

PIEDMONT CITY COUNCIL

Regular Meeting Minutes for Tuesday, January 16, 2007

A Regular Session of the Piedmont City Council was held January 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 January 11, 2007.

CALL TO ORDER

Following a 7:00 p.m. Closed Session regarding salary and benefits for management and mid-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.

Present: Mayor Nancy McEnroe and Councilmembers Dean Barbieri, John Chiang and Garrett Keating

Absent: Vice Mayor Abe Friedman

Staff: City Administrator Geoff Grote, City Attorney George Peyton, Fire Chief John Speakman, Recreation Director Mark Delventhal, City Clerk Ann Swift, Parks & Projects Manager Mark Feldkamp, Assistant City Planner Kevin Jackson and Recording Secretary Chris Harbert

CONSENT CALENDAR

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

Minutes

Approves as submitted Council meeting minutes of January 2, 2007

Gift

Accepts a gift in the amount of \$2,315 from the Ward and Elaine Lindenmayer Family to cover costs related to the creation of centennial public safety badges

Resolution 4-07

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

Moved by Barbieri, Seconded by Chiang

Ayes: McEnroe, Barbieri, Chiang, Keating

Noes: None

Absent: Friedman

(0520)

PUBLIC FORUM

Wade Breuer inquired as to why the civic center is once again being studied and a new master plan is being developed. Later in the meeting during the Council's discussion of the appointment of a Master Plan Steering Committee, the City Administrator noted that a re-examination of the Civic Center was one of the goals set by the Council in the FY 07-08 budget as a means of responding to long-standing and unresolved issues posed by residents regarding civic center activities, public building/facility uses, parking/traffic, etc.

REGULAR CALENDAR

The Council considered the following items of regular business:

Public Hearing: Conditional Use Permit, 1345

The Assistant Planner stated that GMAC Mortgage Corporation is requesting a conditional use permit to operate a mortgage banking company office in the multi-tenant office building at 1345 Grand

Grand Avenue

Avenue. The specific site (Suite 103) was formerly occupied by the Chase Manhattan Mortgage Company and more recently by the California Title Company. No changes to the exterior or interior of the space are proposed. The Planning Commission unanimously recommended Council approval of a 5 year permit term at its meeting of January 8, 2007.

Resolution 5-07

WHEREAS, GMAC Mortgage, LLC. is requesting a Conditional Use Permit to operate a mortgage banking office in Suite 103 at 1345 Grand Avenue, Piedmont, California, and;

WHEREAS, the Piedmont City Council has reviewed the application, staff report and Planning Commission action, and any and all other documentation and testimony submitted in connection with the application and has visited the subject property;

The Piedmont City Council makes the following findings:

1. The use is of benefit to Piedmont residents as it will provide mortgage related services to the surrounding area, most of which are Piedmont homeowners buying, selling, refinancing real estate.
2. The use will be properly related to other land uses and transportation and service facilities in the vicinity. The proposed business replaces a former mortgage company at this location. It is a commercially zoned property.
3. Under all the circumstances and conditions of the particular case, the use will not have a material adverse effect on the health or safety of persons residing or working in the vicinity. The proposed use is an office use similar to that which previously operated out of the site.
4. The use will not be contrary to the standards established for the zone in which it is to be located. It is located in Zone D that allows this type of office use.
5. The use will not contribute to a substantial increase in the amount of noise or traffic in the surrounding area. There are 6 on-site parking spaces available for this use. It is similar to a previously approved use of this site.
6. The use is compatible with the General Plan and will not adversely affect the character of the surrounding neighborhoods or tend to adversely affect the property values of homes in the surrounding neighborhoods. It is an office use in a commercially zoned building.
7. Adequate provision for driveways to and from the property has been made; facilities for ingress and egress from secondary streets instead of arterials, where possible, have been made; provision for parking in compliance with this Chapter 17 has been made, together with sufficient agreements to enforce the carrying out of such plans as may be required by the Council. The proposed use in an existing commercial building with an established driveway and parking lot.

8. The plans conform to all other laws and regulations of the City, provided, however, that the Council shall have the right to require front, rear and side yard setbacks greater than those otherwise provided in the laws and regulations of the City if the Council finds that such larger front, rear and side yard areas are necessary to provide for the health, safety and general welfare of the residents of Piedmont in accordance with its zoning laws. The proposed use is in an existing office building constructed in accordance with Piedmont laws and regulations.

