

**CITY OF PITTSBURG
Redevelopment Agency Minutes
November 29, 2004**

Chair Aleida Rios called the meeting of the Redevelopment Agency to order at 7:24 P.M. in the City Council Chambers at City Hall, 65 Civic Avenue, Pittsburg, California after having convened at 6:33 P.M. in Closed Session pursuant to subdivision (b) of Section 54956.9 of the Government Code, Conference with Legal Counsel – Anticipated Litigation regarding one case.

Chair Rios advised that there was nothing to report from Closed Session.

MEMBERS PRESENT: Beals, Glynn, Kee, Parent, Rios

MEMBERS ABSENT: None

STAFF PRESENT

Executive Director, Marc Grisham
Legal Counsel, Ruthann Ziegler
Deputy City Clerk, Alice Evenson
Director of the Redevelopment Agency, Garrett Evans
Director of Development Projects, Randy Jerome
Director of Human Resources, Marc Fox
Director of Public Works, John Fuller
Director of Recreation, Paul Flores
Director of Finance, Marie Simons
Director of Engineering, Joe Sbranti
Planning Director, Melissa Ayres
Police Chief, Aaron Baker

CONSENT CALENDAR

On motion by Member Glynn, seconded by Vice Chair Parent and carried unanimously to adopt the Consent Calendar, as follows:

a. **MINUTES** Dated: November 15, 2004

Approved minutes dated November 15, 2004.

b. **RESOLUTION 04-1010** Award of Consultant Agreement by and between the Redevelopment Agency of the City of Pittsburg and David Paul Rosen & Associates

Adopted Resolution 04-1010.

ADJOURNMENT

The meeting of the Redevelopment Agency adjourned at 7:25 P.M. to December 6, 2004.

Respectfully submitted,

Lillian J. Pride, Secretary

als

CITY OF PITTSBURG
Pittsburg Finance Authority Meeting
November 29, 2004

Chair Aleida Rios called the meeting of the Pittsburg Finance Authority to order at 7:26 P.M. in the City Council Chambers at City Hall, 65 Civic Avenue, Pittsburg, California after having convened at 6:33 P.M. in Closed Session pursuant to subdivision (b) of Section 54956.9 of the Government Code, Conference with Legal Counsel – Anticipated Litigation regarding one case.

Chair Rios advised that there was nothing to report from Closed Session.

MEMBERS PRESENT: Beals, Glynn, Kee, Parent, Rios

MEMBERS ABSENT: None

STAFF PRESENT Executive Director, Marc Grisham
Legal Counsel, Ruthann Ziegler
Deputy City Clerk, Alice Evenson
Director of the Redevelopment Agency, Garrett Evans
Director of Development Projects, Randy Jerome
Director of Human Resources, Marc Fox
Director of Public Works, John Fuller
Director of Recreation, Paul Flores
Director of Finance, Marie Simons
Director of Engineering, Joe Sbranti
Planning Director, Melissa Ayres
Police Chief, Aaron Baker

CONSENT CALENDAR

On motion by Member Glynn, seconded by Vice Chair Parent and carried unanimously to adopt the Consent Calendar, as follows:

a. **MINUTES** Dated: November 15, 2004

Approved minutes dated November 15, 2004.

ADJOURNMENT

The meeting of the Pittsburg Finance Authority adjourned at 7:27 P.M.

Respectfully submitted,

Lillian J. Pride, Secretary
als

CITY OF PITTSBURG
Pittsburg Power Company Meeting
November 29, 2004

Chair Aleida Rios called the meeting of the Pittsburg Power Company to order at 7:28 P.M. in the City Council Chambers at City Hall, 65 Civic Avenue, Pittsburg, California after having convened at 6:33 P.M. in Closed Session pursuant to subdivision (b) of Section 54956.9 of the Government Code, Conference with Legal Counsel – Anticipated Litigation regarding one case.

