

PIEDMONT CITY COUNCIL

Regular Meeting Minutes for Monday, April 16, 2007

A Regular Session of the Piedmont City Council was held April 16, 2007, in the City Hall Council Chambers at 120 Vista Avenue. In accordance with Government Code Section 54954.2(a) the agenda for this meeting was posted for public inspection on April 12, 2007.

CALL TO ORDER Following a 7:00 p.m. Closed Session regarding salary and benefits for management employees held pursuant to Government Code Section 54957.6, Mayor McEnroe called the meeting to order at 7:35 p.m. with the Pledge of Allegiance.

ROLL CALL Present: Mayor Nancy McEnroe, Vice Mayor Abe Friedman and Councilmembers Dean Barbieri, John Chiang and Garrett Keating

Staff: City Administrator Geoff Grote, City Attorney George Peyton, Police Chief Lisa Ravazza, Public Works Director Larry Rosenberg, Finance Director Mark Bichsel, Recreation Director Mark Delventhal, City Clerk Ann Swift and Recording Secretary Chris Harbert

CONSENT CALENDAR The following items were considered under one vote by the Council:

Minutes Approves as amended Council meeting minutes of April 4, 2007

Ordinance Approves the second reading of Ordinance 670 N.S. approving the borrowing of funds for Phase IV of the City's Infiltration/Inflow Project

Ordinance Approves the second reading of Ordinance 671 N.S. approving a use agreement between the City and CampFire USA and the Piedmont Educational Foundation for use of the Community Hall Lower Level Office space

Agreement Approves a 5-year agreement with Maze and Associates as the City's auditor for an annual cost of \$30,488 to \$35,256 per year

Resolution 29-07

RESOLVED, that the City Council approves the consent calendar as noted.

Moved by Friedman, Seconded by Chiang

Ayes: McEnroe, Friedman, Barbieri, Chiang, Keating

Noes: None

Absent: None

(0705; 0045/X0705; 0045)

PUBLIC FORUM There were no speakers for the public forum.

REGULAR CALENDAR The Council considered the following items of regular business:

Coaches Playfield The Recreation Director stated that pursuant to Council direction of July 3, 2006, the Recreation Commission undertook a comprehensive analysis of possible options for improving turf and field lighting at Coaches Playfield. The City retained Mark Slichter of Callender

Associates Landscape Architecture to assist the Commission in this examination and the Commission conducted four public hearings on the issue (October/November 2006; January/February 2007). On February 28, 2007, the Commission recommended that a synthetic turf surface be installed at Coaches Playfield and that the City Council consider the issue of amending the playfield's current use restrictions to permit field lighting as a means of allowing more hours of field use per the schedule outlined in Mr. Slichter's final report.

Correspondence was received from: Bob Milano Jr., February 25; Mallory Hill, April 16; Joannie Semitekol, April 11, July 26 and January 15.

Public testimony was received from:

William Forsythe, Ken Harley and Joannie Semitekol, all Moraga Canyon residents, strongly opposed the addition of field lighting at Coaches Playfield. They emphasized that at the time the field was developed 15 years ago, the City promised the surrounding neighborhood that field lighting would never be installed. They requested that the Council uphold this promise. They voiced concern that the addition of field lights would detrimentally impact the view and enjoyment of their properties by allowing sports play to extend into the evening, disturbing the peace and quiet of the neighborhood's unique rural character as well as potentially interfering in terms of light spill/glare with spectacular evening views. Ms. Semitekol submitted a petition signed by 55 Moraga Canyon residents in opposition to the installation of lights at Coaches Playfield.

