

PIEDMONT CITY COUNCIL

Regular Meeting Minutes for Monday, October 15, 2007

A Regular Session of the Piedmont City Council was held October 15, 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 October 11, 2007.

CALL TO ORDER

Mayor McEnroe called the meeting to order at 7:30 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, Finance Director Mark Bichsel, Public Works Director Larry Rosenberg, Fire Chief John Speakman, City Clerk Ann Swift, City Planner Kate Black, 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 submitted Council meeting minutes of October 1, 2007

Ordinance

Approves the second reading of Ordinance 672 N.S. approving PERS 3% @ 50 for local safety members

Resolution 77-07

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

Moved by Barbieri, Seconded by Chiang

Ayes: McEnroe, Friedman, Barbieri, Chiang, Keating

Noes: None

Absent: None

(0747)

(Note: Vice Mayor Friedman abstained from the vote approving the October 1, 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 Hearings:

Conditional Use Permit The Ann Martin Children's Center 1250 Grand Avenue

Dr. David Theis, on behalf of Ann Martin Children's Center is requesting a conditional use permit to continue to operate a non-profit business to provide psychotherapy, grief counseling, educational therapy and psychological/educational diagnostic testing for youth and families at 1250 Grand Avenue. No physical changes to the building are proposed. The proposed business involves:

Days & Hours of Operation: 8 a.m. to 8 p.m., Monday-Friday
9 a.m. to 1 p.m. Saturday

On-Site Parking: Two spaces reserved for staff

Number of Employees: 7 FTE psychologists, social workers, and learning specialists; 3 FTE administrators. Majority of psychotherapists and learning specialists are part-time. There is a total of 60 professionals on staff.

Maximum Number of People on Site: 12 staff and 10 clients
(Twice a month community lecture series may have as many as 25 people – held Friday at noon)

**Conditional Use Permit
The Ann Martin
Children's Center
1246 Grand Avenue**

Dr. David Theis, on behalf of Ann Martin Children's Center is requesting a conditional use permit to continue to operate a non-profit business to provide psychotherapy, grief counseling, educational therapy and psychological/educational diagnostic testing for youth and families at 1246 Grand Avenue. The application proposes to convert the existing 1-car garage into a group meeting room. The proposed business involves:

Days & Hours of Operation: 8 a.m. to 8 p.m., Monday-Friday
9 a.m. to 1 p.m. Saturday

On-Site Parking: Four spaces reserved for staff

Number of Employees: 7 FTE psychologists, social workers, and learning specialists; 3 FTE administrators. Majority of psychotherapists and learning specialists are part-time. There is a total of 60 professionals on staff.

Maximum Number of People on Site: 5 staff and 9 clients
(Also once a month Board of Directors meeting in the evening – 12 people)

The Mayor announced that the Council would consider both of the Ann Martin Children's Center's conditional use permit applications concurrently and explained the procedural rules pertaining to tonight's hearing. On July 9, 2007, the Planning Commission recommended Council approval of both Ann Martin Children Center CUP applications, each for a two-year term and each subject to conditions as set forth in Resolutions 162-CUP-07 and 163-CUP-07. The City Administrator also referenced a legal opinion from Deputy City Attorney Judith Robbins opining that there are no conflict of interest issues that require the City Attorney or himself to recuse themselves from participating in tonight's discussion of these applications.

Correspondence was received from: Linda Huber, Oct. 8; Keith Carson, Oct. 12; Bijan Zahedi, Oct. 15; Dana & Meredith Pany, Oct. 8; Sarah Pearson & Evan Seevak, Oct. 8; John & Patsie Kao, Oct. 8; Jim Harleen, Oct. 11; Debra Constantine, Oct. 8; Earl Robbins, Oct. 11; Mary Bertain, Oct. 13; Dana Habegger, Oct. 10; Jan Kessler, Oct. 3; Janet & Sheldon Crandall, Oct. 8; Residents at 140 Arbor Dr., 188 Mountain Avenue, 101 Bonita, 199 St. James Dr., 105 King, 53 Crest Road, 95 Oakmont, 43 Estrella, 63 Cambrian, and 93 Woodland Way, Oct. 8; Bob & Anne Zerbst, Oct. 8; William Peterson, Oct. 8; Phyllis Carmichael, Oct. 8; Marlee Settlemier, Oct. 8; Jon & Mirian Mangini, Oct. 8; Robert Walker, Oct. 8; Rick & Patty Clark, Oct. 8; James &