MEMBERS PRESENT: Beals, Glynn, Kee, Parent, Rios

MEMBERS ABSENT: None

STAFF PRESENT Executive Director, Marc Grisham
Legal Counsel, Ruthann Ziegler
Deputy City Clerk, Alice Evenson
Director of the Redevelopment Agency, Garrett Evans
Director of Development Projects, Randy Jerome
Director of Human Resources, Marc Fox
Director of Public Works, John Fuller
Director of Recreation, Paul Flores
Director of Finance, Marie Simons
Director of Engineering, Joe Sbranti
Planning Director, Melissa Ayres
Police Chief, Aaron Baker

CONSENT CALENDAR

On motion by Member Glynn, seconded by Vice Chair Parent and carried unanimously to adopt the Consent Calendar, as follows:

a. **MINUTES** Dated: November 15, 2004

Approved minutes dated November 15, 2004.

b. **RESOLUTION 04-119** Approving and Authorizing the Executive Director to Execute the Scheduling Procedures and Protocols, Exhibit C Revision 1 to the Base Resource Contract 00-SNR-00340 with the Western Area Power Administration

Adopted Resolution 04-119.

ADJOURNMENT

The meeting of the Pittsburg Power Company adjourned at 7:29 P.M.

Respectfully submitted,

Lillian J. Pride, Secretary

als

**CITY OF PITTSBURG
City Council Minutes
November 29, 2004**

Mayor Aleida Rios called the meeting of the City Council to order at 7:30 P.M. in the City Council Chambers at City Hall, 65 Civic Avenue, Pittsburg, California after having convened at 6:33 P.M. in Closed Session pursuant to subdivision (b) of Section 54956.9 of the Government Code, Conference with Legal Counsel – Anticipated Litigation regarding one case.

Mayor Rios advised that there was nothing to report from Closed Session.

MEMBERS PRESENT: Beals, Glynn, Kee, Parent, Rios

MEMBERS ABSENT: None

STAFF PRESENT: City Manager, Marc Grisham
City Attorney, Ruthann Ziegler
Deputy City Clerk, Alice Evenson
Director of the Redevelopment Agency, Garrett Evans
Director of Development Projects, Randy Jerome
Director of Human Resources, Marc Fox
Director of Public Works, John Fuller
Director of Recreation, Paul Flores
Director of Finance, Marie Simons
Director of Engineering, Joe Sbranti
Planning Director, Melissa Ayres
Police Chief, Aaron Baker

Mayor Rios considered the following general City Council items at 7:15 P.M. prior to pursuing the Redevelopment Agency agenda.

PLEDGE OF ALLEGIANCE

Melissa Ayres led the Pledge of Allegiance.

COUNCILMEMBER REPORTS/REMARKS

Mayor Rios announced that the City had received visitors from the university of Shimoneseki, Japan. She added that the President of Los Medanos College and members of the City Council had been present this date at a signing of an agreement to conduct a student exchange with Shimoneseki, Japan.

Councilmember Kee commented that many people over the weekend had received two mailers regarding one of the issues on the current agenda.

While Councilmember Kee described one mailer as irrelevant and not warranting any comments, he stated that Ben Johnson, a recently elected member of the City Council, had sent out a mailer that had basically accused the City Council of subsidizing developers in the City. He characterized that as somewhat unfair and suggested to Mr. Johnson that while the Council did not always agree, its disagreements had been in a civil manner that respected one another. He noted that at a previous meeting Mr. Johnson had asked that the project be delayed so that he could have a vote. The Council had declined to do that and the Council was now being unfairly accused. He suggested that was not the appropriate tactic to take for someone coming onto the body. He emphasized that the Council wanted to progress beyond those kinds of tactics.

CITY MANAGER REPORTS/REMARKS

City Manager Marc Grisham asked the Recreation Director to identify the activities planned for the upcoming weekend.

Recreation Director Paul Flores reported that in conjunction with the Chamber of Commerce, the City had planned a Tree Lighting Ceremony on Friday, December 3 from 5:30 to 7:30 P.M.; the Holiday Parade would be held on Saturday, December 4 starting at 11:00 A.M.; and on that same night there would be a performance of the Nutcracker from 7:00 P.M. with another performance on Sunday, December 5 at 5:00 P.M. Also on December 5, he stated that there would be Rides on the Delta in conjunction with the Chamber of Commerce, the Pittsburg Yacht Club and the City, starting at 5:30 P.M. He urged the Council and community to join the activities that would celebrate the start of the Christmas holidays.

