CITY OF EL CERRITO

MINUTES

CITY COUNCIL SPECIAL CLOSED SESSION
Monday, July 16, 2007 – 6:45 p.m.
Community Center Conference Room

CONCURRENT CITY COUNCIL /REDEVELOPMENT MEETING
Monday, July 16, 2007 – 7:30 p.m.
City Council Chambers

CITY COUNCIL SPECIAL CLOSED SESSION
Monday, July 16, 2007 – Immediately following the Regular Meeting
Community Center Conference Room

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

ROLL CALL
Councilmembers Abelson, Bridges, Jones, Potter and Mayor Moore.

All present.

6:45 p.m. CONVENE SPECIAL CLOSED SESSION MEETING
Mayor Moore convened the special closed session meeting at 6:45 p.m.

ANNOUNCEMENT OF CLOSED SESSION

ORAL COMMUNICATIONS – No speakers.

INITIATION OF LITIGATION – CONFERENCE WITH LEGAL COUNSEL
GOVERNMENT CODE SECTION 54956.9(c)
Albany Unified School District

ADJOURN SPECIAL CLOSED SESSION

The special closed session meeting was adjourned at 7:30 p.m.

ROLL CALL
Mayor Moore and all Councilmembers recorded as present.
7:30 p.m. CONVENE CONCURRENT CITY COUNCIL/REDEVELOPMENT AGENCY MEETING

Mayor Moore convened the concurrent City Council / Redevelopment Agency meeting at 7:34 p.m.

1. PLEDGE OF ALLEGIANCE TO THE FLAG was led by Councilmember Abelson.

2. POSSIBLE REPORT OUT OF CLOSED SESSION

Mayor Moore reported that the City Council has directed the City Attorney to initiate legal action against the Albany Unified School District regarding the Cougar Field project over compliance with CEQA.

3. COUNCIL / STAFF COMMUNICATIONS

City Hall Update – LEED Certification Process

Jerry Bradshaw, Public Works Director, provided an update on the construction of City Hall by stating that the project is on schedule for completion in March 2008 and is on budget. Mr. Bradshaw also discussed LEED certification from the Green Building Council, specifically green building requirements relating to design, operations and function. The City Council directed that the design of City Hall be an environmentally friendly building and staff is taking a second look at LEED certification. The architect has done a preliminary evaluation and has said that City Hall could possibly achieve LEED certification, possibly at the silver level however, there may be costs associated with this and there are some problems due to the fact that the building is already half way through construction. Some things cannot be done without schedule delays. Staff has given instruction to the architect to draw up specifications to give to the contractor to provide direction on the effort it would take to make City Hall LEED certified and how this would impact costs and schedule.

Safety is Good for Business Forum

Suzanne Iarla, Public Information Specialist, announced that a series of public outreach meetings have been scheduled to provide the police chief with an opportunity to talk to the public about safety and video surveillance. Public Safety Forums are scheduled on July 18, 8-9 am, July 19, 12-1, and July 23 from 6-7 p.m.

Community Meeting – Unreinforced Masonry and Seismic Hazards

Dwayne Dalman, Administrative Analyst, announced that Community Development will be meeting with property owners regarding unreinforced masonry and potential seismic hazards. The meeting will occur on July 31 at the Senior Center 7-9 pm. The purpose of the meeting is to discuss the city requirements for property owners to obtain a structural analysis of their buildings and to review state and local law relating to seismic hazards in buildings, local program accomplishments, retrofit scenarios and provide an overview of the reporting process timeframes, building access requirements, costs and impacts.

San Pablo Avenue Specific Plan Committee

Mayor Pro Tem Jones reported that the San Pablo Avenue Specific Area Plan Committee, a group of business owners and public officials from the Cities of El Cerrito and Richmond, met
for the first time to discuss a joint general plan for the Avenue. The meeting went well and both cities are enthusiastic. Mayor Pro Tem Jones said he looks forward to good input and outcomes.

4. PRESENTATIONS

A. Business Recognition Awards – presented by Marty Kalinsky

Dwayne Dalman, Administrative Analyst, stated his pleasure in introducing the second round of Business Recognition Awards. This is a new program which recognizes businesses who contribute in a unique way to sales tax and employment, demonstrates longevity, displays significant involvement in community events, and involvement in innovative or special products and ideas.

Marty Kalinsky, Vice-Chair, Economic Development Board announced the first award to Windrush School, who is celebrating its thirtieth anniversary in El Cerrito. Windrush is an exemplary educational institution that serves El Cerrito families and contributes to the community and other institutions. Windrush School is recognized for industry achievement, longevity in the city and contribution to the community. Ilana Kaufman, Head of School and Bonnie Whitler, Director of Finance and Operations accepted the award on behalf of Windrush School.

Ms. Kaufman thanked the City Council for honoring Windrush School, expressed her hope for a continuing partnership with the city and recognized the students and Windrush Board, faculty and staff.

Mr. Kalinsky announced Fat Apples Restaurant and Bakery as the 2nd winner of the award. Fat Apples has a twenty year tenure with the city, has won an award for its deconstructed interior and is recognized for industry achievement, longevity in the city and contributions to the community.

Hilda Marshall, Owner and Albert Doherty, General Manager of Fat Apples accepted on behalf of Fat Apples and expressed their pleasure and honor in receiving the award. Ms. Marshall said that El Cerrito is a wonderful town to have a business in and has many wonderful citizens.

