stating that monitoring of location 1B with decibel readings of 53.1 dba to 54.2 dba were from children playing 100 feet away not in the playfield. The city is relying on data in Table 2 which is questionable. The neighbors believe that with 347 students there will be significant noise impacts on the neighborhood.

APPLICANT PRESENTATION

Lynn De Young, Head of Windrush School, provided background of the Windrush proposal and stated that Windrush is embarking on a master facility plan to ensure the long term stability of the school. The master plan serves the following four strategic goals 1) To plan wisely and to carefully make use of limited resources; 2) To achieve a stable and pedagogically sound classroom configuration; 3) Renew facilities for 21st century education; and 4) To provide accessibility in all buildings at all levels on a steeply sloped site. The master plan for development was initiated in 2001.

The appeal contests the sound analysis in the environmental impact study which was contracted by the city. The application for a revised use permit application was filed in August 2006 and unanimously adopted on May 16 by the Planning Commission. The Planning Commission vote was consistent with the independent LSA report that indicated that the sound wall has reduced sound to neighbors significantly. The issue of sound was discussed at length. Ms. De Young stated that Windrush School is committed to working with neighbors. Prior to submitting a proposal, Windrush scheduled meetings to discuss proposals with neighbors, sent invitations out to neighbors. Additionally, trustees, administrators and architects made themselves available to meet with neighborhoods. Eight neighbors attended a meeting on July 18, six neighbors attended a meeting on April 16, and no neighbors attended the meeting on April 20. Although sound has been an issue prior to Windrush moving onto the site it has largely been resolved and addressed by the sound wall, use restrictions and a formal problem-solving procedure which was put into place in 1999. Since institution of this procedure the Planning Department has not received any formal complaints about the school. Windrush logged 18 calls of informal concerns over a nine-year period, none of which were related to sound.
James Reyff, Illingworth and Rodkin, described the history of the sound wall and noise measurements. A recent evaluation of the sound wall and the LSA report confirmed that the sound wall is in good condition and working and that there are no new materials that could improve it. Increasing the wall would not make much difference.

PUBLIC TESTIMONY

Mayor Moore disclosed that she is employed by the Environmental Protection Agency and one of the Windrush Boardmembers works in her office but neither had any substantive or process discussion regarding this appeal.

Gaston McMillan, El Cerrito, identified himself as a Windrush School neighbor and parent and said he experiences traffic, parking and pedestrians of kids going to school on a daily basis and has found the people to be respectful and helpful. Mr. McMillan said Windrush works to resolve solutions.

Andrew Weil, El Cerrito, identified himself as a neighbor, parent and Boardmember of Windrush. Mr. Weil asked those in the audience to stand in support of the Windrush School Community. Mr. Weil said one of the decisions to move to El Cerrito nine years ago was Windrush School and he intends to live near the school for a long time. Mr. Weil said his wife has a chronic illness and needs a quiet and peaceful environment for her health and recovery. This School is a positive resource and attraction and should be encouraged for the city. It serves the city at large.

Jane Soo, El Cerrito, acknowledged the impact of the School on the lives of neighbors. During the day the noise is very loud. Ms. Soo expressed concern that the sound wall is not sufficient. Most neighbors have two story homes. She is located directly across from the addition. There is no privacy for neighbors with second story homes once the school’s second story is built.

Daisy Leong, El Cerrito, identified herself as a neighbor and said that she has refrained from complaining about the School and hesitates to call. The noise can be annoying and disturbing. There are times when she has closed the doors and still heard the noise. Ms. Leong noted that the school contact person has been very cooperative but just because formal complaints haven’t been made, [it doesn’t mean there aren’t sound issues]. Ms. Leong said it was disheartening to be a resident and have to come before the city and report issues.

Leong Mang Wu, El Cerrito, identified himself as a neighbor of the school, and said he is in agreement with the Leongs and stated that the increase in students will increase noise and traffic. Mr. Mang-Wu urged the Council to think about the future impacts of a 40% increase in student population.