CITIZENS REMARKS

LARRY WIRICK, Pittsburg stated that on November 16, Mrs. Tran had been killed in a hit and run accident on Stoneman Avenue. A friend for twenty years, he described some of the kindnesses that Mrs. Tran had offered to many members of the community. He took this opportunity to commend Police Chief Baker and his Department for bringing a quick resolution to the investigation and apprehension of an individual. He explained that had offered the family some relief and comfort.

Mayor Rios reconvened as the City Council at 7:30 P.M.

PUBLIC HEARING

1. **RESOLUTION 04-10191** Resolution Approving CEQA Findings, Adopting a
Combined w/04-10192 Statement of Overriding Considerations, and Adopting a
Combined w/Ord 04-1230 Mitigation Monitoring Plan for the Vista Del Mar Project
Combined w/Ord 04-1231

2. **RESOLUTION 04-10192** Resolution Amending Figure 2-2 and Policy 2-P-88 of
 Combined w/04-10191 the Land Use Element of the General Plan for the Vista
 Combined w/Ord 04-1230 Del Mar Development on the Alves Ranch Site (AP-03-
 Combined w/Ord 04-1231 33 (GP) (APN 097-122-004, 097-160-013, 097-160-014,
 097-160-015, 097-160-047, 097-180-004)

3. **ORDINANCE 04-1230** Introduction of an Ordinance Rezoning the Area South of
 Combined w/04-10191 the West Leland Road Extension to PD (Planned
 Combined w/04-10192 Development) District, Rezoning 14.78 Acres Northwest
 Combined w/Ord 04-1231 of the West Leland Road Extension to CO-P
 (Commercial Office – Master Plan Overlay) District, and
 Rezoning the Remainder 32 Acres to RH-P (High
 Density Residential – Master Plan Overlay) District for
 the Vista Del Mar Development on the Alves Ranch Site
 (AP-03-33 (PDRZ) (APN 097-122-004, 097-160-013,
 097-160-014, 097-160-015, 097-160-047, 097-180-004)

4. **ORDINANCE 04-1231** Introduction of an Ordinance Approving a Development
 Combined w/04-10191 Agreement for the Vista Del Mar Development on the
 Combined w/04-10192 Alves Ranch Site (AP-03-33) (DA) (APN 097-122-004,
 Combined w/Ord 04-1230 097-160-013, 097-160-014, 097-160-015, 097-160-047,
 097-180-004)

The Planning Commission recommended that the City Council approve certain General Plan amendments, a rezoning request and a Development Agreement pertaining to the 293 acre property, commonly known as Alves Ranch as follows: 1) that the General Plan Land Use Element be amended to shift the designated Public/Institutional classification area southwest of its current location and designating that area as Medium Density Residential and that the text in General Plan Policy 2-P-88 be amended to reapportion the 1,100 permitted units across the property; 2) that the property south of the West Leland Road Extension be rezoned to P-D (Planned Development) District to effect a P-D plan which accommodates 540 single family homes, an 11.3 acre school site and approximately 117 acres of open space; that approximately 15 acres located northwest of the West Leland Road Extension be rezoned CO-P (Commercial Office with Master Plan Overlay) District; and that the remaining 40 +/- acres north of the West Leland Road extension be rezoned to RH-P (High Density Residential with Master Plan Overlay) District, and 3) that a Development Agreement be approved governing development on the site for a period of 18 years.

The City Council would need to adopt findings under the California Environmental Quality Act (CEQA), a Mitigation and Monitoring Plan and a Statement of Overriding Considerations in conjunction with its approval of these applications. The Council may also discuss the Vesting Tentative Map and P-D plan related to the above applications as part of its deliberations.

City Engineer Joe Sbranti advised that the item had been considered by the City Council on a number of occasions. He highlighted the items involved including the Development Agreement which included provisions for a Mello Roos district for a police department inclusionary housing, prepaid traffic fees, prepaid water fees, prepaid off-site mitigation, a supplemental landscape and lighting district to prevent further distress to the City's existing general Landscape and Lighting District (LLD), and additional considerations including the placement of a sign and the formation of a Homeowner's Association (HOA) on the project.