Erik Housh (North/South Little League Board Member), Frank Helm (Skyline Lacrosse Board Member) and Scott Cauchois (Piedmont Soccer Club Board Member) all urged the Council to approve the Commission's recommendation for the installation of a synthetic surface at Coaches. They stressed the critical need for more playfield time in Piedmont to accommodate the variety of community youth sports programs as well as offset the pending loss of Piedmont team access to several outside sports fields. They emphasized that a synthetic surface will allow more use hours on the field, will be safer and more enjoyable to play on for the kids than the current badly worn, muddy field conditions at Coaches and that the addition of field lighting makes the most economic sense. They were confident that modern lighting technology will minimize any visual impact on the surrounding neighborhood and since lights would only be used for practices (no games), there would be little noise disturbance. They also stated that the community's sports groups are committed to financially contributing toward the cost of synthetic turf and lights at Coaches.

Drew Bendon criticized the process used by the Recreation Commission in considering this issue and urged that more study regarding field lighting be conducted so that the City can make an informed decision.

Dana Kirby, Recreation Commission Chairman, concurred with Councilmember Barbieri's comments that the Commission's process in evaluating this issue was thorough and in accordance with Council direction. She also emphasized that while the Commission

acknowledges the desirability of a natural grass field at Coaches, the hard reality is that grass cannot sustain the level of use this multi-use sports field receives. Mrs. Kirby added that the Commission toured numerous sport field facilities in the Bay Area, both grass and synthetic, in connection with its evaluation of the issue. She also noted that the Commission did not pursue an in-depth evaluation of field lighting since the City Code prohibits field lighting. Therefore, the Commission recommended that the City Council consider whether the code should be amended to allow such lighting. She suggested that as part of this examination, the Council consider installing temporary lights at the field so that its effect on the surrounding neighborhood can be assessed and evaluated.

Mark Slichter of Callender Associates responded to Council questions concerning the findings and conclusions contained in his report entitled *Evaluation of Turf Improvement Alternatives, Coaches Playfield*, dated February 28, 2007. In responding to Council questions, he stated his belief that the research data cited in the report related to player injury/safety evaluations was the most pertinent/useful for Piedmont.

Bob Milano, Assistant U.C. Berkeley Athletic Director, referenced his "peer review" evaluation of Mr. Slichter's report, concurring with the report's recommendation that a synthetic turf surface at Coaches is the best and safest option for the City.

Councilmember Keating voiced his preference that the Council be provided with more data/information regarding player safety/toxicity issues related to synthetic turf surfaces before approving the Recreation Commission's recommendation. The remaining Councilmembers felt that such additional information, if pertinent, would be disclosed during the CEQA process and that the hearings before the Commission and the information in the final report reflect a thorough vetting of the issues. The Council supported the Commission's recommendation that a synthetic turf surface be installed at Coaches Playfield, agreeing that natural grass is not practical given the variety of sports played at the site and the level of use the field sustains. The Council reiterated its confidence that issues related to player safety and the toxicity of materials raised by Councilmember Keating would be addressed as part of the CEQA process.

Resolution 30-07

RESOLVED, that the City Council accepts the *Evaluation of Turf Improvement Alternatives, Coaches Playfield* Final Report from Callender Associates and the Recreation Commission and thanks the Commission and consultant for their efforts; and

RESOLVED FURTHER, directs staff to initiate an environmental review, pursuant to CEQA, for the installation of synthetic turf, including the engagement of Environmental Science Associates of San Francisco for such a review.

Moved by Friedman, Seconded by Chiang

Ayes: McEnroe, Friedman, Barbieri, Chiang, Keating

Noes: None

Absent: None

(0745)

As to field lighting, the Council, with the exception of Councilmember Keating, supported proceeding with a CEQA process of evaluation in conjunction with the synthetic surface CEQA review for cost efficiency reasons. The Council majority also supported the installation of temporary lights so as to assess the light glare/spill and evening play impacts on the surrounding neighborhood. Staff was requested to provide cost estimates for temporary light installation and the CEQA lighting review to the Council for approval prior to expenditure. Councilmember Keating opposed proceeding with a CEQA lighting review at this time, noting that lighting may not be necessary at Coaches given the private party considerations underway for developing Blair Park into a multiple sports field facility.