APPELLANT REBUTTAL

Mr. Leong asked Illingworth representatives, how it can be possible for noise monitoring location 1A to show a noise level with 45 children at 150 feet away but there is no noise measurement for 45 children at the playfield? Mr. Leong also asked for an explanation relating to monitoring location 3.
APPLICANT REBUTTAL

Mr. Reuff, representing the applicant, clarified that a 24 hour average does not appear in the report. Mr. Reuff stated that he never had the impression that averaging was in a period of measurement of a 24 hr average. Mr. Reuff also distinguished the existing sound wall from a fence. Measurements on both sides of the sound wall were taken simultaneously.

Ms. De Young, clarified that the elementary recess is 11:45-12:30 and that children in elementary recess are more disbursed throughout the campus because many of the elementary students are kindergartners and their playground is in a different area. There are more children on the field during middle school recess which occurs from 12:30 to 1:15. Ms. De Young informed that Windrush did not know when LSA was coming to perform the monitoring but that Windrush had told LSA when the busiest times were and asked them to come during these times.

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

COUNCIL DISCUSSION

Mayor Moore asked LSA to address concerns about how the monitoring was done.

Adam Weinstein, LSA Associates, reported that LSA measured existing noise levels in and around the school and ambient noise levels at 15 minute intervals at the busiest time of day, lunch and recess, at four locations. LSA measured at those locations because it was interested in capturing how the noise generated by students will affect residents. LSA found that existing ambient noise levels at 15 minute intervals ranged from 53 decibals to about 70 decibels with lots of children outside. They found that the sound wall reduced noise by about 8 decibels.

Councilmember Potter stated that there were many phases in the development of the Master Plan and conditions of approval in the context of this project. Councilmember Potter said she did not have a problem with any of the physical improvements but wondered if there was more information on efforts to mitigate the less than significant impacts of the added students in terms of noise and traffic. Councilmember Potter summarized conditions placed on the school since 1987 and asked if there was discussion on staggering grade levels with different start and recess times.

Mayor Moore asked staff to address previous conditions regarding the number of students and if staggered start and recess times still apply and if there are more mitigating conditions now.

Ms. Carman replied that all conditions remain in place within the proposed resolution. The Planning Commission added conditions by deciding to give them the largest number of students. To address the second story privacy issues, mitigations require that the second story have opaque glass to prevent one from looking from a classroom into other people’s homes. This school has about 10 resolutions that build on top of each other. The conditions are about 45 pages long. The School worked hard at staggering arrivals and departures and play time at different times.
Ms. De Young explained that there isn’t a requirement for staggered play times but there is a total limit on the number of hours of non-directed play. Total hours of play is limited to 2.5 hours. The school voluntarily staggers its arrival, lunch and dismissal hours.

Mayor Pro Tem Jones asked about the length of a typical school day.

Ms. De Young replied that a typical day for Middle School is 8:10-3:00, Elementary is 8:30-2:30 or 3:00 but there are also very active before and after school programs. Many children arrive at 7:00 a.m. and don’t leave until 6:00 p.m. resulting in tremendous staggering in arrival and departure times.

Mayor Pro Tem Jones asked LSA what effects BART and vehicles had on the monitoring and whether the consultant has a way of assessing how much background noise adds to playground noise.

Mr. Weinstein replied that there are ways but LSA didn’t focus on this as they were interested in the net change of existing conditions to implementation of the proposed project. LSA didn’t feel there was a need to disaggregate the noise sources because they were focused on the net change from existing to proposed. Mr. Weinstein further reported that there would be a very small increase in motor noise from approximately 161 new trips for the entire day resulting in no perceptible noise impact.

Mayor Moore asked for clarification on Condition 10 regarding formal complaint procedures.

Ms. Carman explained that the noise analysis discussed this evening was discussed in even more detail at the Planning Commission meeting. The Planning Commission felt that since the current conflict resolution program seems to be working so well they would institute another program that includes a requirement that if Windrush received three more complaints within a 120 day period there would have to be another noise evaluation study. The Planning Commission felt that this condition met some of the neighborhood’s concerns but didn’t overburden the applicant.

Councilmember Abelson clarified that the Council’s decision is limited to the matters of appeal.

Ms. Carman stated that the appellant appealed the environmental document and not the use permit and stated that the Council considers the environmental document and whether it is sufficient and the findings as listed in the proposed resolution in terms of the impacts being less than significant and that the mitigation of impacts are appropriate.