With respect to fiscal impact, the Development Agreement would commit the City to contributing a portion of the costs of the West Leland Road Extension to San Marco Boulevard and to specific water infrastructure improvements. The Agreement would also require the City to guarantee timely construction of a 20 inch water line between the Water Treatment Plant and Bailey Road. All estimated costs were detailed in the staff report dated November 29, 2004.

GREG MIX, the Area Manager for William Lyon Homes, Inc. noted that several members of the City Council and the Planning Commission had been present at the four hour workshop on November 22 related to the merits and issues surrounding the Vista Del Mar Project. Based on the questions and comments at that time, he stated that the Planning Commission had approved the project by a six zero vote.

Mr. Mix stated that the Vista Del Mar project represented an outstanding smart growth opportunity for the City. The project would place 1,100 units of residential construction and commercial development within a quarter mile of the Pittsburg/Bay Point BART Station. The project would include a new school site, open space, endangered species habitat and 15 percent inclusionary affordable housing across the project. He stated that the application for the project had been deemed complete in December 2003. The first public hearing had been held on July 27 and the current hearing represented the eighth such hearing or workshop on the project over that period of time. The project had been fully and carefully discussed in the public form and through that process there had been unfortunate charges from time to time that there had been a rush to approve the project. He emphasized that was not the case given the eight hearings related to the item.

Mr. Mix stated that in addition to the information provided by staff, a letter dated November 29, 2004 had been submitted from Seecon Financial & Construction Co. Inc. stating that Seecon had no objections to the project site plan. That letter had supported the project. A letter from the Contra Costa Economic Partnership, also dated November 29, 2004, had supported the project identifying the project as one that would help improve the economic opportunities in Contra Costa County.

With respect to the specifics of the project, Mr. Mix stated that William Lyon Homes was in agreement with the recommendations from staff and from the Planning Commission and in agreement with all of the resolutions, conditions and findings. There were two items in the Development Agreement that he asked to address after the completion of the staff report. Mr. Mix reiterated that the project would provide 1,100 units of residential

development, 14.8 acres of commercial development, 117 acres of on-site open space including endangered species habitat, a school site with a 5 acre joint use park, the opening of West Leland Road to San Marco Boulevard as soon as possible and barring litigation by September 2005, and funding of other major traffic infrastructure improvements both in and out of the City.

In addition, Mr. Mix stated that all of Phase I and Phase II of the Southwest Pittsburg Water Infrastructure, far in excess of the amount needed for the project itself, would be provided, as would 15 percent inclusionary housing. He explained that the housing would be provided from rental to affordable for sale housing in a full range of housing types, including 10,000 square foot estate lots with views of the Delta. He sought the approval of all aspects of the proposal as recommended by City staff and the Planning Commission.

Planning Director Melissa Ayres presented an overview of the project. She explained that the first application was for a General Plan amendment that involved shifting the Public/Institutional designation on the site farther southwest to accommodate a school in a location desired by the Mt. Diablo Unified School District (MDUSD) and a redesignation of the current Public/Institutional area to a Medium Density designation

The other part of the General Plan Amendment would reapportion the 1,100 units on the property in a manner to push them closer to the BART Station. The second application would rezone the entire property, three quarters of which was located south of the West Leland Road Extension to Planned Development (P-D). Within that district certain areas such as the MDUSD area would have zoning applications applied to it where a school and a park were permitted uses under that zoning category.

Ms. Ayres added that the other part of the zoning was on the north of West Leland Road, which would be zoned to a Commercial Office District with a Master Plan Overlay. She noted that there were no site plans for that area, only the limitation for the Master Plan Overlay that would require the developer to return to the City and establish a P-D plan with all sorts of development standards and uses for that area. That would allow the Council an opportunity to assess that area. At this point the only standard that would apply was that no more than a 4 Floor Area Ratio (FAR) would be allowed on the property.