Elana Barnes, Oct. 4; John White & Marcia Black, Oct. 7; Kathleen Laglia, Oct. 8; Gayley Moore, Oct. 8; Ann & David Rapson, Oct. 6; Amy & Glen Friedman, Oct. 8; Ken & Carla Betts, Oct. 8; Sandie & Kerry Dorman, Oct. 8; Mary Scott, Oct. 8; Jerri Gibson, Oct. 8; Lois Corrin, Oct. 10; Jon Reynolds, Oct. 9; Roger Ashton, Oct. 9; Drew Mickel, Oct. 9; Lisa Sherman, Oct. 8; Robin Phipps, Oct. 8; Marilyn Evert, Oct. 8; Dayna Ziegler, Oct. 8; Dana Fox, Oct. 8; Dana Parry, Oct. 9; Deborah Lilley, Oct. 8; Nancy Klehn, Oct. 8; Courtney Tydus, Oct. 8; Burch & Patricia Fitzpatrick, Oct. 8; Scott & Sharon Swimley, Oct. 8; Cathy Glazier, Oct. 8; Carol & Robert Leslie, Oct. 8; Joseph Saah, Oct. 8; Mark Ludwig, Oct. 8; Mark Glazier, Oct. 8; Ronald & Randi Shaffer, Oct. 8; Nancy Walsh, Oct. 8; Nancy Zackler, Oct. 8; Timothy & Marian Nelson, Oct. 8; Gail Reibst, Oct. 8; Danelle & Jim Sakamoto, Oct. 10; Sherry Felson, Oct. 10; Dennis Albers, Oct. 4; Katie Rodan, Oct. 5; Ruth & Jay Koch, Oct. 8; Adam Thacher, Oct. 8; Amy Sullivan, Oct. 8; October 2007 Petition signed by 23 Fairview residents; Bernard & Joan Pech, Oct. 6; Ann Reynolds, Oct. 11; Sara Brose, Oct. 10; Dale Herrero, Oct. 9; Melissa & Michael Costello, Oct. 8; Deborah & Bob Van Nest, Oct. 8; William & Laurie Joseph, Oct. 8; Cheri Betts, Oct. 8; Jan Grossman, Oct. 10; Cynthia Gorman, Oct. 8; Marilyn Waller, Oct. 8; Fritz & Mary Wooster, Oct. 8; Ann Hall, Oct. 8; Steffi Mooers, Oct. 15; Judith Robbins, Oct. 3; Angela & Neil Teixeira, Oct. 3, July 17, 24, 25, 26; David Bowie, Oct. 8 and 9; Rick Schiller, Oct. 15.

Public testimony was received from:

Clark Thiel, Planning Commission Chair, concurred with the planner's staff report and stated that the Commission felt that the Ann Martin Center (AMC)'s applications are a continuation of an existing use and permit renewals will not result in any significant increase in existing impact. However, the Commission recommended that the request to use the existing garage at 1246 Grand as a treatment room be denied and that this garage space be restored for use as off-street parking. The Commission felt that the proposed garage conversion would constitute an increase in use.

David Bowie, Attorney representing AMC, referenced his correspondence in citing legal arguments in support of CUP renewals. He concurred that the request to continue to use the garage at 1246 Grand as a treatment room does represent a new use not previously included in past CUPs; however, he emphasized that this does not constitute a significant expansion of use. This treatment room space was previously located over Crogan's Restaurant in the Montclair District of Oakland. However, this space was destroyed by fire in 2000 and the use was then transferred to 1246 Grand where it has remained. With regard to Saturday operations at the center, Mr. Bowie stressed that Saturday hours of operation have always occurred at both sites and have remained unchanged since the Center's original CUP was granted in 1991. However, due to an oversight, the center's renewal applications in 1999 failed to explicitly list the Saturday hours of operation. He cited the legal basis for his determination that the Saturday hours constitute a "continuing use" in this case and not an increased use. Mr. Bowie acknowledged the Fairview neighborhood's opposition to CUP renewal but noted that the neighborhood's dissatisfaction can be alleviated if the area's parking congestion

problems are abated. To this end, AMC has identified several mitigation measures that can be implemented to solve the parking problems while allowing AMC to continue to provide its valuable services in Piedmont. Possible parking mitigation measures mentioned included: diagonal street parking, residential parking permits, the leasing of off-site parking for AMC staff, the creation of more on-site parking on AMC's property, etc. He urged Council approval of AMC's conditional use permits. He also relayed the center's request for a waiver of the permit application fees.