Mr. Kalinsky presented the final award to Music Works who has operated in El Cerrito since 1980. Celebrity customers have included Fleetwood Mac, Green Day, John Fogarty, John Lee Hocker and the Grateful Dead. Music Works sells sound systems, and offers music instructions for students of all ages and is active in the local music scene. Music Works also runs the sound system for the Cal Bears and donates a sound system for the 4th of July. Music Works is recognized for industry achievement, longevity and contributions to the community. Owners Duane and Joanne Wong accepted the award on behalf of Music Works.

Mr. Wong stated that it was an honor to receive the award and noted that it has been fun to participate in the diverse Bay Area music scene.

Mayor Moore thanked Economic Development staff and the Economic Development Board for their work on the recognition program and for providing the opportunity to learn more about the businesses who serve El Cerrito.
B. El Cerrito Garden Club Sundar Shadi Awards – presented by Virginia Summerer, El Cerrito Garden Club President

Virginia Summerer, President of the El Cerrito Garden Club, provided background on development of this Award program. The Awards were initiated by Sundar Shadi in 1967. The gardens are of excellent quality and are judged on the basis of originality, quality of design and plant selection. Ms. Summerer announced the following awards:

Best Small Garden – Bill Britt and James Dollar
Second Place Small Garden – Estelle Solomon
Best Medium Garden – Patty Mead and Joyce Jennings
Second Place Medium Garden – Amy & Ross Talarico
Best Large Garden – Sandra Oliver and David Miller
Second Place Large Garden – Lindalee Ausejo
Grand Prize Public Gardens – Gil Patchett

Ms. Summerer thanked all recipients of the awards and all gardeners for making El Cerrito beautiful.

C. National Night Out – Crime Prevention Committee – Issuance of Proclamation

Mollie Hazen, Chair, El Cerrito Crime Prevention Committee, announced August 7, 2007 as National Night Out which is produced in conjunction with the City of El Cerrito and the Police and Fire Departments. The City has received the National Police Community Partnership Award for the past three years. Ms. Hazen announced a Community Event for National Night Out at the El Cerrito Community Center from 6-9 p.m. with live entertainment, a question and answer session with the police department, complimentary pizza and games for children. Ms. Hazen concluded by introducing members of the Crime Prevention Committee to the City Council and public and thanked the event’s corporate sponsor Target and the following other local business sponsors: Olvera Plumbing, El Cerrito Heating, Sheet and Metal, Pizza Roma, Peets Coffee and Teas, and De Jour Floral and Antiques.

Mayor Moore presented the Crime Prevention Community with a proclamation honoring National Night Out and recognizing the Committee for their contributions.

D. Upper Fairmont Streetscape Draft Conceptual Design Plan – presented by Jerry Bradshaw, Public Works Director

Jerry Bradshaw, Public Works Director, informed the Council that the Public Works Department was working on plans to beautify and improve the Upper Fairmont Area, including initiation of community meetings with neighbors and nearby residents and introduced the city’s consultants John Hykes and Sara Sutton of Design, Community and Environment (DCE).

Ms. Sutton, Principal, Design, Community and Environment, stated that she worked with staff on the best plan for the lower half of Fairmont in 2001 and 2002 and summarized prior improvements, primarily a more pleasant walking environment.

Ms. Sutton outlined the following four goals for the project: 1) Asbury Avenue Traffic Calming & Intersection Re-alignment; 2) Colusa & Fairmount Avenue Gateway Treatment; 3) Upper Fairmont Commercial Section Re-Vitalization; and 4)
Streetscape Beautification from Richmond to Colusa.

John Hykes, Project Manager, Design, Community and Environment, described the Master Plan concept for Ashbury Avenue. Phase I will include proposals for new crosswalks at Harding School, accessible crosswalks at Clayton and ramps at Albermarle Street. Phase II will include a bulb out at Clayton Avenue with plantings and textured crosswalks to facilitate better crossing and a large bulb out plaza at the Ashbury Avenue intersection. There are proposals for new street trees and a signage program. Colusa commercial area improvements will address the five-legged intersection to enhance a pedestrian experience and slow down traffic. Other features include textured crosswalks, Mondrian benches, pedestrian scaled street lighting, planters, signage and banners. Mr. Hykes said he is looking forward to further input from the community and the City Council.

Michael Gardner, El Cerrito, expressed his appreciation for the upgrades and said that he found some improvements insubstantial and that the lighting is dull and substandard. Additionally, the light poles block the walkway.

Amy Rakely said a lot of her concerns had been addressed. Ms. Rakely said she is concerned about the impact of traffic on the neighborhood and noted that some streets are outside the redevelopment area. Ms. Rakely requested that the Council fund a study after the improvements are put in to look at traffic impacts. Ms. Rakely received confirmation that there is no loss of parking spaces at Fairmount because of the bulbouts as the area is already red striped.

Glen Wood, El Cerrito, expressed his general support for the improvements and expressed his concern that new sidewalks may be a one-size fits all approach that may take away from the uniqueness of the area. Mr. Wood suggested that the consultants use slightly different materials than used in Lower Fairmount so that the streetscape reflects that it is a different type of retail area. Mr. Wood suggested doing smaller streetlights that are closer together, dimmer and on a smaller scale.