Resolution 31-07

RESOLVED, that the City Council directs staff to secure a basic lighting plan based on the use schedule in the Slichter report (Callender Associates) in order to initiate environmental review (CEQA) and thus obtain cost efficiencies by coinciding this review with the synthetic surface review authorized by Resolution 30-07; and

RESOLVED FURTHER, that staff is directed to arrange for the installation of temporary field lighting at Coaches Playfield so that the impacts of such lighting can be determined and assessed, with the understanding that the cost for such installation shall be provided to the Council for approval prior to the expenditure of funds.

Moved by Friedman, Seconded by Barbieri

Ayes: McEnroe, Friedman, Barbieri, Chiang

Noes: Keating

Absent: None

(0745)

**Central Piedmont
Utility Undergrounding
District**

The Council resumed its April 4 consideration of various issues related to the Central Piedmont Utility Undergrounding District.

Vice Mayor Friedman recused himself from discussion and action on this matter as he resides within the boundaries of the proposed district. He left the Council Chambers.

The City Clerk referenced her staff report in responding to the questions raised at the April 4th meeting. She also submitted a cost breakdown of the District's expenditures, both paid and outstanding, and submitted proposed resolutions for either approving the amended engineer's report, abandoning proceedings and/or the filing of a notice of assessment lien discharge.

Correspondence was received from: Betz Bornstein, April 11; Fee Stough, April 16; Linda Roodhouse, April 16; Diane Prioleau, April 16; Timothy Abel, April 16; William Skinner, April 9; Arthur Flegal, April 16.

Public testimony was received from:

Cameron Wolfe, speaking on behalf of the Central Piedmont Steering Committee, urged the Council to approve the amended engineer's report. However, he requested that if there is insufficient Council support to proceed with the district, the Council consider reimbursing

those residents within the district that provided the initial funding for the process to date. He cited the following reasons in support for reimbursement: (1) the performed engineering work will be useful to the City if in the future, utility undergrounding is undertaken in this part of the City; (2) the Council is on record as unanimously endorsing utility undergrounding in Piedmont; (3) the first ballot for district formation received a 74% approval level; (4) per the second ballot there is sufficient property owner support to proceed with district formation under state law; and (5) compensating residents would be a very positive and appropriate response if the Council decides to abandon district proceedings. Mr. Wolfe added that if reimbursed, the Steering Committee is committed to putting the money in a trust fund to continue to proceed with utility undergrounding under a modified district. He also volunteered to work with the City in establishing a task force to evaluate the City's current utility undergrounding process and correct the deficiencies and flaws that have become apparent during the course of Central Piedmont's experience.

Jeff Horner, George Childs, Ronald Gruber, Maria Faer, Joseph Sheehan, Marianne Gielow and Ryan Gilbert all urged the Council to abandon district proceedings. Reasons cited included: (1) numerous procedural flaws resulting from unclear and constantly changing rules and procedures; the Council's actions of March 5 and 19; the unnoticed filing of liens; inappropriate criteria cited in support of assessment district formation; a possible conflict of interest with regard to the bond counsel's financial arrangement with the City; (2) the disregard of past City practice requiring a super majority of property owner support for approving utility assessment districts; (3) a belief that public safety can be better enhanced through earthquake retrofits; (4) inaccuracies in Assessor Map information which led to errors in calculating assessments; and (5) utility service reliability has never been a serious problem in the neighborhood and therefore is an invalid reason in support of district formation. Many of these speakers supported a Citywide approach to utility undergrounding in Piedmont, rather than a neighborhood by neighborhood process. Mr. Gilbert also supported Mr. Wolfe's suggestion of a blue ribbon committee to assist the City in developing clear criteria and procedures for utility undergrounding projects.

Jeff Horne supported City reimbursement of expenses incurred by Central Piedmont residents who advanced money for district formation.

George Childs opposed City reimbursement of Central Piedmont residents, stressing that it is unfair to require all City taxpayers to pay for a privately initiated project for a specific neighborhood.

Sam Sperry, the City's Bond Counsel, responded to speaker comments and Council questions related to the legality of the assessment district, special versus general benefits, the engineer's approach for estimating assessment costs and proportionality benefits and conflict of interest concerns related to his services.