Alexander Abbe, Assistant City Attorney, clarified that the Council was conducting a De Novo hearing to consider the existing environmental conditions. The Council takes the baseline and considers whether the project as proposed to be mitigated would result in an increase in significant adverse conditions or creation of new significant environmental conditions. If the Council, as its consideration, based on all the testimony this evening and the studies in the record, finds that there is a significant impact then it should overturn the Planning Commission’s decision and the project will not be able to go forward. If the Council determines that there will not be significant impacts then Council should deny the appeal and affirm the Planning Commission’s decision.
Councilmember Potter stated that she found the Mitigated Negative Declaration to be very thorough and that she appreciates the extra efforts to address the noise. Councilmember Potter said she would honor the decision made by the Planning Commissioners and requested that when the amended use permit is issued the history of the permit be rewritten so that everyone knows what is agreed and adhered to into the future.

Mayor Moore said it would be interesting to discuss the many conditions placed on children’s play time at this school but that the issue is not before her at the present time.

Mayor Pro Tem Jones stated that if noise is the only issue then he finds the environmental impact report thorough and accepts the findings. In 1987 Council approved 230 as a limit which was requested by the applicant. Mayor Pro Tem Jones asked how the school arrived at this number. The city has never placed a limit on students other than to satisfy the request of the applicant. The plan falls within all envelopes the city has – height and density. The amount of play area appears to be sufficient based on public school standards. Mayor Pro Tem Jones acknowledged noise, however, a lot of conditions have been placed on the school. The Windrush site has been a school since 1957 so those that have moved in after that period must understand there is going to be noise.

Councilmember Abelson said she agrees with the statements and said that this is a very complex situation. Councilmember Abelson also noted that she is satisfied that there has been proper process and that the Planning Commission made the correct decision under the circumstances.

Councilmember Bridges said that this is the second hearing she has had related to this issue as she is the liaison to the Planning Commission and added that she is comfortable with the results of the noise study. Windrush has allowed the neighbors a process to come forward with a complaint. Councilmember Bridges said it is unfortunate that neighbors hesitate to call and move forward when there are issues to be dealt with. Windrush has been straightforward. Councilmember Bridges emphasized that nothing goes on behind the scenes.

**Action:** Moved, seconded, carried (Bridges / Abelson) to adopt Resolution No. 2007-53 denying the appeal and affirming the decision of the Planning Commission to approve the Mitigated Negative Declaration for Windrush School.

Mayor Moore stated that it is a balancing act with neighbors regardless of whether they are individuals or institutions. The challenge for Windrush is that there always needs to be open communication. Mayor Moore urged neighbors to call the school when there is a problem because the problem cannot be fixed unless there is communication.

B. **Confirm the Diagram and to Levy the Assessment for FY 2007-08 for Landscape and Lighting Assessment District No. 1988-1**

Conduct a public hearing and upon conclusion adopt a Resolution setting the annual Landscape and Lighting Assessment for Fiscal Year 2007-08 as $72 per residential parcel and as noted in the Engineer’s Report for other classes of properties.
Karen Pinkos, Assistant City Manager, summarized the history of the LLAD. The assessment district was formed to support maintenance and improvements of the city’s park and landscape areas and street lighting. The district has generated approximately $750,000 per year to support activities of the district. In 1996 the LLAD was approved by the voters and complies with the provisions of Proposition 218. Revenues are used to pay staff salaries, street light maintenance, utilities, landscaping costs, graffiti removal and park maintenance. The difference of approximately $400,000 to pay for eligible costs will come from the general fund.

Mayor Moore opened the public hearing. No speakers.

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

**Action:** Moved, seconded, carried (Bridges/Abelson) to adopt Resolution No. 2007–54.

**C. Consideration of Resolution Confirming the Method of Collecting the Storm Drain Reconstruction Fees**

Conduct a public hearing and upon conclusion adopt a Resolution approving the Storm Drain Annual Report for FY 2007–08 and directing that the Storm Drain Fees be collected on property tax rolls.

Karen Pinkos, Assistant City Manager, summarized the background of this item. The annual storm drain fee will continue to be assessed at $58.00 for each single family residential unit. This rate is expected to generate annual revenues of $670,000 and the city will apply these proceeds to the payment of debt service on the storm drain revenue bonds consistent with this year’s budget.

Mayor Moore opened the public hearing. No speakers.