Phyllis and Fred Brislawn, Rosie Newhall, Chuck Chakravartula, Manny Myers, Bevan Vinton, Neil and Angela Teixeira, Penny Mori, Jean Quirk, David Riker, Kenneth Rasco, Vivian Barron, Don Condon and Bernard Pech, all Fairview residents, acknowledged the wonderful and valuable services that AMC provides to Piedmont residents as well as the greater community area. However, they emphasized that over the last several years, the tremendous success of AMC has significantly impacted the quality of life for neighboring residents. In particular, they noted that: (1) AMC staff and client parking clogs the street, blocking driveways and preventing residents from the convenience of parking near their homes – staff parking in front of homes and driveways can last as long as 4 to 13 hours at a time and unpleasant confrontations have occurred when AMC personnel and/or clients have been requested to move their cars; (2) AMC's presence in a residential neighborhood has decreased neighboring property values as evidenced by the fact that real estate disclosure forms must alert potential buyers to AMC's presence and operation; (3) vehicle and pedestrian safety in the area has been significantly compromised as a result of AMC's unsafe drop-off practices; (4) AMC has failed to abide by past conditions of CUP approval to mitigate neighbor impacts and truthfully disclose their hours of operation and building use and the neighborhood has lost confidence that any future promises will be kept; (5) AMC's Saturday hours of operation have been especially burdensome in terms of parking congestion – overflow parking from Ace Hardware and the Kehilla Synagogue coupled with AMC all compete with residents for limited on-street parking in the neighborhood; (6) AMC treats clients with mental health issues and often the clients' presence in the neighborhood after dark are unsettling to neighborhood residents, especially senior citizens; (7) in addition to parking and pedestrian safety concerns associated with AMC's presence, loitering, hostility and littering by AMC clients and staff has further eroded the neighborhood's quality of life; and (8) the tremendous success of AMC in terms of hours of operation and utilization of every space (including a garage) indicates that AMC has outgrown its current location in two former residences and it should consider relocating to a more appropriately sized facility. The speakers stressed that Piedmont is a residential community and they urged the Council to uphold and protect the residential character of its neighborhoods. Many speakers requested that if AMC's permits are renewed, a reduction in operation hours be made to help alleviate neighborhood impacts. In particular, they requested no group meetings or client services be held on Saturdays, weekday evening hours not extend beyond 5 or 6 p.m., AMC be required to reassign its most aggressive clients to non-Piedmont sites, a safe pedestrian drop-off zone be established and the City monitor AMC activities and enforce conditions of permit approval.

Joy Jacobs stated that parking problems/congestion is commonplace in many neighborhoods around Grand Avenue and that parking inconveniences do adversely affect quality of life.

AMC Board of Director Members Betty Simpson, Sandie Dorman, Marilyn Waller, Sue Smegal, PUSD Director of student services Brooke Zimmerman, and Amy Friedman, AMC staff member, (all Piedmont residents) emphasized the vital and wonderful services that AMC provides to Piedmont families, residents, teachers and students. They urged the Council to allow AMC to continue to provide these necessary services and that any reduction in AMC hours or building use will significantly curtail the rendering of such services to the detriment of children in need and the community in general. They emphasized that AMC beautifully maintains its property in Piedmont and encourages staff and clients to be respectful of neighboring property. They requested that AMC be granted a five year renewal term for its CUPs with no reduction in hours or building use. They also noted that the use of the 1-car garage at 1246 Grand as a treatment room is especially valuable and a critical component of AMC service because it provides a safe, soundproof, enclosed space to treat autistic children. This garage is not practical as a parking space because the driveway is used for tandem parking by staff.

Cathy Glazier, Michael Bruck, John Morrison, Tam Hege, Ronnie Caplane, Ann Reynolds and Alice Brown urged Council renewal of AMC's conditional use permits, agreeing that the center provides a great service to Piedmont residents, provides services free of charge to the Piedmont School District and is an extremely valuable asset to the community. They agreed that parking congestion is a problem in the Fairview neighborhood, as it is in many other neighborhoods in Piedmont, but that these problems can be solved through a variety of ways. They stressed that AMC is not the sole source of the neighborhood's parking congestion and it would be extremely unfair to hold AMC exclusively responsible for this problem.

