

## PIEDMONT CITY COUNCIL

### Regular Meeting Minutes for Monday, December 17, 2007

A Regular Session of the Piedmont City Council was held December 17, 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 December 13, 2007.

#### CALL TO ORDER

Following a 7:00 p.m. Closed Session regarding real estate negotiations pertaining to 777 Magnolia Avenue and employee contract negotiations with the Piedmont Police Officers Association, International Association of Firefighters and Local 1021 held pursuant to Government Code Sections 54956.8 and 54957.6, Mayor McEnroe called the meeting to order at 7:40 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, Public Works Director Larry Rosenberg, Recreation Director Mark Delventhal, City Clerk Ann Swift, City Planner Kate Black, Parks and Projects Manager Mark Feldkamp, Assistant Planner Kevin Jackson and Recording Secretary Chris Harbert

#### CONSENT CALENDAR

The following items were approved under one vote by the Council:

##### Minutes

Approves, as amended below, City Council minutes of December 3, 2007:

Page 5 (Resolution 97-07): add new second paragraph:

*RESOLVED FURTHER, that the Council will re-evaluate, based upon the performance of the 211 program and contingent upon the other 13 Alameda cities also providing their full share of the costs, whether the City of Piedmont will continue its participation and funding of this program in FY 08-09.*

##### Grant Funding

Accepts the 07-08 Citizens Option for Public Safety funding in the amount of \$100,000 and appropriates said sum to the following accounts:

- \$20,000 to the police overtime account
- \$80,000 to the equipment replacement fund

In addition, appropriates \$47,546 which was budgeted but not spent in FY 06-07 to the police overtime account

##### Resolution 100-07

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

Moved by Friedman, Seconded by Barbieri

Ayes: McEnroe, Friedman, Barbieri, Chiang, Keating

Noes: None

Absent: None

(0088)

*(Note: Mayor McEnroe abstained from the vote approving the December 3, 2007, Council minutes)*

**PUBLIC FORUM**

There were no speakers for the public forum.

**REGULAR CALENDAR**

The Council considered the following items of regular business:

**Public Hearing:  
Garbage Franchise  
Agreement**

The Council resumed its December 3 consideration of three refuse, green waste and recycling collection proposals received in response to the City's July RFP solicitation of bids for a new 10-year solid waste franchise contract. Per Council request, Mr. Richard Tagore-Erwin of R3 Consulting Group, the City's solid waste refuse consultant, provided the additional rate information requested at the December 3 meeting as well as responded to Council questions concerning the rate information, the types of materials subject to recycling under the proposed contracts and how the City can insure that recyclable material is actually recycled and not disposed of in the landfill.

**Correspondence** was received from: Phyllis Carmichael; Shelby Solomon, Margaret & Ron Pengilly; Gala & Bruce Mowat; Kathleen & Joe Addiego; Josephine Shuman; Fran Wolfe; Grier Graff; Susan Freeman; Dana & Mike Serleth; Rob Andrews; Sandy & Jan D'Annunzio; Drew Bendon; Jan & Steve Zovickian; Rebecca Schnier

**Public testimony** was received from:

George Kersh urged the Council to approve the least expensive collection option – curbside collection, with no green waste.

George Childs reiterated his December 3 comments, stressing the need to reduce the escalating costs of solid waste collection by keeping the existing service level rather than adding more programs such as weekly green waste, food waste collection and additional bulky waste pick-ups in the new contract.

Rebecca Schnier urged the Council to maximize residents' opportunities to recycle.

The Vice Mayor commended the Mayor for her leadership in this issue, especially with regard to obtaining an excellent recycling program for Piedmont residents, and also commended R3 Consulting Group and planning staff for the clarity of their presentations and analysis of the issues involved in each collection proposal.

**Resolution 101-07**

RESOLVED, that the City Council adopts the following program options in the RFP and draft contract:

- Backyard collection as the default for weekly collection of garbage, green waste and recyclable materials, with curbside service as a subscription option;
- Include food waste as part of the required services;
- Include four (4) bulky waste collections as part of the required services to allow for residents to properly discard E-Waste, U-Waste, White Goods and Brown Goods;

- Include the additional recyclable materials (plastic bags, plastic film, aseptic containers and polystyrene) as part of the required services;
- Allow residents to receive, at no additional charge, as many green waste and recycling containers as they request;
- Retain exclusive collection of temporary debris boxes as part of the franchise agreement; and
- Retain the morning start time of 7:00 a.m.; and

RESOLVED FURTHER, selects Richmond Sanitary Services (Republic Services) to provide solid waste services, with a contract award on January 7, 2008.