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

**Action:** Moved, seconded, carried (Abelson/Potter) to adopt Resolution No. 2007–55.

**D. Circulation Plan for Bicyclists, Pedestrians and Disabled Individuals**

Conduct a public hearing and upon conclusion adopt a resolution approving a negative declaration and adopting a circulation plan for bicyclists, pedestrians and disabled individuals.

Melanie Mintz, Environmental Analyst, distributed a revised resolution for consideration. Ms. Mintz summarized the policy and background of the Circulation Plan. The General Plan refers to pedestrian and bicycle transportation in almost every chapter. The Transportation Circulation chapter of the plan specifically calls for this evening’s plan. Within the policy context, pedestrians and bicyclists are considered in all transportation agency projects. The project began in 2004 when the city secured grant funding and initiated outreach and planning. In 2006–2007 staff sought expert review and conducted additional outreach and environmental review. Alta Design was hired to complete the plan. This project’s purpose is to: 1) Enhance and preserve quality of life; 2) Identify needed improvements and programs; 3) Enable the City to become eligible and remain competitive for funding; and 4) Establish implementation priorities. Specific goals
include: 1) Create a comprehensive citywide network of ADA accessible pedestrian routes; 2) Connect travelers to both local and regional destinations; 3) Promote bicycling and walking as alternative modes of transportation; 4) Foster a sustainable community; 5) Provide safe and accessible routes to schools, transit stops and city facilities; 6) Create pedestrian and bicycle facilities that fulfill the needs of both utilitarian and recreational users; 7) Accommodate pedestrian and bicycle access in the design and development of new buildings and facilities; 8) Engage the public in the planning process; 9) Work with city departments, neighboring jurisdictions and regional organizations and coordinate efforts with this plan; and 10) Establish priorities and identify funding sources. Staff used a collaborative planning process for this plan. Several user meetings were held to inform the public about the plan, gather information about travel patterns and receive recommendations regarding improvements and priorities. After the user group meetings, staff from public works, fire, senior services and community development as well as outside policy makers reviewed the plan. The draft plan was presented at a public meeting.

Ms. Mintz introduced highlighted key features of the proposed bicycle plan and stated that the goal was to create a series of on and off-street bikeways which would accommodate a variety of users and people of all ages. The criteria used for selecting bikeways include the ability of the routes to provide connections to existing and proposed routes, the ability to provide a connection to locations such as stores, public buildings and parks, and to connect to regional destinations such as transit stops, large shopping centers and regional parks. Bike facility improvements include wayfinding signage, bicycle loop detectors at certain intersections, bike racks and well designed bicycle parking.

Ms. Mintz reported that pedestrian planning presents its own unique set of issues. Good pedestrian planning provides connections to local and regional destinations. Pedestrian improvements are unique to specific locations and are accessible. Intersections representing key areas for inclusion include cross walk striping signage, physical design and intersection operations. Although the pedestrian improvements will be ADA compliant, the plan does not specifically layout a prioritization strategy for ADA improvements. ADA improvements and a plan for prioritization and implementation will be worked out through a public process in the forthcoming ADA transition plan which will come before Council within the next couple of months.

The Plan calls for improvements that will make transportation safer for everyone. Priority areas are defined as Del Norte, the Mid-Town Area and the Plaza. Intersections are one of the biggest hazards for pedestrians. Sixteen routes were identified in the planning process which have also been incorporated into the ADA transition plan inventory. Multiple intersections throughout the city were identified for improvement with the primary focus on those heavily traveled intersections located on San Pablo Avenue, near schools and shopping centers. Potential Pedestrian Improvements include: installing and repairing sidewalks, installing or maintaining high visibility crosswalks, ensuring that curb ramps are up to standard ADA requirements, installing countdown crossing signals, bulb-outs and pedestrian refuge islands, and installing landscaping, public art and historic markers. Non-infrastructure improvements which have been identified and developed as resources include: Education, Enforcement and Encouragement and Maintenance and Safety. The next steps for the city, if the plan and Mitigated Negative Declaration are adopted, will involve continuation of project implementation; seek funding and implement new projects.
develop and implement programs, and continued update of the Plan.

COUNCIL DISCUSSION

Mayor Moore requested clarification regarding a resident’s responsibility for maintaining the sidewalk and how this affects the city’s intention to make pedestrian improvements.