RESOLVED, that in consideration of the findings and facts set forth above, the Piedmont City Council approves the application for a conditional use permit by GMAC Mortgage, LLC. for property located at 1345 Grand Avenue, Piedmont for a term of five (5) years.

Moved by Barbieri, Seconded by Chiang

Ayes: McEnroe, Barbieri, Chiang, Keating

Noes: None

Absent: Friedman
(0340)

City Policy Consideration

The City Clerk reported that proponents of the Central Piedmont Underground Utility District have asked the Council to give the proposed district special consideration when evaluating the level of resident support necessary in order to approve district formation. Under state law, the Council has absolute discretion in determining the percentage of positive ballots required for district formation, provided said affirmative ballot count exceeds 51%. It has been the Council's policy since 2003 to require a positive threshold of approximately 70%.

As a side issue, the City Attorney noted that on January 8 the Vice Mayor requested a legal opinion as to whether he could participate in the discussion of this matter since he lives within the proposed boundaries of the Central Piedmont Underground District. The City Attorney stated that it is his legal opinion that it would be inappropriate for the Vice Mayor to participate in the discussion and he so advised the Vice Mayor.

Correspondence was received from: Denny McLeod, January 11; Jeff & Lucia Horner, January 3; Mary Elizabeth Stevens, January 13; Mary Cauchois, January 8; Gary & Katie Korotzer; Steven Flannes; Gene & JoAnn Gould, undated.

Public testimony was received from:

Denny McLeod, a member of the Central Piedmont Utility Undergrounding Leadership Committee, noted that the Leadership Committee is not requesting any change to the City's existing policy of requiring a 70% threshold at this time. Mr. McLeod reviewed the efforts since 2002 of the Leadership Committee to organize the Central Piedmont Utility Undergrounding District and the fact that an unprecedented escalation in construction costs occurred in the interim between the Engineer's estimate of project costs and resident balloting (September/November 2005) and the time bids were received in October 2006. As a result, project costs are now approximately \$2Million higher than the original assessments approved by the Council in November 2005. However, Mr. McLeod emphasized that

the importance and benefits of the proposed district remain unchanged and worthy of Council support.

Bob Leslie and Arnie Brown opposed any change to the Council's existing policy to lower the percentage threshold necessary to attain Council approval for district formation, stressing that to do so now at this stage in the process would be blatantly unfair, potentially disenfranchise a significant number of residents and set a very bad precedent. They urged that the 70% threshold be retained if there is a re-balloting of this matter to approve the higher assessments necessary for project construction.

The Council discussed the intent and basis for the Council's establishment of an approximately 70% affirmative ballot percentage, agreeing that the existing policy affords the Council with flexibility and discretion in determining an acceptable percentage within the range of 70% as well as allowing the Council full discretion to consider each district on its own merits – there is no precedent as to the action on one district as it pertains to another. The Council also reaffirmed that the "approximately 70%" figure is a benchmark/discretionary standard and not an absolute number. Therefore there is no need to change the existing policy.

Resolution 6-07

RESOLVED, that the City Council finds that there is no need to change its existing policy of "approximately 70%" regarding the level of support required for utility undergrounding assessment balloting because there is flexibility and discretion within the Council's decision-making process.

Moved by Barbieri, Seconded by Chiang

Ayes: McEnroe, Barbieri, Chiang, Keating

Noes: None

Absent: Friedman

(1075)

**Central Piedmont
Utility Underground
Assessment District**

The City Clerk reported that in November 2005 the Central Piedmont Utility Undergrounding District received a 74% approval level from property owners within the district and the Council authorized its formation. However, subsequent construction bids were substantially higher than the Engineer of Work's estimate. Therefore, the Engineer's Report has been amended to reflect the increased assessment amounts now required to fund construction. These assessment amounts are based upon firm bids to do the work. In addition, the assessment for 68 Bellevue has been revised to eliminate the "Bay view benefit points" assigned to this property. As a result, the assessment rates for all other properties within the district have been recalculated, representing an individual increase ranging from \$80 to \$160. The City Clerk recommended Council approval of the amended Engineer's Report and the scheduling on the March 5 Council agenda of a *Public Hearing of Protest* for the Central Piedmont Undergrounding Assessment District. If so authorized, assessment ballots will be mailed to all property owners within the proposed district on January 19. The ballots will then be opened and tallied on March 5, after the public hearing, to determine if there is a "majority protest" to stop district formation.