Ms. Ayres pointed out the area on the map that would be designated High Density Residential with a Master Plan Overlay, which would require both Planning Commission and City Council review prior to the adoption of the plan. A conceptual plan for that area would be required before building permits were issued in any of that area to ensure that the needed street infrastructure was determined ahead of time.

Ms. Ayres further highlighted the applications by pointing out the 18-year Development Agreement which had negotiated significant terms benefiting both the public and the developer. The fourth resolution was related to CEQA.

In order to approve the project the Council would have had to certify the

Environmental Impact Report (EIR), which had been done, the adoption of specific findings, a Mitigation and Monitoring Plan to take the impacts identified in the EIR to an extent that they would be brought to an insignificant level, and as part of that resolution the Council would be adopting an exhibit of overriding considerations. For the project, significant and unavoidable overriding considerations would be adopted to indicate that those impacts would be outweighed.

Ms. Ayres added that staff recommended approval of the Development Agreement. The Planning Commission had recommended approval of the project.

Mayor Rios opened the public hearing for Resolution 04-10191, Resolution 04-10192, Ordinance 04-1230 and Ordinance 04-1231.

TIM BARRETT, Pittsburg, reported that he had sent a voice mail this date. He described himself as an average citizen and referred to two mailers that had previously been referenced by Councilmember Kee. He was very concerned with both mailers and noted that both appeared to have come from the same source. He questioned whether or not the item was being rushed as the mailers had indicated, and if true, he suggested that the item should not be considered prior to December 20.

Mr. Barrett was advised that the mailer referenced by Mr. Kee was an incomplete version of the mailer referenced by Mr. Barrett.

BEN JOHNSON, Pittsburg, an elected Councilmember and a citizen of the City, took offense to a question of impropriety and stated that he had questions. He had contacted residents to make them aware of those questions. He stated that the mailer had been sent out on November 19 prior to the workshop on November 22 and that the mailer had been sent out at his own expense. He had sent out 1,350 of the referenced mailers. He reported that he had gotten 65 phone calls, which had proven that there were concerns. Since that time, he reported that he had received clarity on the project.

Mr. Johnson expressed his appreciation that the City Council had called for the meeting. He reiterated that he had gotten most of his responses from City staff and from the City Manager in regard to the issues. He wanted to make certain that the City would be whole as a result of the project. He was not in opposition to the project and suggested that the project would be good for the community. His only concerns were with the 18-year Development Agreement and with Leland Road. He wanted to make certain that all four lanes would be opened up at one time given the traffic anticipated along Leland Road to San Marco Boulevard. He emphasized the need to find a way to get the road built now.

Mr. Johnson added that he had met with all the parties involved. He would still like to make certain that everything was in order and he preferred that the item be continued for evaluation on December 20 as originally recommended by staff.

Councilmember Beals commented that one of the Council's obligations as a body

was to make certain that any Council uncertainty was addressed. She stated that the previously referenced mailer had put the public up in arms. She emphasized that the Council's responsibility was to address all aspects of a proposal and to work with the Planning Commission. The Council had made an effort to ensure that the Commission had met to consider the project and had met as the Commission's obligation as an advisory board to the City Council. To that end, the working workshop on November 22 had taken place to make sure that all parties involved continued to learn about the project. She stated that to send out a mailer was a concern. She added that the Council was making sure that it was meeting the obligation of the City, which was the Council's only obligation to protect.

Councilmember Beals asked Mr. Johnson whether since he had mailed the mailer his concerns had been answered. Mr. Johnson stated that his concerns had been answered.

When asked, Mr. Johnson commented that he did not know the owner of the postage permit listed on his mailer. He stated that he had paid the fee and the company had mailed the flyer.

LARRY WIRICK, Pittsburg, explained that he was a resident of the Oak Hills subdivision and that he had looked forward to the extension of West Leland Road and for the completion of the project. He noted how hard the Council and the Planning Commission had worked to further the development plan. It was his belief that the traffic problems, although widespread throughout the City, would be somewhat alleviated at least for a while with the extension of West Leland Road. Mr. Wirick suggested that commuters would eventually find that arterial highway through the town although he acknowledged that parents and buses would find the route as a more convenient and direct route to the school. He commended Councilmembers Beals and Glynn for guiding the workshop on November 22, a workshop that he had attended. He suggested that the development would be a fine product as a result. He urged the passage of the final plan.