Matthew Gaber, El Cerrito, noted that there is a lot of charm and character on the street already with unique plantings, wonderful landscape elements and colors. It is a nice home-grown effort. Mr. Gaber expressed his concern that a one size fits all approach may result in the loss of charm and character of the area. The area provides a wonderful urban experience and already has almost everything it needs. Mr. Gaber said that the proposed Colusa and Fairmount bulbout may affect traffic conditions by restricting flow.

Mary Milton, El Cerrito, thanked the planners and said she is grateful that the plan is looking at the welfare of pedestrians.

Councilmember Potter expressed her appreciation for the efforts of staff, consultants and those present who shared ideas this evening and through the community meetings. Councilmember Potter said the project implements the vision for pedestrian feel and continuity and that she looks forward to efforts to improve pedestrian safety. She stated that she applauds the opportunity to provide connection via street trees and pavement improvements, improving pedestrian safety and using creative ways of demarcating areas where pedestrians walk comfortably and cross streets safely and looks forward to moving forward.
Mayor Pro Tem Jones requested clarification concerning sidewalks with blinking lights and how they operate in practice.

Mr. Bradshaw replied that one needs to look at how lights are activated. The type of activation is sensitive to each case and each location. The lights accentuate the crosswalk. Lights have been considered for the Ramona intersection however they are very costly – approximately $35-40,000 per installation.

Mayor Pro Tem Jones requested information regarding the cost of undergrounding utility lines.

Mr. Bradshaw approximated the cost at $1.5-2 million per half mile.

Councilmember Abelson thanked Public Works for its work on the project and adjusting the project based on input of neighbors. Councilmember Abelson asked for clarification regarding new lane configuration and raised issues of students crossing the NE corner of the intersection. Councilmember Abelson stated that the proposal is a great improvement for safety given the number of schools in the area. Councilmember Abelson also requested clarification on the raised sidewalk and raised the issue of whether it would be difficult for the visually impaired to navigate.

Councilmember Bridges said she liked the plan and liked the distinct difference between the two different retail areas and that she likes the idea of making the two areas different but keeping them similar. Councilmember Bridges asked about the Colusa intersection, and asked if the raised crosswalk at 3.5” high and curb at 6” caused a problem with drainage. She further stated that a comprehensive traffic study was already completed and that it is no secret that the traffic study showed peak commute in the area. Cars do cut down Rockway. There is charm and distinction in the area and a bulbout and elimination of a lane will affect the charm of the area.

Mr. Bradshaw noted that Rockway is a significant problem with too much traffic on a residential street and that he has requested a detailed set of options from traffic the engineer.

Patricia Zemanek identified herself as a new business owner and stated that any upheaval or construction will impact her business. Ms. Zemanek stated that the pedestrian walkways need more attention, particularly at Ramona Avenue, and said she likes the area the way it is as there are lots of nice trees and detail. Ms. Zemanek said other businesses in the area feel the same way and concluded by stating that money is better spent filling potholes.

Mayor Moore stated that she also appreciates all the work that has been done and also appreciates how this area is unique and different from the lower Fairmont area. The Mayor asked staff to look at the traffic patterns in the area as it is an interesting intersection to drive and walk through and said that ideas will develop to address concerns.
5. **ORAL COMMUNICATIONS FROM THE PUBLIC**

Mary Mead, El Cerrito, asked the Council what direction the city is taking regarding Cougar Field and how the neighborhood can ensure that the school district doesn’t proceed with the project while the city proceeds with its decision regarding a course of action. Ms. Mead also asked for information regarding CEQA and expressed her appreciation for action taken by the City Council.

Mayor Moore reiterated her announcement of action taken by Council at closed session this evening directing the City Attorney to go forward with legal action to ensure the Albany Unified School District (AUSD) complies with CEQA. The Mayor explained that the city has commented on the Environmental Impact Report, would file something in court and the court process will proceed. The city will make every effort to keep the public involved and informed.

Alexander Abbe, Assistant City Attorney, further explained that the Albany Unified School District was obligated to undertake maximum environmental review of the Cougar Field Project and that the City would be challenging the Environmental Impact Report in litigation.

Michael Gardner, El Cerrito, expressed appreciation for the Council’s action. Mr. Gardner said he felt that he had been denied the ability to speak individually with members of the school district due to a proclamation written by Dr. Wong and that significant environmental impacts due to the placement of lights, bleachers and a sound system were written off due to overriding considerations. Mr. Gardner stated that the process was a breach of due process and that the AUSD did not take concerns of the community into account.

Al Miller, El Cerrito, and Director of Stege Sanitary District, thanked the City Council for the 4th of July celebration and commended city staff and Rotary members for the effort put into making the event a success. Mr. Miller said the event provided the best public outreach exposure for Stege to answer citizen inquiries.

Mary Milton, El Cerrito, thanked the Council on behalf of Behrens Neighborhood Association for pursuing action against AUSD. Ms. Milton stated that the AUSD approved the project even though inadequate parking, noise and light pollution could not be mitigated.

Peter Loubal, El Cerrito, stated that he felt Mr. Bradshaw was asking the Council for more money to make City Hall a green building project and referenced a recent El Cerrito Journal article regarding cost overruns associated with the Albany Civic Center plan. Mr. Loubal stated that the new Civic Center will cost $20 million before it is paid off, that Albany’s plan includes public safety and expressed concern over the safety of El Cerrito, particularly the Public Safety Building, in the event of an earthquake. Mr. Loubal said he believed bureaucrats will be slowly done away with and replaced with computers and that people will communicate with City Hall from their homes.