Correspondence was received from: Robert & Betty Worrell, January 12; Tom King, January 16; Tony Laglia, January 16; Sellers & Christine Stough, January 16;

Public testimony was received from:

Joan Cox, Engineer of Work for the Central Piedmont Underground Assessment District, explained how individual property assessments are calculated.

Denny McLeod and George Hill, Central Piedmont Leadership Committee Members, emphasized the value of the proposed undergrounding project to district residents in terms of life/public safety, service reliability and aesthetics. They specifically stressed that district formation will link up with two other undergrounding districts to create an “emergency route” to other parts of the City that can be used by emergency service personnel during a major disaster – there will be no downed power lines to obstruct emergency access to these areas of Piedmont. They also emphasized that unlike the first balloting for this project, the actual cost for utility undergrounding is now known and firm. They requested Council authorization to re-ballot the project based upon these known costs. Mr. McLeod also urged the Council to give special consideration in determining an acceptable level of support for district formation by recognizing how difficult it will be for proponents to achieve overwhelming support for this project given the increase in assessment rates over that originally anticipated and approved.

The Fire Chief discussed how downed power lines can significantly hamper emergency/rescue personnel during disasters and that there is a distinct safety advantage to underground utility lines.

Fran Wolfe read a prepared statement from her husband expressing support for the project, requesting re-balloting authorization and urging residents to support district formation.

Fred Pomerantz opposed the re-balloting of the project, inquiring if utility undergrounding is such an important life safety issue, the entire City should have its utilities undergrounded. He felt that the proposed project primarily benefited residents with views at the expense of other neighbors and was a luxury rather than necessity.

Bob Leslie also opposed re-balloting, agreeing that utility undergrounding is primarily an aesthetic rather than safety improvement and noting that not all project costs are known since individual connection costs have not been disclosed.

Tom Reddy supported the undergrounding project for public safety and community benefit reasons. He believed that given the City’s extensive urban forest, eventually the entire City will have underground utilities for service reliability and public safety reasons.

Maria Faer supported re-balloting given the substantial increase in proposed assessments from that originally voted on and approved by district residents. However, she requested that the City verify the accuracy of the construction cost figures, disclose individual

connection cost estimates and not lower the existing threshold percentage of support necessary to obtain Council approval of district formation.

Resolution 7-07

RESOLUTION PRELIMINARILY APPROVING AMENDED ENGINEER'S REPORT (dated January 16, 2007), SETTING DATE, TIME AND PLACE FOR PUBLIC HEARING OF PROTESTS FOR THE CENTRAL PIEDMONT UNDERGROUND ASSESSMENT DISTRICT

WHEREAS, since the date of this City Council's prior action on November 7, 2005, to approve an engineer's report (the "Prior Engineer's Report") for the proposed Central Piedmont Underground Assessment District, City of Piedmont, County of Alameda, State of California (the "Assessment District"), the City has solicited and received sealed bids for the work and improvements comprising the project of the Assessment District (the "Project"), and the lowest and best bid received was for an amount which exceeded the estimate of such amount as set forth in the Prior Engineer's Report; and

WHEREAS, in order to go forward with the Project, the amount of the individual assessments levied by this City Council on November 7, 2005, needs to be increased to reflect the lowest and best bid received, and any such proposed action to increase the amount of the individual assessments requires this City Council to conduct a public hearing and an assessment ballot procedure in connection therewith; and

WHEREAS, Harris & Associates, Inc., as Engineer of Work for the Assessment District, has prepared and filed with the City Clerk an amended engineer's report, dated January 16, 2007, (the "Amended Report") to reflect the increases on estimated costs and expenses and the corresponding increases in the respective individual assessments; and

WHEREAS, in accordance with the provisions of Sections 10350 and following of the California Streets and Highways Code, this City Council wishes to preliminarily approve the Amended Report for purposes of conducting the required public hearing and assessment ballot procedure;

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

1. This City Council preliminarily approves the Amended Report without modification for the purpose of conducting a public hearing and related assessment ballot procedure as provided by the Municipal Improvement Act of 1913 (the "Act"), Article XIID of the California Constitution and Section 53753 of the California Government Code ("Section 53753"). Said Amended Report shall stand as the report for the purpose of all subsequent proceedings under the Act and Section 53753, except that it

may be confirmed, modified, or corrected as provided in the Act and subject to compliance with Section 53753.