Mr. Bradshaw, replied that the city has authority under the Streets and Highway Code to require property owners in certain instances to do maintenance on the sidewalks. Whenever the city sees hazards it notifies property owners and requires them to make repairs or does the work itself when appropriate.

Councilmember Abelson asked for clarification of whether the 20 year plan could be accomplished in 5 years due to grant opportunities.

Ms. Mintz replied that the bicycle portion could be done in 5 years but pedestrian improvements are continuous. Approximately 80% of the plan could be implemented within 5 years.

Councilmember Abelson asked if the city has staff resources in place to apply for grants right now?

Ms. Mintz replied No. Public Works has a number of projects underway and has prioritized completion of existing projects. Ms. Mintz assumes that grant opportunities will continue to come.

PUBLIC TESTIMONY

Mayor Moore opened the public hearing. No speakers.

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

COUNCIL DISCUSSION

Councilmember Potter expressed appreciation for the plan and noted that it has a lot of good information. Councilmember Potter added that she rides her bike around town and it can be a dangerous activity. Potholes in city streets require special effort. Councilmember Potter suggested placing safety information into a bike plan and safety brochure addressing aggressive driving, bike safety, pedestrian control of pets and limiting pedestrian use of cell phones. Councilmember Potter also suggested restating the bike helmet laws and following up with enforcement.

The entire Council expressed appreciation for the plan and their pleasure in seeing the plan move forward.

Action: Moved, seconded, carried (Abelson/Jones) to adopt Resolution No. 2007–56 as revised to exclude disabled individuals from the title of the plan and directed the City Manager to come back to council with a draft ADA Transition plan within the next several months.
Moved, seconded, carried (Abelson/Potter) to suspend council rules and extend the meeting to 10:45 p.m.

JOINT CITY COUNCIL / REDEVELOPMENT ITEM

E. Disposition, Development and Loan Agreement with Olson Urban Housing LLC for Agency-owned Property at 11690 San Pablo Avenue

Adopt a City Council Resolution and a Redevelopment Agency Resolution authorizing execution of a Disposition, Development and Loan Agreement (DDLA) with Olson Urban Housing (Olson) for disposition and development of Agency-owned property as part of the larger development of the Mayfair Block, and making findings and approvals as required by California Redevelopment Law (CRL).

Lori Treviño, Redevelopment Manager and Economic Development Manager, informed the Council that Olson Company had proposed changes to its project to address marketability concerns of the one bedroom units and units with one car garages on the Kearney Street portion of the project. These changes will result in a reduction in the total number of units from 58 to 51. The number of bedrooms in the units has increased. Corresponding changes to the affordable housing program include a reduction from 9 to 8 moderate income units. The total loan amount for the affordable housing program is reduced by $183,000. Additionally, the revised DDLA includes a pre-qualification process for contractors as directed by the Agency Board on February 4, 2007.

Mayor Pro Tem Jones asked for an explanation regarding why the changes did not need to go to the Planning Commission.

Karen Tiedemann, Redevelopment Agency Council, replied that the Agency was acting on its business deal with Olson Company and not a planning action. Ms. Tiedemann said she was not certain whether this item needed to go back to the Planning Commission as this action was not giving entitlements, it is setting forth business terms.

PUBLIC TESTIMONY

Chairperson Abelson opened the public hearing. No speakers.

Moved, seconded, carried (Moore/Bridges) to close the public hearing.

COUNCIL DISCUSSION

Mayor Moore asked if this project will trigger the public art ordinance.

Ms. Treviño replied that it would.

Councilmember Potter stated that the proposed changes are consistent with the overall goals of the project and expressed appreciation for the inclusion of labor pre-qualification into the revised DDLA.

Mayor Pro Tem Jones noted that the proposed changes improve marketability and that this is better than having single units that are not occupied.
**Action:** Moved, seconded, carried (Moore/Bridges) to adopt Resolution No. 2007–57.

Moved, seconded, carried (Moore/Bridges) to adopt Agency Resolution No. 569.

**Mayor Moore** noted that the city continues to invest in El Cerrito and that she would like to see more investment in El Cerrito from individuals and entities outside the city. Mayor Moore added that Del Norte is the city’s next big frontier and she is happy to see the city moving forward.

### 7. POLICY MATTERS

#### A. Annual Investment Policy

Approve the investment policy with the tracked changes as shown on the document.