Helen Dickey, El Cerrito, expressed concerns over the Cougar Field project and thanked the Council for pursuing litigation against the Albany School District.


Moved, seconded, carried (Bruges / Jones) to adopt Consent Calendar Items 6A, 6B, and 6D through 6G. Item No. 6C was removed from the Consent Calendar by Mayor Pro Tem Jones, considered separately, and approved by unanimous vote.
A. Claim Filed Against the City

Stephen Johnson – Reject Claim No. GL–007420 per claims administrator.

Action: Rejected Claim No. GL–007420 filed by Stephen Johnson.

B. Execute and Submit Allocation Requests for the Ohlone Greenway Safety Improvements Project

1. Adopt a Resolution approving the updated Initial Project Report and allocation request, and stating that the City of El Cerrito will comply with all the various provisions of the Metropolitan Transportation Commission’s Regional Measure 2 Policy Guidance (MTC Resolution No. 3636) in connection with the completion of the Ohlone Greenway Safety Improvements Project, a Safe Routes to Transit Project.

2. Adopt a Resolution appropriating $25,000 from the General Fund Balance to complete the funding for the Ohlone Greenway Safety Improvements Project.


C. 2007 Storm Drain Rehabilitation Program – Cypress Storm Drain

Adopt a resolution that includes the following actions:

1. Approves plans and specifications, accepts bids, and authorizes the City Manager to execute a contract in the amount of $325,815.00 with W. R. Forde Associates for the construction of the 2007 Storm Drain Rehabilitation Program Contract No. 07-3013.

2. Authorizes the City Manager to approve change orders for unforeseen conditions in an amount not to exceed $32,582.

Mayor Pro Tem Jones said he was happy to see one bid $75,000 below the engineer’s estimate however three bids were outside the range. Mayor Pro Tem Jones asked staff to elaborate on the bidding process and verify that the bid was true and complete in its scope.

Mr. Bradshaw, replied that the contractor is familiar to staff and that he had talked to representatives from other cities who had worked with the contractor. Mr. Bradshaw said he had been told that the contractor is very competent and good to work with and stated that this has been his experience as well. The nature of the project is fairly unusual and is tricky involving digging into the backyards of approximately six apartments and removing a tree. Mr. Bradshaw said the bid speaks to the confidence of the contractor and its comfort in working in this environment.

Action: Removed from the Consent Calendar by Mayor Pro Tem Jones. Moved, seconded, carried (Jones / Bridges) to adopt Resolution No. 2007–60.

D. Support California Constitutional Amendment 12 – Stormwater and Urban Runoff Management Fees

Adopt a Resolution supporting State Constitutional Amendment No. 12 amending the California Constitution to make fees for storm water and urban runoff management work the same way as fees for garbage collection, sewer treatment and water.

E. Support Clean Up of State Senate Bill 1210 to Streamline Eminent Domain Procedures

Adopt a Resolution urging the California Legislature and Governor Schwarzenegger to adopt significant revisions to the current statutory provisions as mandated by SB 1210, Statutes of 2006.


F. Submission of Application to the Association of Bay Area Governments/Metropolitan Transportation Commission for Priority Development Area Designation

Adopt a Resolution authorizing the City Manager or his designee to submit an application to designate the San Pablo Avenue Corridor as a Priority Development Area (PDA) through the regional FOCUS Initiative.


G. Support State Assembly Bill 239 Recording Fees for Contra Costa and San Mateo Counties to Assist in the Development of Affordable Housing for Low Income Households

At the request of the Commission on Aging, authorize the Mayor to sign a letter registering the City Council’s support of Assembly Bill 239.

Action: The Mayor is authorized to sign a letter registering the City Council’s support of Assembly Bill 239.

7. PUBLIC HEARING

Fire Hazard Abatement

Declare that weeds, rubbish, litter or other flammable material on certain identified private properties constitute a public nuisance and direct the City Manager or his designee to abate such public nuisance conditions by adopting the following three resolutions which:

1. Declare that a public nuisance exists on certain properties identified in the resolution, in which no City Councilmember has a conflict of interest based on proximity to their residence; and

2. Declare that a public nuisance exists on properties identified in the resolution in which Mayor Moore may have a conflict of interest based on proximity to her residence; and

3. Declare that a public nuisance exists on properties identified in the resolution in which Councilmember Bridges may have a conflict of interest based on proximity to her residence.

Michael Bond, Fire Prevention Officer, stated that the situation with properties who do not comply with adopted vegetation management standards is faced every year. Last year the city achieved 100% voluntary compliance with the vegetation management standards and hopes to do so this year as well and assist if necessary. This year brochures have been distributed and written notices were sent to those properties that were not in compliance and property owners were informed of this evening’s meeting and the opportunity to protest. Originally, when the program was initiated, there was $40,000 in abatement costs. Last year the city achieved
voluntary compliance and the hope is to achieve voluntary compliance this year. This year Notices of Violation were sent to over 200 properties and 80% of compliance has been achieved at this time. The City is working with sixteen properties on a work program to meet the guidance that has been set forth by the City. Some property owners typically wait until the second notice in which their property has been declared a fire hazard, before they undertake any type of action. The City is expecting 100% compliance but if property owners are unwilling to take action the City will help them with their compliance issues.