A.J. FARDELLA, Pittsburg, read from a letter that he had presented to the City Manager. He pointed out to those who thought that there was a rush to judgment on the project that there had been eight public hearings on the matter. His letter summarized his thoughts as well as those who lived in the Oak Hills area. He commented that the previously referenced mailer had not been sent to those homes closest to the development. Speaking for the Oak Hills Community Group, he urged the Council to take action now since action was long overdue.

VERNON HUFFER, Pittsburg, a Pelican Loop resident, expressed his concern with the site plan which in his opinion did not appear to represent good planning. He suggested that the proposal was too close to the BART station. He also suggested that the project had not been well publicized.

JOHN MODICA, Pittsburg, an Oak Hills resident, recommend that there be an extension to San Marco Boulevard given that houses had been built in the area and there was only one access to the area which posed a danger to his child who took the bus to

school. It was his hope that the extension would alleviate traffic. He also noted that there was only one way out of Oak Hills out to Bailey Road. He stated that ingress/egress was a major concern to him and his neighbors and that with the additional construction of homes the infrastructure would have to be improved. Mr. Modica supported the proposal. He added that more houses meant more people, which meant more children. He did not support any further delays. He supported the project and a unification of the community.

Mr. Mix requested that the Council consider modifications to two sections of the Development Agreement. With respect to the first modification he referred to the timing of the dedication of West Leland Road as shown in Section 3.02. He noted that the Planning Commission had added a requirement of the Development Agreement that West Leland Road be dedicated within 45 days of the effective date of the Agreement. He stated that the principle of that recommendation was to require that the landowner dedicate the land for West Leland Road as soon as practical after the expiration of the Statutes of Limitation for any challenge to the project. While he had no problem with the concept, he stated that the 45 days fell short of accomplishing the goal of escaping the Statutes of Limitation on the litigation. As such, he submitted highlighted changes to the document to address that concern.

Mr. Mix stated that the changes would obligate William Lyon Homes to apply for a grading permit for the project within 45 days of the effective date of the Development Agreement, and would provide that the right-of-way would be dedicated within 120 days of the effective date of the Agreement. He also requested that the references to CEQA in Section 3.02 subparagraphs (a) and (d) be stricken given that there could be other potential challenges to the Council's action.

Mr. Mix also referred to Section 3.13(a)(ii), a concept also discussed at the Planning Commission meeting to clarify the omission of "for sale or lease" related to the inclusionary affordable housing in the Alves Ranch property side of the project. He stated that there were 27 units where the words "for sale or lease" had been omitted. He requested that those words be added back in, which would make it clear that those 27 units would be offered as for sale or rental projects. He sought that flexibility. With those two changes, he stated that William Lyon Homes was in complete agreement with all of the conditions of approval regarding the project.

Mr. Mix took this opportunity to thank staff for his/her work on the project. He described City staff has incredibly professional and thorough and stated that as a result the project would be an asset to the community. He specifically thanked John Fuller, Randy Jerome, Noel Ibalio, Walter Pease, Alfredo Furtado, Paul Reinders, Ruthann Ziegler, Melissa Ayres and Joe Sbranti.

Mayor Rios closed the public hearing on Resolution 04-10191, Resolution 04-10192, Ordinance 04-1230 and Ordinance 04-1231.

Vice Mayor Parent expressed her appreciation for the time that Councilmembers Glynn and Beals and the Mayor, as an observer, had spent at the November 22 workshop.

She reported that while not able to be present at that time, she had listened to the audio tapes of that meeting. The Vice Mayor reported on the calls and e-mail she had received from citizens as a result of the previously mentioned mailers. She stated that she had spoken to all but one of those who had contacted her to explain the situation. Those she had contacted appeared to be satisfied that the item, which had been ongoing for the last 14 months, had not been rushed.