Moved by Friedman, Seconded by Barbieri

Ayes: McEnroe, Friedman, Barbieri, Chiang, Keating

Noes: None

Absent: None

(0700)

**Review of Park  
Commission Decision  
Regarding Ranleigh  
Way Street Tree  
Replacement Program**

The Parks & Projects Manager stated that on September 5, 2007, the Park Commission considered a petition request from the residents of Ranleigh Way/Upper Portsmouth Road requesting the removal of the existing street trees in their neighborhood (the majority being liquidambers) and the replanting of the street with flowering red spire pear trees. He stated that the existing street trees were planted in the 1980's and are too large for the size of the street's narrow parking strips. As a result, trees' roots have caused significant and repeated sidewalk uplift as well as damaged public and private property. Neighborhood notice was given in advance of the Commission's September meeting advising residents that this petition request would be considered, the Commission held a public hearing on this request wherein testimony from proponents and opponents were heard and following public testimony and Commission discussion, the Commission unanimously approved the petitioners' request. In preparation for tonight's Council review of this issue, the City's consulting arborist, James Clark of Hortscience, was requested to examine the trees and he concurs with the Commission's decision to remove the trees as indicated in his letter dated December 11. The Parks & Projects Manager added that the petition was resident-initiated and signed by 86% of the neighborhood's residents. The process followed was that modeled after the 2006 Annerley/Portsmouth tree removal/replacement program. The public notice given in advance of the Commission's September meeting clarified the request by indicating that 43 trees would be removed (the majority being liquidambers) and replaced with 46 24-inch box flowering red spire pears.

The Mayor announced that this issue was scheduled on tonight's agenda in response to a November 19 *public forum* request that the Commission's process and decision in this matter be re-examined.

**Correspondence** was received from: Paul Bailey-Gates, Dec. 3, 5 & 10; Jayne Sorensen, Dec. 1; Emily Murdock, Dec. 17; Tom Lister, Dec. 17; Betsy Lim, Dec. 17.

**Public testimony** was received from:

Deborah Edwards, Betsy Adler, Kim Sherman, Betsy Lim, Lori Teranishi and Alice Young, all Ranleigh Way residents, urged the Council to uphold the Park Commission's decision. They emphasized that (1) the petition process was open and clearly understood by neighborhood residents; (2) the Commission's hearing, discussion and decision regarding this matter was thorough and correct – both proponents and opponents to the replacement program were heard at the Commission meeting and their comments taken into consideration during the Commission's deliberations; (3) the street's existing street trees, while beautiful, are much too large for the neighborhood's parking strips and as a result root encroachments have uplifted sidewalks, destroyed lawns, damaged sewer/water lines and threatened home foundations; (4) uplifted sidewalks and seed pod droppings have created trip and fall hazards and several residents have suffered physical injuries as a result; (5) the trees' continued presence pose a significant public safety and liability issue to the City and residents as well as costly on-going expenses related to repairing property damaged by the invasive tree roots; and (6); a block removal and replanting program is the best approach in terms of aesthetics, cost effectiveness and eliminating the risk of future accidents and damages when compared to a piece-meal, individual tree removal program.

Melissa Feldman felt the petition and Commission's review process was flawed, citing: (1) that many neighborhood residents felt pressured to sign the petition, the language of the petition was vague and subject to differing interpretations as to whether only problem trees were to be removed, all trees removed, whether residents could opt to retain the trees in front of their properties if they so desired, etc.; and (2) the Commission's deliberations and decision was unclear as to whether tree removal included non-liquidambers and firm cost estimates were never provided. In addition, she felt it inappropriate to plant new trees during a drought period given that young trees require much more water than mature ones. She also suggested that the Council hold a Citywide public forum to discuss tree related issues as they pertain to neighborhood requests for block tree removal/replanting programs.

Terry London, a former Park Commission chairman, felt that the Ranleigh neighborhood and Commission followed the standard procedures for requesting and considering street tree changes and the Commission's decision was fair and correct. He urged the Council to rely on the experience and expertise of its resident advisors, noting that if commissioners are frequently second-guessed and overruled, it will discourage residents from serving.

Tim Rood urged the Council to re-examine its policy with regard to street tree removals/replanting programs to determine if perhaps a phased removal/replanting approach would be more beneficial than a uniform block planting program. He noted that phased tree removal allows neighborhoods to retain the shade and canopies of mature trees during the transition period rather than endure the rather stark deforestation impact of block removals.

Stephen Mills and Chris Kukula, Park Commission Chair and member, respectively, agreed with the majority of Ranleigh Way residents that

the Park Commission's process, deliberations and decision regarding tree removal/replacement were fair and correct. They noted that the damage caused by Ranleigh's liquidambar and camphor trees was indisputable and that this damage and liability problem can only be abated by tree removal – the trees are simply too large for the size of the neighborhood's 18-inch parking strips. They noted that the Ranleigh Way street tree situation met the criteria of the City's CIP program to identify and remove problem street trees to minimize City exposure to and liability for repeated personal injury and property damage claims.

The Council concurred with the Park Commission's decision in this matter, with the Vice Mayor suggesting that the Council should consider holding periodic meetings with the Park Commission and Recreation Commission to discuss general policy issues as it does with the Planning Commission.

**Resolution 102-07**

RESOLVED, that the City Council upholds the Park Commission's September 5, 2007, decision approving the removal and replacement of street trees on Ranleigh Way/Upper Portsmouth Road.