Mayor Pro Tem Jones asked if there is an administrative fee if the city has to undertake abatement.

Captain Bond replied that the fee is $112 per hour in addition to the abatement contractor costs.

PUBLIC TESTIMONY

Mayor Moore opened the public hearing. One speaker.

Kurt Lumpkin, El Cerrito, stated that he had received a citation and said that his front yard is landscaped with 100% native plants and had been cited for native grasses which have gone to seed. In looking through the fire reduction program, Mr. Lumpkin found that the fire policy does not look at the greater issues of California, including the drought or drought tolerant landscaping. East Bay Municipal Utility District has been promoting drought tolerant landscaping for years. The fire policy encourages ornamental landscaping which is well watered throughout the City of El Cerrito to enhance fire safety. Mr. Lumpkin said that promoting a well watered yards is the wrong message to give and is not good for the environment or California.

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

COUNCIL DISCUSSION

Councilmember Potter stated that the City Council is always faced with a struggle to balance the needs of public safety with concerns such as water conservation. Recent fires in California such as Lake Tahoe are a reminder of the importance of this program.

Action: Moved, seconded, carried (Potter / Abelson) to adopt Resolution No. 2007–64 in which no city councilmembers have a conflict of interest.

Mayor Moore recused herself and stepped out of the chambers due to a conflict of interest as her property is within 500 feet of properties identified in the resolution. Moved, seconded, carried (Potter / Abelson; Absent – Moore) to adopt Resolution No. 2007–65.

Councilmember Bridges recused herself and stepped out of the chambers due to a conflict of interest as her property is within 500 feet of properties identified in the resolution. Moved, seconded, carried (Abelson / Potter; Absent – Bridges) to adopt Resolution No. 2007–66.

8. POLICY MATTERS

JOINT CITY COUNCIL / REDEVELOPMENT ITEM

A. West Contra Costa County Unified School District Purchase Agreement

Adopt a Resolution authorizing the City Manager/Agency Executive Director to sign a purchase and sale agreement for the Senior Center property located at 6500 Stockton Avenue, El Cerrito.
Karen Pinkos, Assistant City Manager, provided background information by stating that the City has been developing plans over the past few years to expand its library and the senior center. The senior center and all adjacent parking sits on land currently owned by the West Contra Costa Unified School District and is adjacent to Fairmont Elementary School and city owned library property at 6510 Stockton Avenue. City staff met with district staff in 2005 and initiated discussions regarding a proposed purchase of the entire senior center parcel. The Board of Education in an August 2005 closed session convened the District’s 7-11 Committee and recommended to the Board that the property be declared surplus and sold to the city for the purpose of expanding the library and senior center. Board of Education Resolution No. 37-0506, adopted in September 2005, declared the property surplus. The City and District entered into negotiations on the sale and purchase of the property in October 2005. The appraisal price was $1,740,000. The City and District continued discussions to develop the purchase agreement and memorandum agreement through September 2006 at which time the District informed the City that Portola Middle School would begin the process of determining where to re-locate Portola Middle School. The city has been waiting since September 2006 for the process to go forward. After the District halted negotiations, the District indicated that there might be the possibility of a land swap to what is currently the lower playfield of the Portola Campus. City staff informed the District that this could only go forward if the District property was added to the Redevelopment Project Area. The District made the decision to make the Fairmont site the lead proposal in April 2007 at which time city staff began to explore the possibilities of a land swap and preparing to take the proposal to the Redevelopment Agency Board for direction.

On June 20, 2007 the Board of Education took action to rescind Fairmont as a lead proposal for the Portola Middle School re-location. Because of the time that has passed the future of the library and senior center has reached a critical point. The California Senate is considering a bill to place a measure on the November 2008 ballot for library construction and renovation. Should the measure pass, the city intends to apply for grant funds which could pay up to 2/3 of project costs. In order to apply the project must be completed up to the architectural conceptual design phase. Staff estimates that the city must be ready to apply by early 2009 which gives the city seventeen months or less to complete the application and design process however, the city does not have a definitive location where the library will be located due to the Board’s change in direction.

It has been three years since the redevelopment agency issued bonds for these capital projects. Ms. Pinkos concluded by stating that City staff has been readily available to School Board staff but staff feels that it cannot wait until the Board’s next action. Staff anticipates negotiations with attorneys to complete the purchase and sale agreement and complete the memorandum of agreement. The project would provide the possibility for joint use projects with Fairmont Elementary and the Library.

Mayor Moore requested clarification of the purchase parcel map, specifically, the location of the senior center and parking lot.

**PUBLIC COMMENT**

Saida Said, Richmond, said she welcomed the adoption of this resolution and said it was something the Fairmont School community and neighbors will embrace. The school has had a wonderful relationship with the library and is sure the library wishes to continue this relationship. Ms. Said urged everyone to attend the July 25 School Board meeting regarding criteria for school site selection of a Middle School.
Gary Wolinsky, El Cerrito applauded the local planning process and the city’s effort in trying to make El Cerrito a great place to live. Mr. Wolinsky said he supports the resolution to acquire the senior center property and upgrade the library and said the resolution sends a signal to the Board that the city is committed to anchoring neighborhoods and enhancing our community.

Peter Loubal, El Cerrito, agreed with the previous speakers and said this is a sensible move. The library will have more space to do wonderful things. Mr. Loubal expressed concern about the process and said last year was wasted time. Mr. Loubal said a joint effort is desperately needed and suggested a joint committee to deal with this and the Portola issue.