Vice Mayor Parent added that Councilmembers had a field trip to the site to be aware of what was involved. She stated that over the period of 8 to 10 public hearings the Council had stacks of Commission minutes and staff reports to every Commission meeting and had been provided that information soon after approval to keep the Council informed of the process. She explained that it was very clear that there had been a long opportunity for anyone who wanted to spend the time to go over what was going on with the project.

Vice Mayor Parent stated that many of the new concepts that had been put into the proposed development and the Development Plan through the negotiations between the developer and City staff would be a model for future developments. She added that the developer had agreed to inclusionary housing in the proposal even though the timing of that ordinance was not applicable to the application.

In response to the Vice Mayor as to the request for modification to the Development Agreement, as noted, City Attorney Ziegler stated that she had consulted with the City Engineer as to the proposed changes. She advised that the City would remain protected and there were no objection to those changes.

Councilmember Kee explained for Mr. Barrett's benefit that the copy of the second mailer he had referenced was blank on one side. He advised that he would meet with Mr. Barrett on his concerns related to that mailer. To staff, he noted his understanding that the developer would fully build all four lanes of the West Leland Road Extension and that the developer would be reimbursed for the two lanes that were the City's responsibility.

Mr. Sbranti stated that all four lanes of the roadway would be constructed across the Alves property. Two lanes would be constructed across the City owned right of way that fronted San Marco to the west of the Alves property up to San Marco Boulevard. He affirmed that the City would benefit with the construction of all four lanes at this time. He also affirmed that the Development Agreement conditioned that the land was dedicated at no cost to the City and no credit toward in-lieu park fees and that the construction of the park would be credited at the rate of 50 percent toward those fees.

Ms. Ayres clarified that the park was actually part of the 11.3 acre school site and would be sold as a first option to the school as part of the school property and playfields. Parkland fees would not be used for the creation of that park in terms of land dedication. The developer was obligated under the Development Agreement to build that playfield for the benefit of the school and the City as part of a joint use agreement. The developer would receive half credit for the improvements since the public would have only half time benefits. The school would have the other half time benefit.

Councilmember Kee stated with respect to water that it was his understanding that the water improvements that the City was going to pay for would benefit future projects. The effort would be to make sure that future development would have adequate water capacity.

Mr. Sbranti affirmed that the developer would be developing far in excess of what was needed for the Vista Del Mar project. The beneficiaries would be other southwest hills developments.

Mr. Sbranti also clarified with respect to a question of which school district the Development Agreement had referred to, that was covered on Page 2 of the Agreement where the term school district had been defined as the Mt. Diablo Unified School District. Another clarification related to fee prepayment or reductions in credits which was covered in Section 6.11 of the Revised Draft of the Development Agreement. He recommended the following change to the second sentence in that section: *Accordingly, the Applicable Fees (including the local traffic mitigation fees), described in Section 3.10 shall be subject to reductions or credits in an amount equal to Developer's actual cost of complying with any such lawfully imposed dedication requirement generally intended to address similar uses or purposes that the relevant Applicable Fees are intended to address, whether imposed on the Project or the Project Site or pursuant to the Project Approvals of the Subsequent Approvals.*

City Attorney Ziegler referred to Article I of the agreement where a series of definitions had been included. As recommended by the Planning Commission, the reference to an interim bond had been eliminated although the two definitions related to the interim bond had not been deleted. She therefore recommended deleting the definitions of "Water Line Bond" and "Municipal Bond Offering." She recommended the addition of a definition for "Days" used in the Agreement to mean calendar days, to be added in the appropriate alphabetical listing of definitions in the Agreement.

Councilmember Glynn thanked the staff and the City Attorney and to all those involved in the work that had gone into the document, which he agreed could serve as a model document to be used in any future Development Agreements or terms and conditions of approval that would facilitate or eliminate the extra meetings required to reach resolution, such as occurred in this case.

When asked, Mr. Mix stated that William Lyon Homes had no objections to the recommended changes.

On motion by Councilmember Beals, seconded by Councilmember Glynn and carried unanimously to adopt Resolution 04-10191.

On motion by Vice Mayor Parent, seconded by Councilmember Beals and carried unanimously to adopt Resolution 04-10192.