David Theis, AMC Executive Director, acknowledged that the center has grown over the last seven years but that this new growth is occurring at sites other than the two in Piedmont. The level of service and staffing at 1246 and 1250 Grand has remained essentially unchanged since 1999. He submitted photographs disputing the neighbors' claims that there is a severe parking problem in the area, referenced Police Department reports indicating receipt of very few parking complaints, noted that there have been no vehicle or pedestrian accidents associated with AMC and stating it is difficult for the neighborhood to distinguish with regard to littering, parking, etc. problems between AMC's clients and those families and children who attend the synagogue. He noted that the garage at 1246 Grand is used one hour a day as a special treatment room. In response to a Council request, Dr. Theis agreed that if the center's permits are renewed, the center would host a neighborhood meeting every 6 months during the term of the permits to receive neighborhood feedback related to AMC's operations.

By procedural motion made by Councilmember Barbieri, seconded by the Vice Mayor and unanimously carried, the Council agreed to extend tonight's meeting until 12 midnight.

George Kersh suggested that AMC be required to provide the City with a yearly certification as to how many Piedmont residents are served. He also suggested that since the center's activities are impacting the neighborhood, the center's hours of operation should be the same as those allowed for construction activity.

The Mayor and Councilmember Keating noted that neighborhood conditions have changed since the center's last permits were granted in that the Kehilla Community Synagogue has revitalized activity at this location and now the Saturday hours of the center and those of the synagogue have combined to accentuate parking, congestion and activity in the neighborhood. Therefore, they both opposed allowing the center to operate on Saturdays. In addition, the Mayor voiced concern over fire safety issues with regard to the two old houses and the appropriateness of group therapy being held in a garage. She felt that development of a parking plan should be the center's responsibility and that the Center's Board of Directors need to address issues related to the size and adequacy of the center's buildings as well as neighborhood mitigation measures. She did voice support for a two-year permit term to allow time for the center to reassess its situation. She also supported City retention of the center's application fees until the two-year term has elapsed and a new review of the situation is held.

By procedural motion made by Councilmember Barbieri, seconded by the Vice Mayor and unanimously carried, the Council agreed to extend tonight's meeting until 1:00 a.m.

The remaining Councilmembers supported CUP renewal based upon the same conditions and findings of the Planning Commission. In addition, the Council majority requested the center to re-evaluate its Saturday operations to determine if its Saturday hours could be adjusted so that they did not overlap with synagogue religious services and thus lessen neighborhood congestion. Instead of refunding the center's application fees and requiring AMC to conduct a traffic study of the neighborhood, the Council majority preferred that the City pay the cost of an independent traffic study and parking plan – this was acceptable to Dr. Theis. The Council further noted its intent to waive any requirements for the synagogue or Ace Hardware to modify their conditional use permits if an agreed upon parking plan between the center and these two properties is reached to help mitigate parking congestion.

Resolution 78-07

WHEREAS, Dr. David Theis, Executive Director on behalf of Ann Martin Children's Center is requesting a Conditional Use Permit to continue to operate a non-profit business providing psychotherapy, grief counseling, educational therapy and psychological/educational diagnostic testing for youth and families at 1250 Grand Avenue, Piedmont, California, and;

WHEREAS, on July 9, 2007, the Piedmont Planning Commission recommended conditional use permit approval, subject to conditions, as set forth in Commission Resolution 162-CUP-07; and

WHEREAS, the Piedmont City Council has reviewed the application, the staff report, Planning Commission recommendation 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. The Center has been an integral part of the Piedmont community for over 16 years. As a condition of permit approval, the Center is required to evaluate its impact on the community and traffic and indicate how this impact has been improved or not made any worse over the two-year term of its permit.
2. The use will be properly related to other land uses and transportation and service facilities in the vicinity. The Center is located in a mixed use area of Piedmont where other businesses are located in this proximity of Grand Avenue, both across the street and on the same side of the street as the Ann Martin Center.
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. Existing conditions in the area will not be made worse by permit approval because the Center's level of use is currently existing in the neighborhood in terms of density of use, traffic flow and pedestrian safety.
4. The use will not be contrary to the standards established for the zone in which it is to be located.
5. The use will not contribute to a substantial increase in the amount of vehicular and pedestrian traffic flow in the surrounding area. As a condition of permit approval, a written plan shall be developed evaluating the appropriateness of a drop-off zone designation in front of 1250 Grand Avenue. In addition, the Center is required to maximize its use of available off-street parking for staff parking and submit a written plan indicating how staff and client transportation to and from the site will mitigate traffic flow along Grand and Fairview Avenues, propose employee tandem parking on property driveways and use the properties' existing garage space for parking rather than for the creation of additional conference or meeting space. In addition, the City supports Fairview resident efforts to mitigate parking impacts through the designation of a *residential preferential parking zone*.
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. No additional construction shall occur that may impact the setbacks, yard area or density of the occupancy allowed on the property.
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. As a condition of permit approval, the property's existing driveway shall be used for the tandem parking of

five employee vehicles and if possible, the property's existing garage shall be converted back for the use of parking.