Robert Brower, El Sobrante, identified himself as a lawyer representing an El Cerrito resident who is in favor of the resolution. Mr. Brower said he wanted to reinforce the concept that when California state voters pass a bond measure, the money from that measure is available promptly after the measure passes on a first come, first served basis and emphasized that the city needs to have all the application prerequisites in place for consideration of bond funds. Mr. Brower also suggested that the Council and staff visit the Hercules Library.

COUNCIL DISCUSSION

Councilmember Potter asked what would happen if the location changed, whether state funding would be retained and whether there would be flexibility to change the location of the site.

Ms. Pinkos replied that it would depend upon whatever rulemaking process came out of the Act and expressed uncertainty as to what the process would be. Her recollection of the 2000 application process is that the application had to include the schematic design phase which took the site location into consideration – it could not be a fluid site.

Councilmember Potter stated that this was the most pro-active approach, given the timing and desire to continue with the project however there is still some uncertainty.

Mayor Moore asked if the School District had made a decision regarding the closure of Fairmont.

Ms. Pinkos replied that she believes that when the School Board rescinded its action it included the closure of Fairmont but that this was not made clear. When she watched the School Board meeting it was clear to her that all options were placed back on the table. Fairmont was not precluded. They decided to start the process over.

Mayor Moore asked if the School District was aware of the Council’s action.

Scott Hanin, City Manager, reported that he had spoken with the Assistant Superintendent and sent a letter to the Superintendent to provide notice and explained the motivation behind staff’s recommendation. Nothing was sent directly to the Board members.

Mayor Pro Tem Jones stated that given the timing and how long the City has waited and given how old the senior center and library are the Council is forced to take action and move forward. Mayor Pro Tem Jones said he would like to see the Board take all elementary schools off the list and concentrate on Portola. The City needs to move forward and if not this site then look at other sites. He hates to see the city’s efforts go to waste. The City has conceptual plans that it can work off and finalize and make a commitment to partial funding.
Councilmember Bridges said she agrees with Mayor Pro Tem Jones and stated that the city has been held hostage and if the city does not move forward it will not have the time to complete the schematics. Councilmember Bridges expressed the need to move forward.

Councilmember Abelson said she was supportive of passing the resolution. The city needs a new senior center and library. Councilmember Abelson said she is concerned that the city will end up with nothing if the Council doesn’t act.

Mayor Moore stated that she agreed with comments made this evening but expressed concern that the resolution asks the School Board to act in 45 days and that she would like a message sent through staff that the Council wants to know soon as possible whether the Board will go through with the purchase.

Councilmember Potter commented that there is a balancing act between the middle school and the senior center and library. Councilmember Potter said she is very concerned that the Board be able to build a safe and convenient replacement for grades 6-8 in El Cerrito. The School District has difficult decisions to make and the city needs to move forward on its capital improvement plan and redevelopment plan for the library. Councilmember Potter said she is personally committed to continuing to work with the Council, neighbors and school district on the issue of Portola School re-placement. This is not just about the library, there is a commitment to work on the complex issue that is shared in common.

Action: Moved, seconded, carried (Abelson / Bridges) to adopt Redevelopment Agency Resolution No. 570.

CITY COUNCIL ITEMS

B. Contract with VBN Architects to Complete Design of a New Recycling Center

Adopt a Resolution authorizing the City Manager to enter into a contract with VBN Architects for schematic design, design development, construction documents, bidding, and construction administration of El Cerrito’s new recycling center in an amount not to exceed $373,500 (including $325,240 flat fee for the above phases, up to $18,260 for LEED green building certification, and up to $30,000 in contingency).

Heather Abrams, Integrated Waste Services Manager, outlined the project and said she is hoping to have the building LEED certified and stated that this is different from other LEED projects as it is an industrial building with a small office. Primary objectives include: 1) A safe environment for public tours and creation of better viewing areas; 2) A classroom for environmental education and composting demonstration garden; 3) Efficient space planning for Integrated Waste Management and Public Works Operations; 4) Removal of Unsafe Conditions for Staff and Visitors; and 5) Preservation of existing recycling collection and processing functions.

The current facility was deemed unsafe in 2006 and has been on the Public Works list of failing buildings previously. There are seismic issues at the site with the possibility of two splays of the Hayward fault at the site. The site was a former quarry. At the site of the current recycling center, fill was used to level the site and goes down 65 feet with a recommendation to put piers down. A membrane is proposed for the new building that would protect workers from methane. Additionally, there is some concern about rockfall off the quarry wall after an earthquake. The proposal before Council is for the north side of Schmidt to include a recycling
center and about 7500 square feet of office and staff support dedicated to the public works crew to increase efficiencies. Features of a new center include a new class room, an organic garden, lots of light, protection of citizens from forklifts and increased visibility. Next steps include completion of design phases, more specific cost estimates, bid and management of construction, temporary site and transition plan development, move in and commissioning of building and equipment.

Councilmember Bridges asked how drop off and curbside recycling would be affected during the temporary site and transition plan. Councilmember Bridges also asked about 60 feet of infill and how it would it act during an earthquake.

Ms. Abrams replied that curbside collection would be the same from the customer’s perspective. Staff has yet to identify the drop off site during the transition period in part because of the coordination with Stege operations.