2. This City Council hereby sets 7:30 o'clock P.M. or as soon thereafter as the matter may be heard, on March 5, 2007, in the Council Chambers at 120 Vista Avenue, Piedmont, California, as the date, time and place for a public hearing with respect to the proposed changes in the estimated costs and expenses of the Project, the corresponding proposed increased individual assessments, and related matters as set forth in the Amended Report, and any interested person may appear and object to said changes.

3. The City Clerk is hereby directed to cause a notice of said public hearing to be given by mailing notices thereof, together with assessment ballots, in the time, form and manner provided by Section 53753, and upon the completion of the mailing of said notices and assessment ballots, the City Clerk is hereby directed to file with this City Council a certificate of mailing, setting forth the time and manner of compliance with the requirements of law for mailing said notices and assessment ballots.

4. The City Clerk, at (510) 420-3041, is hereby designated to answer inquiries regarding the public hearing and assessment ballot proceedings.

Moved by Barbieri, Seconded by Chiang

Ayes: McEnroe, Barbieri, Chiang, Keating

Noes: None

Absent: Friedman

(1075)

Mr. McLeod requested that an annual repayment schedule for each property be included in the ballot packet mailed to district property owners. The City Clerk agreed to include a repayment schedule in the information letter enclosed in each mailed ballot packet.

**Oakland Avenue
Bridge Improvements**

Per Council direction of December 4, the Parks & Projects Manager reported that a citizen committee composed of representatives from the Park, Recreation, Capital Improvement and Planning Commissions, the Centennial Committee, the Mayor and Councilmember Keating and a professional architect/colorists reviewed possible paint and lighting options to improve the Oakland Avenue Bridge and unanimously agreed upon the submitted proposal. He noted the two color schemes proposed for the accent color of the lower bridge turrets, noting his preference for Scheme "A." However, he requested authorization to further tweak the actual color of Scheme A with colorist Carolyn Van Lang.

Public testimony was received from:

George Childs supported bridge painting but felt that there were less expensive options available for improving bridge lighting.

Carolyn Van Lang explained why the proposed two-color scheme was preferred as a means of highlighting the bridge's attractive turret design.

In response to Council questions, the Parks/Projects Manager noted that this project was categorized as a "Safety/Aesthetic" project by the CIP Committee and that originally \$60,000 was allocated in the budget. A \$32,000 supplemental appropriation is now required because bridge painting (\$10,000) was not included in the original allocation and the actual costs of light fixtures, bridge scaffolding/drilling and electrical work is higher than preliminary estimates.

Resolution 8-07

RESOLVED, that the City Council approves the selection of materials for the Oakland Avenue Bridge Lighting Project and appropriates \$32,000 from the unappropriated General Fund to cover the anticipated costs; and

RESOLVED FURTHER, that the final choice of bridge color be subject to staff selection based upon consultation with colorist Carolyn Van Lang.

Moved by Barbieri, Seconded by Chiang

Ayes: McEnroe, Barbieri, Chiang, Keating

Noes: None

Absent: Friedman

(0157)

**Tentative
Scheduling Calendar**

For informational purposes, the City Administrator submitted a tentative schedule of 2007 Council meeting dates as well as dates of centennial, public and Civic Center related events.

**Appointment of Civic
Center Master Plan
Steering Committee**

Per Council discussion and action of January 2, the City Administrator requested the appointment of two Councilmembers to serve on the Civic Center Master Plan Steering Committee. The Mayor announced that Vice Mayor Friedman and Councilmember Keating have volunteered to serve on the committee. The Council agreed to their appointment.

Public testimony was received from:

George Childs inquired whether the Steering Committee meetings would be open to the public. The City Administrator responded in the negative, explaining that the Steering Committee is essentially staffing/administrative in nature – no policy decision-making. Public input will be obtained through an extensive series of public hearings and workshops.

ANNOUNCEMENTS

Dr. Martin Luther King, Jr. Holiday – The Mayor thanked the organizers of the City's annual *Dr. Martin Luther King, Jr.* holiday celebration, especially Lois Corrin and Michael Ruby, for sponsoring such a wonderful and well attended event.

Centennial Celebration—The City Clerk announced that January 31 will begin the City's year long celebration of its centennial. A full day of free activities are planned for all ages and she encouraged residents to attend. Event information is available on the City's website.

FUTURE AGENDA

Councilmember Keating requested future Council discussion of the following matters:

- Providing complete staff reports on the City's website;
- Various types of special outreach efforts that could be made to advise residents of Civic Center Master Plan discussions, meetings, etc.

ADJOURNMENT

There being no further business, Mayor McEnroe adjourned the meeting at 9:45 p.m.