Moved by Chiang, Seconded by Keating

Ayes: McEnroe, Friedman, Barbieri, Chiang, Keating

Noes: None

Absent: None

(1070)

**Piedmont Swim Club  
Lease Extension**

The City Administrator recommended that the Council schedule a public hearing on January 7, 2008, regarding the Piedmont Swim Club's counter proposal relating to the possible extension of its lease of the pool facilities on City property at 777 Magnolia Avenue. The current lease is set to expire on June 30, 2008. The Administrator noted that on November 13, 2007, the Piedmont Swim Club rejected the City's offer for an 18-month lease extension. On December 6 the club submitted its "best and final" proposal. The Swim Club lease extension issue was previously considered by the Council in April, May, October and December 2006.

As a member of the Swim Club, Councilmember Keating recused himself from discussion and action on this matter and left the chambers.

The Administrator briefly summarized the major provisions of the Club's counter offer and suggested that in an effort to maximize public awareness and input regarding this matter, this counter proposal be considered on January 7 rather than tonight.

**Correspondence** was received from: Timothy Rood, Nov. 13 & Dec. 6; Piedmont Swim Club Board of Directors, Dec. 6; following e-mails received Dec. 17: Jacqueline Mowat; Pat & Mike Ruffolo; Kara Christenson; Elizabeth Shook; Deidre & Michael Coen; Bim Coyle; Todd Reynolds; Dana & Mike Serleth; Caroline Peters; William Hobi; Mary Louise Morrison; Andrea Hackett; Cain & Terry Hird; Carrie Lee; Shari Burnham; Robert Burnham; Lauren Lempert; Valerie Villanueva & Paul Jahn; Chris & Lilly Krenn; Judith Mazia; Alan Wofsy; Deborah Pfeiffer.

**Public testimony** was received from:

George Childs, Vivian Barron, Robert Crown, Duncan Watry, Peter Ouborg, Lauren Lempert, Nathan Moon, Jon Sakol, Chris Kukula, Jack Follick all voiced support for approval of the Swim Club's 3-year lease extension request, stressing that: (1) the pool is an extremely important community asset; (2) a lease extension will insure that the pool remains in operation during the period when a new pool complex is considered, approved and financed as part of the Civic Center Master Plan process; (3) of the three options available to the City: renew the club's lease, City assume pool management or close the pool when the lease expires, continued Swim Club pool management is the most logical, cost effective and responsible choice; (4) there is no guarantee that residents will financially support the construction of a "dream aquatics facility" in connection with the Civic Center Master Plan so the continued operation and maintenance of the existing pool facility is essential to serve the aquatics needs of the community; (5) the Swim Club has operated the pool successfully and served the needs of residents for decades; (6) the community pool, under the management of the Swim Club, has provided job opportunities for Piedmont students; and (7) lease extension approval will not delay or hinder progress toward the development of a new aquatics center as envisioned by the Civic Center Master Plan.

Timothy Rood, President of the Piedmont Swim Club stressed the importance of the pool to community residents and user groups and the fact that without a 3-year lease extension at this point in time, it is unlikely that the Swim Club can continue to adequately maintain and operate the pool. He reviewed the loss of membership and staffing the club has suffered over the last two-years as a result of the uncertainty surrounding lease renewal and he urged the Council to act on the club's request as soon as possible. He noted that the 3-year extension is the minimum time needed to insure the club's continued existence.

Polly Upshaw, President of the Piedmont Swim Team, noted her preference for a City operated community pool but without such a commitment from the Council, she supported a 3-year extension of the Swim Club's lease to insure that the pool remains open.

The Council concurred with staff's recommendation to hold a public hearing on the Swim Club's lease extension request on January 7 to afford a full community discussion of all pool operation options. In preparation for the January meeting, the Vice Mayor requested the Swim Club and City Administrator to re-examine the language of:

- Section (iii)(b) so as to not unduly restrict the definition of *Improved Facility*. The Vice Mayor suggested that the term be defined based upon "the ground-breaking of a new facility"; and
- Section 3 *Rent* so that the Club retains the option of either receiving a rent credit if schools/school groups are not charged for using the pool or charging said groups and forfeiting any rent credits.

**Resolution 103-07**

RESOLVED, that the City Council schedules a public hearing on January 7, 2008, regarding the Piedmont Swim Club's lease extension proposal.

Moved by Barbieri, Seconded by Chiang

Ayes: McEnroe, Friedman, Barbieri, Chiang

Noes: None

Recused: Keating

(0270/X0092)

**ANNOUNCEMENTS**

City Hall Closures -- The Mayor announced that City Hall will be closed from 1:00 p.m. to 5:00 p.m. on December 24 and all day December 25, 2007 and January 1, 2008.

Congratulations – The Mayor congratulated Wildwood School 5<sup>th</sup> Grader Kevin Shum for winning the U.S. Junior National Ice Skating Championship held November 26-December 1 at the Olympic facility in Salt Lake City.

Centennial DVD – The Mayor announced that the Centennial DVD entitled *Celebrate* containing highlights from of all the Centennial related events and activities held throughout the year is now available for purchase at City Hall. Proceeds from the sale of the \$25 DVD will be used to cover the costs of this year's Centennial events.

**ADJOURNMENT**

There being no further business, Mayor McEnroe wished everyone a happy holiday season and adjourned the meeting at 9:55 p.m.