During Council deliberation of this matter, the City Attorney stated that abandoning the district would not preclude the Council from considering reimbursing district proponents.

Resolution 32-07

RESOLVED, that the City Council adopts the prepared *Resolution Overruling Protests, Approving the Amended Engineer's Report and Levying Increased Assessments* related to the Central Piedmont Utility Undergrounding Assessment District.

Moved by Barbieri, Seconded by Chiang

Ayes: Barbieri, Chiang

Noes: McEnroe, Keating

Recused: Friedman

MOTION FAILED

As indicated at the April 4 meeting, Councilmember Chiang stated his willingness to support abandoning the project, if there was insufficient Council support to proceed.

Resolution 33-07

WHEREAS, at the close of the public hearing conducted on November 7, 2005, this City Council (this "City Council") of the City of Piedmont (the "City") levied assessments (the "Original Assessments") upon the benefited parcels within the Central Piedmont Assessment District (the "Assessment District"), based upon the estimated cost (the "2005 Estimated Cost") for the authorized utility undergrounding project (the "Project"), with a 74% margin of support from the affected property owners as indicated by the assessment ballots submitted prior to the close of the public hearing; and

WHEREAS, following the levy of the Original Assessments on the parcels of land assessed, final engineering design was completed and sealed bids for the Project were solicited and received, and the best bid received was for a bid price substantially in excess of the 2005 Estimated Cost, with the result that proceeding with the Project required a substantial increase in the amount of the assessments (the "Proposed Increased Assessments"); and

WHEREAS, for the purpose of determining whether sufficient support remained among the affected property owners to proceed with the Project based on the Proposed Increased Assessments, this City Council directed the preparation of an amended engineer's report (the "Amended Report"), showing the increased total costs to be assessed and the Proposed Increased Assessments and, upon receiving the Amended Report, by resolution adopted on January 16, 2007, scheduled a public hearing for March 5, 2007, to consider the Amended Report and the Proposed Increased Assessments and to hear and consider expressions of support and opposition from the affected owners and any interested persons; and

WHEREAS, notices of hearing and assessment ballots were mailed to the affected owners as required by law, and this City Council opened, conducted and closed the public hearing as scheduled, and at the close of the public hearing, directed the City Clerk (the "City Clerk") to open and tally the assessment ballots received; and are not likely to achieve any greater margin of support among the affected property owners, that the issues pertaining to the Proposed Increased Assessments are likely to remain as divisive as they are at present, and that it is now in the best interest of the City in general and the property owners within the Assessment District to terminate any

further consideration of the Proposed Increased Assessments or the Project, this City Council has resolved to and by this resolution wishes to abandon the proceedings for the Assessment District and to provide for the recordation of a certified copy of this resolution with the Alameda County Recorder in accordance with Section 3117 of the California Streets and Highways Code;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF PIEDMONT HEREBY FINDS, DETERMINES AND RESOLVES as follows:

1. The proceedings for the Assessment District are hereby abandoned.

2. Pursuant to Section 3117 of the California Streets and Highways Code, the City Clerk is hereby authorized and directed to record a certified copy of this Resolution Abandoning Proceedings with the Alameda County Recorder. As further specified by Section 3117, the following information pertains to the Assessment District proceedings:

(a) The date of adoption of this Resolution Abandoning Proceedings is April 16, 2007.

(b) The date of adoption of the resolution of intention was October 7, 2003.

(c) The boundary map for the Central Piedmont Underground District was filed for record in the office of the County Recorder of Alameda County on September 19, 2005, in Book 16 of Maps of Assessment and Community Facilities Districts, at page 25.

(d) The assessment diagram for the Central Piedmont Underground District was filed for record in the office of the County Recorder of Alameda County on February 15, 2006, in Book 16 of Maps of Assessment and Community Facilities Districts, at pages 30 through 38 inclusive.

(e) The Notice of Assessment for the Central Piedmont Underground District was recorded on March 14, 2007, as Document No. 2007105573, official records of the County Recorder of Alameda County.