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.

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 Dr. Theis of the Ann Martin Children's Center for property located at 1250 Grand Avenue, Piedmont, subject to the following conditions:

1. A term of two years is granted, with hours of operation being 8 a.m. to 8 p.m., Monday through Friday and 9 a.m. to 1 p.m., Saturdays. The Ann Martin Children's Center shall examine the feasibility of adjusting its Saturday hours of operation so as not to overlap with religious activities at the Kehilla Community Synagogue and report its findings and recommendations to the City. During this two-year term, the Ann Martin Children's Center shall evaluate its impact on the community and traffic flow and indicate how this impact has been improved or not made any worse over the two-year term of its permit.
2. The City shall evaluate the feasibility of designating a drop-off zone in front of 1250 Grand Avenue;
3. The existing driveway be used for the tandem parking of five vehicles;
4. If possible, the existing garage be returned for the use of parking;
5. No new services shall be added at the site and no additional conference or meeting space shall be created;
6. The number of people on site at any time shall be limited to that allowed by the Building Code;
7. Within six months of this approval date, the Center shall submit a report to the Piedmont Planning Commission summarizing its progress in obtaining, within a two block radius, off-street parking to accommodate the parking needs of all Center staff members. If the Center's full parking needs cannot be satisfied, the report shall detail the reasons why and indicate the number of parking spaces that have been obtained off-street. The City hereby waives any requirements for modifying the conditional use permits of other agencies that assist the Center in reaching off-street parking arrangements. The Center shall submit at the time of CUP renewal a written transportation plan;

8. The Center's request for a waiver of its application fee is hereby denied. Within six months, the City shall retain the services of an independent Traffic Engineer to conduct a traffic/parking study of the Grand/Fairview area.

Moved by Friedman, Seconded by Chiang

Ayes: Friedman, Barbieri, Chiang

Noes: McEnroe, Keating

Absent: None

(0340)

Resolution 79-07

WHEREAS, Dr. David Theis, Executive Director on behalf of Ann Martin Children's Center is requesting a Conditional Use Permit to continue to operate a non-profit business providing psychotherapy, grief counseling, educational therapy and psychological/educational diagnostic testing for youth and families at 1246 Grand Avenue, Piedmont, California. The application also proposes to convert the existing 1-car garage into a group meeting room, and;

WHEREAS, on July 9, 2007, the Piedmont Planning Commission recommended conditional use permit approval, subject to conditions, as set forth in Commission Resolution 163-CUP-07; and

WHEREAS, the Piedmont City Council has reviewed the application, the staff report, Planning Commission recommendation 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 proposed garage conversion is not acceptable because it would increase the density of use of the property and negatively impact the surrounding residential neighborhood;
2. The use is of benefit to Piedmont residents. The Ann Martin Children's Center has been an integral part of the Piedmont community for over 16 years. As a condition of permit approval, the Center is required to evaluate its impact on the community and traffic and indicate how this impact has been improved or not made any worse over the two-year term of its permit.
3. The use will be properly related to other land uses and transportation and service facilities in the vicinity. The Center is located in a mixed use area of Piedmont where other businesses are located in this proximity of Grand Avenue, both across the street and on the same side of the street as the Ann Martin Center.
4. 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. Existing conditions in the area will not be made worse by permit approval because the Center's level of use is currently existing in the neighborhood in terms of density of use, traffic flow and pedestrian safety.

5. The use will not be contrary to the standards established for the zone in which it is to be located.

6. The use will not contribute to a substantial increase in the amount of vehicular and pedestrian traffic flow in the surrounding area. As a condition of permit approval, a written plan shall be developed evaluating the appropriateness of a drop-off zone designation in front of 1250 Grand Avenue. In addition, the Center is required to maximize its use of available off-street parking for staff parking and submit a written plan indicating how staff and client transportation to and from the site will mitigate traffic flow along Grand and Fairview Avenues, propose employee tandem parking on property driveways and use the properties' existing garage space for parking rather than for the creation of additional conference or meeting space. In addition, the Commission supports Fairview resident efforts to mitigate parking impacts through the designation of a *residential preferential parking zone*.