**Mary Dodge,** Finance Director, stated that there are four minor changes in the investment policy proposed at the suggestion of the Financial Advisory Board and described the elements and reasoning behind each change.

**Mayor Pro Tem Jones** stated that the city is maintaining a public reporting policy to further public review and transparency, as it should, even though this is no longer a state requirement.

**Action:** Moved, seconded, carried (Bridges/Abelson) to approve the investment policy as submitted.

#### B. East Bay Regional Communications System Joint Powers Exercise Agreement

Adopt a resolution authorizing the City Manager to sign a Joint Exercise of Powers Agreement for the East Bay Regional Communications System Authority.

**Lance Maples,** Fire Chief, reported that the Council authorized the City Manager to sign a letter of intent at its meeting of March 19. During this period a Joint Powers Authority agreement has been developed and reviewed by a committee of city and county attorneys. The City of El Cerrito will formally be participating in this regional program.

**Councilmember Abelson** stated that she is happy to see this move forward.

**Mayor Pro Tem Jones,** asked for clarification on the city’s obligation and whether the $500,000 would be offset by grants.

**Chief Maples** replied that this issue is still being studied with estimates indicating payment of 10 or 15 years. One of the goals of having the expedited timeline is to have as many agencies signed on so the JPA is in a position to go after federal grants and awards which would then adjust gross costs. The ability to provide accurate numbers is dependent upon how many agencies are signed on. The EBRCs group is confident that once the JPA is formed and they are able to show the regional component that more funds will be able to be raised through grants.

**Councilmember Abelson** said this is an important program that will allow agencies from different jurisdictions to communicate with each other particularly during an emergency.

**Action:** Moved, seconded, carried (Abelson/Jones) to adopt Resolution No. 2007–58.
8. COUNCIL ASSIGNMENTS/LIAISON REPORTS

A. Mayor Moore announced the July 4th Celebration at Cerrito Vista Park.

B. Mayor Pro Tem Jones reported that he attended the Waste Management Board Meeting and that the Board will be promoting and educating the public and fleet managers on the use of recycled oil. Additionally, one of the goals that Waste Management has is to work with cities on construction and demolition recycling.

C. Councilmember Abelson -- No report.

D. Councilmember Bridges – No report.

E. Councilmember Potter reported that the West Contra Costa School Board will be meting on June 20 to discuss relocation of Portola Middle School. On June 27 the Bond Oversight Site Committee will meet at 6 p.m. Finally, the Arts and Culture Commission will meet at the Senior Center to discuss the Montessori School Public Art Project and the Master Plan for Arts and Culture in El Cerrito. For more information contact Karen Pinkos, Assistant City Manager.

SUPPLEMENTAL REPORTS AND COMMUNICATIONS

A. Appeal to the City Council by Franklin Leong of the Planning Commission's Approval of an Environmental Mitigated Negative Declaration Prepared for a Use Permit Amendment to Allow Changes to the Adopted Master Plan for Windrush School located at 1800 Elm Street

1. Windrush School Application for Amended Use Permit Presentation to the City Council submitted by Lynn De Jonghe, Head of School
2. Steps in Identifying a Significant Noise Impact Under CEQA – LSA Architects
4. Draft Action Minutes of the Planning Commission of May 16, 2007 – Planning Staff
5. Andrew J. Weill and Constance Mattingly
6. Pearson Miller and Laurie Kossoff
7. Ursula Schultz
8. Barbara A. Peterson and R. Thomas Beach
9. Tatiana Pereira

Item 6D. Circulation Plan for Bicyclists, Pedestrians and Disabled Individuals

10. Revised Resolution

Other

Portola – Fairmont

11. Remarks of Robert W. Brower
12. Fairmont School Petition – submitted by Greg Chang
9. **ADJOURNED CONCURRENT CITY COUNCIL / REDEVELOPMENT AGENCY MEETING** at 10:46 p.m.

This is to certify that the foregoing is a true and correct copy of the minutes of the Special City Council Closed Session and Concurrent City Council / Redevelopment Agency Meeting of June 18, 2007 as approved by the El Cerrito City Council.

Cheryl Morse, City Clerk

Letitia D. Moore, Mayor

Jánet Abelson, Redevelopment Agency Chair