Moved by Chiang, Seconded by Keating

Ayes: McEnroe, Chiang, Keating

Noes: Barbieri

Recused: Friedman

(1075)

The Council requested that a full hearing regarding the issue of possible City compensation of Central Piedmont proponents be scheduled on a future agenda, with the City Administrator and City Attorney requested to prepare a report regarding the financial arrangements related to this district, including possible trust options. The City Administrator also

agreed to prepare for a separate hearing by the Council, a proposal related to general utility undergrounding procedures, including the possible formation of a blue ribbon committee to help devise a clear process and procedures.

City Election

Per Council discussion of April 4, the City Clerk reported that the Alameda County Registrar of Voters has reconsidered his position and is now able to handle the City's municipal election scheduled for March 4, 2008. This would be a stand-alone election at a cost of approximately \$40,000 to the City. The City Clerk recommended that the Council proceed with the March 4th election date and include on the ballot a proposed Charter amendment changing the City's municipal election date to the first Tuesday after the first Monday in November of even numbered years – thus coinciding with the nation's general election date.

On a Motion by Councilmember Barbieri, Seconded by Councilmember Chiang and Unanimously Carried, the Council agreed to extend tonight's meeting to 11:15 p.m. in order to complete agenda consideration.

The Council concurred with the Clerk's recommendation.

Management Compensation

Based upon Council Closed Session discussions, the Finance Director recommended the following one-year compensation and benefits package for management employees. The proposed salary increases reflect a 2% below median based upon a salary survey of cities designated in Council Resolution 45-02, adopted May 6, 2002.

- Finance Director 9.41%
- Fire Chief 5.08%
- Police Chief 12.97%
- Public Works Director 10.45%
- Recreation Director 13.29%

The City Clerk will receive a 3.44% cost of living increase in accordance with that received by rank and file employees.

Resolution 34-07

RESOLVED, that the City Council approves a one-year compensation and benefits package for management employees as indicated above.

Moved by Friedman, Seconded by Barbieri

Ayes: McEnroe, Friedman, Barbieri, Chiang, Keating

Noes: None

Absent: None

(0910)

Mid-Management Compensation

Based upon Council Closed Session discussions, the Finance Director recommended a 3.96% salary increase, effective January 1, 2007, for the positions of City Planner, Building Official and Parks and Projects Manager, a one-time payment of \$2,000 for each position and an increase of \$100 per month in the Building Official's car allowance.

Resolution 35-07

RESOLVED, that the City Council approves the compensation and benefits package for mid-management employees as set forth above.

Moved by Friedman, Seconded by Barbieri
Ayes: McEnroe, Friedman, Barbieri, Chiang, Keating
Noes: None
Absent: None
(0910)

Future Agenda Items

Piedmont Hills Utility Undergrounding District—The City Clerk stated that proponents of the Piedmont Hills Utility Undergrounding District are requesting the Council to consider at its next meeting a proposed amendment to the district's Preliminary Expense Agreement to authorize the use of all its remaining funds for the preparation of bid documents. Given what occurred with the Central Piedmont district, Piedmont Hills prefers to have property owners within the district cast their ballots based upon firm construction costs rather than engineer estimates. Carl Anderson, Piedmont Hills Steering Committee Member, concurred with the clerk's comments, stressing that proponents have been trying to get on the Council's agenda for over a month and are concerned that continued delays could prove very costly in terms of construction costs. The Council agreed to schedule consideration of the Piedmont Hills request on the May 7th agenda.

General Utility Undergrounding – The Mayor voiced strong support for the Council to re-examine its utility undergrounding process to address the concerns and problems that arose during the Central Piedmont experience.

ANNOUNCEMENTS

United Way – the Mayor encouraged residents to participate in this Sunday's United Way of the Greater Bay Area *Building Bridges in the Community* event to be held in San Francisco.

ADJOURNMENT

There being no further business, Mayor McEnroe adjourned the meeting at 11:10 p.m.