Councilmember Potter asked what the fill was made up of and stated that usually liquefaction occurs in sand size debris. The issues are most likely related to differential compaction.

Ms. Abrams replied that the site did not receive any type of residential garbage. It was riff raff from the quarry operation and project and construction debris.

Mayor Pro Tem Jones asked Ms. Abrams if it is possible to build an environmentally friendly building and meet LEED requirements without LEED certification. Mayor Pro Tem Jones said he favors taking LEED certification money and putting it back into the project and asked Ms. Abrams why she felt that LEED certification would be important in this project. If there was money left over at the end then the city could consider LEED certification at that point.

Ms. Abrams replied that she initially told the architect that LEED certification would be decided at a later date. The building will be built of recycled steel and be considered as the environmental home in El Cerrito akin to interpretive displays.

Tim Craig, Architect, VBN Architects, stated that it is much more difficult and expensive to get LEED certification if you do not have it in the beginning and emphasized the importance of documenting the process. There is an administrative cost of $18,000 to go through the entire process and document all the facts. Mr. Craig said he is going to follow environmental principles in designing the building regardless of whether it is LEED certified or not.

Mayor Pro Tem Jones asked if LEED certification results in points for grants.

Ms. Abrams replied that she is not aware of any grants that require LEED certification however there is a move afoot for cities to have requirements such as environmental purchasing policies.

Mayor Pro Tem Jones stated that he is for an environmentally sensitive building.

Action: Moved, seconded, carried (Potter /Abelson) to adopt Resolution No. 2007–67.

Mayor Moore said she was very excited to see the city take steps forward with the recycling center.
C. City Hall Furnishings

Adopt a Resolution authorizing the City Manager to enter into a purchase agreement with One Workplace through the National Joint Powers Alliance (NJPA) Better Together bid process for City Hall Furnishings in an amount not to exceed $317,419, plus not to exceed $32,581 for miscellaneous incidental furnishings (total $350,000).

Mitch Oshinsky, Community Development Director, stated that City Hall is proceeding on schedule. Selected furnishings for City Hall have been chosen on the basis of utility, appearance, cost, ergonomics, durability and reasonableness with green content. Pricing of the furnishings through Steelcase is based on a public competitive bid process through the national powers joint alliance. Staff is comfortable that all products are competitively and aggressively priced. The City Hall financing plan approved by the City Council in February 2006 includes adequate funding for the furnishings.

Action: Moved, seconded, carried (Bridges /Abelson) to adopt Resolution No. 2007–68.

Moved, seconded, carried (Potter /Abelson) to suspend council rules and extend the meeting to 10:45 p.m.

D. Ehren Watada Resolution

Consider adopting a Resolution supporting Lt. Ehren Watada as submitted by Chizu Iyama, Watada Support Committee.

1. Letter and Resolution submitted by Chizu Iyama on behalf of the Watada Support Committee; and

2. Supplemental background information.

PUBLIC COMMENT

Chizu Iyama, El Cerrito, explained that Lt. Watada refused to deploy to Iraq and is facing a court martial and a jail sentence. Ms. Iyama said that she believes Lt. Watada to be very courageous and whose defense has been primarily the legality, humanitarian and moral aspects of the war. Ms. Iyama further explained that the Geneva Convention ratified by the United States Senate protects soldiers from being forced to commit heinous acts against the human conscience. The Neurenburg Convention and United Nations Charter explicitly repudiates pre-emptive war. Lt. Watada’s legal challenge is based on the US Constitution which makes all treaties part of the supreme law of the land. Ms. Iyama stated that 70% of Americans are against this war and that this war is not a legal war. The Watada Support Committee is trying to get global communities to make decisions for our democracy and local people need to get involved. There have been over 3,600 military fatalities and climbing, 25,800 military wounded, 100,000-600,000 Iraqi fatalities, many Iraqi homeless and a brain drain. The cost is over $500 billion and projected costs are over a trillion dollars. The money that should be coming to local governments from the federal government are going into war.

Al Miller, El Cerrito, spoke as a former officer in the Navy, and stated that the concept of legal orders and illegal orders is stressed in leadership training. Objection to illegal orders need the support of higher level officers in order to avoid being subject to court martial. Mr. Miller
recounted the essence of a speech he had heard from the naval post-graduate school, which emphasized that following orders is not justification for doing anything you are told. If you believe an order is illegal you are honor bound not to follow it. Lt. Watada has made a determination that he has been given an illegal order by a commander-in-chief who lied to get the country into war and who set a precedent by starting a pre-emptive war. Mr. Miller encouraged the Council to support Lt. Watada and adoption of the resolution and follow their conscience and character in doing what one believes is right.

Peter Loubal, El Cerrito, stated that anyone who chooses to oppose stupid orders or plans deserves respect. Mr. Loubal said he is surprised that the Council agendized the Watada resolution because the Council believes in authority and handles criticism poorly. Mr. Loubal stated that 70% of Americans believe the Iraq war is a mistake and suspects that it is 90% or more in El Cerrito. Mr. Loubal said that he is glad these issues can be discussed so openly in this country and that it will be interesting to see how the Council will act.

Ms. Shimizu, El Cerrito, said the case of Lt. Watada is a miscarriage of justice. He is the first officer who refuses to participate on the basis of conscience and believes that the war is immoral and illegal. Lt. Watada believes he is upholding his oath as a military officer to defend the constitution and upholding a duty to his troops. Lt. Watada is facing six years in a maximum security prison in a war where no officer has been held accountable for atrocities at Abu Graib. Lt. Watada is facing his second court martial despite a constitutional right against double jeopardy. His case is very significant not only to GIs and the rights of soldiers but also to the American people and upholding the Nuremberg principles of international law, free speech and due process and fair trial. Ms. Shimizu asked the Council to join the cities of Sebastapol, Berkeley, San Francisco and other cities around the country in supporting Lt. Watada.

Sharon Thornton, Berkeley, stated that Lt. Watada supports the constitution and said it is time for local communities to speak up to support courageous citizens. This is a marvelous opportunity for El Cerrito to lend its voice to the cause of democracy.

Moved, seconded, carried (Abelson/Potter) to suspend council rules and extend the meeting to 11:00 p.m.

COUNCIL DISCUSISON

Mayor Pro Tem Jones stated that normally the Council does not consider resolutions of national or state issues for which there are other ways to make a statement or take a position. However, this issue is not only a military issue but is also a political issue which involves military codes and conduct as well as rules of war. It also involves the U.S. Constitution, the Geneva Convention and the executive branch. This issue involves one person against two of the strongest institutions in our society. Lt. Watada joined the army to serve his country and has made a conscious, soul searching decision about the Iraq war and feels that the government gave the American people false information about the causes and purposes of a pre-emptive war. He has offered to serve in any other assignment, including Afghanistan but not Iraq. He followed his military and constitutional rights and procedures in this case to express, under his right of free speech, his views and anger over being misled in this country’s involvement in Iraq. Under military codes, he has expressed his conscientious decision not to support this particular military assignment. His current life has been in the military – barrack and field.
living, live bullets, military pay, military food and family sacrifice. Lt. Watada is a proud American and for this they want to put him behind bars. He is battling two governmental institutions over the right of free speech and following his conscience. He deserves our support.

**Action:** Moved, seconded, carried (Abelson / Bridges) to adopt Resolution No. 2007–69.

[The City Council convened a five minute recess due to speaker disruption in the chambers.]

**E. Annual League of California Cities – Designation of Third Voting Delegate Alternate**

Consider adoption of a Resolution appointing a councilmember as a second voting delegate alternate for the League of California Cities 2007 Annual Conference and confirming the prior appointments of Councilmember Abelson as delegate and Mayor Moore as alternate.

**Action:** Moved, seconded, carried (Abelson / Jones) to adopt Resolution No. 2007–70, designating Councilmember Potter as the second alternate voting delegate.

**9. COUNCIL ASSIGNMENTS/LIAISON REPORTS**

A. Mayor Moore – No report.

B. Mayor Pro Tem Jones – No report.

C. Councilmember Abelson encouraged those interested in serving on the Committee on Aging to attend Committee meetings.

D. Councilmember Bridges reported that the Financial Advisory Board met and received a comprehensive presentation on streets by Jerry Bradshaw, Public Works Director.

E. Councilmember Potter reported that the Arts and Culture Commission considered the City’s first public art project under the one-percent ordinance and unanimously approved the proposal for Montessori School but struggled with balancing the needs of the school to have security for child safety. The project will be a tile wall created by a teacher who is also an artist with the school. Councilmember Potter said she looks forward to the next project that comes up under the ordinance.

**SUPPLEMENTAL COMMUNICATIONS**

3 Council / Staff Communications
1. The El Cerrito Police Department presents Safety...Is Good for Business Forum

4B El Cerrito Garden Club Sundar Shadi Awards
2. Listing of 2007 Award Recipients

4D Upper Fairmont Streetscape
3. Powerpoint Presentation – Design, Community and Environment

8B Contract with VBN Architects to Complete Design of a New Recycling Center
4. Staff powerpoint presentation
10. ADJOURNED REGULAR MEETING at 10:56 p.m.

11. ANNOUNCEMENT OF CLOSED SESSION

Conference with Real Property Negotiators
Pursuant to Government Code Section 54956.8
Property: Stege Land Swap – 7500 Schmidt Lane / 7450 Schmidt Lane
City Negotiators: Scott Hanin, Executive Director
Jerry Bradshaw, Public Works Director
Alexander Abbe, Assistant City Attorney
Negotiating Parties: Stege Sanitary District
Under Negotiation: Price and Terms

CONVENE SPECIAL CLOSED SESSION MEETING

Mayor Moore convened the special closed session meeting at 11:02 p.m.

ORAL COMMUNICATIONS – One speaker.

Al Miller, El Cerrito, said that a mistake was made 50 years ago and that the land swap presents significant benefits for both parties. The advantages to Stege Sanitary grow out of benefits to the City, particularly with a coordinated appearance which is good for the public. Mr. Miller encouraged the Council to work out an agreement.

POSSIBLE REPORT OUT OF CLOSED SESSION

Mayor Moore reported that the Council instructed city staff to continue its negotiations with Stege Sanitary District.

12. ADJOURNED at 11:28 p.m.

This is to certify that the foregoing is a true and correct copy of the minutes of the two Special City Council Closed Sessions and Concurrent City Council / Redevelopment Agency Meeting of July 16, 2007 as approved by the El Cerrito City Council.

Cheryl Morse, City Clerk

Letitia D. Moore, Mayor

Janet Abelson, Redevelopment Agency Chair