7. 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. No additional construction shall occur that may impact the setbacks, yard area or density of the occupancy allowed on the property.

8. 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. As a condition of permit approval, the property's existing driveway shall be used for the tandem parking of four employee vehicles and the property's existing garage shall be used for parking.

9. 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.

RESOLVED, that in consideration of the findings and facts set forth above, the Piedmont Planning Commission recommends approval by the City Council of the application for a conditional use permit by Dr. Theis of the Ann Martin Children's Center for property located at 1246 Grand Avenue, Piedmont, subject to the following conditions:

1. A term of two years is granted, with hours of operation being 8 a.m. to 8 p.m., Monday through Friday and 9 a.m. to 1 p.m., Saturdays. The Ann Martin Children's Center shall examine the feasibility of adjusting its Saturday hours of operation so as not to overlap with religious activities at the Kehilla Community Synagogue and report its findings and recommendations to the City. During this term, the Ann

Martin Children's Center shall evaluate its impact on the community and traffic flow and indicate how this impact has been improved or not made any worse over the two-year term of its permit.

2. The City shall evaluate the feasibility of designating a drop-off zone in front of 1250 Grand Avenue;
3. The existing driveway be used for the tandem parking of four vehicles;
4. The Center's request to convert the property's existing 1-car garage into a group meeting room is hereby denied. Said garage shall be returned for use as off-street parking, with the understanding that a reasonable period of time is allowed to phase out its current use as a treatment room. Said transition period shall not exceed six months.
5. No new services shall be added at the site and no additional conference or meeting space shall be created;
6. The number of people on site at any time shall be limited to that allowed by the Building Code;
7. Within six months the Center shall submit a report to the Piedmont Planning Commission summarizing its progress in obtaining, within a two block radius, off-street parking to accommodate the parking needs of all Center staff members. If the Center's full parking needs cannot be satisfied, the report shall detail the reasons why and indicate the number of parking spaces that have been obtained off-street. The City hereby waives any requirements for modifying the conditional use permits of other agencies that assist the Center in reaching off-street parking arrangements. The Center shall submit at the time of CUP renewal a written transportation plan;
8. The Center's request for a waiver of its application fee is hereby denied. Within six months, the City shall retain the services of an independent Traffic Engineer to conduct a traffic/parking study of the Grand/Fairview area.

Moved by Friedman, Seconded by Chiang

Ayes: Friedman, Barbieri, Chiang

Noes: McEnroe, Keating

Absent: None

(0340)

**Public Hearing:
Garbage Franchise**

Mr. Richard Tagore-Erwin of R3 Consulting Group, the City's solid waste refuse consultant, reported that three proposals have been received in response to the City's July RFP solicitation of bids for a new trash, recycling and green waste collection franchise contract. Per the Council's direction of July 16, 2007, regarding a "double-blind" selection process, it is now necessary for the Council to establish weighting percentages for each of the six evaluation categories. Once this information is provided by the Council, the proposals will be ranked accordingly and submitted for Council consideration on November 5. The six categories were:

- Customer rates;
- Approach & technical solution;
- Experience & performance;
- Customer service;
- Public education & outreach;
- Financial capacity.

It is anticipated that a new waste hauler will be selected on December 5 and the contract awarded on January 7, 2008. As requested, each Councilmember submitted his/her weighting worksheet to Mr. Tagore-Erwin. The City Planner agreed to e-mail the Council with the results of the weighting submissions.

Correspondence was received from: Fran Wolfe and Rebecca Schnier. There was no **public testimony**.

Municipal Election Date Change

Per Council discussion of October 1, the City Clerk submitted a proposed resolution and ballot measure changing the City's municipal election date to the first Tuesday after the first Monday in November of even-numbered years. It is anticipated that this move to consolidate the City's municipal election with the state/national election will reduce election costs and increase voter turnout. If approved by Council, the resolution would put a measure on the City's March 4, 2008 Regular Municipal Election Ballot to amend the City Charter to effect this change in election date.

Correspondence was received from: Lianne Campodonico, Vice President of the Piedmont League of Women Voters, dated October 14.

Public testimony was received from:

June Monach, President of the Piedmont Board of Education, voiced concern that the change in election date to November could adversely impact the School District's ability to prepare for its special parcel tax ballot measure (would require school volunteers to work over the summer for tax measure preparation). In addition, the election date change to November could also result in both the City's and the School's parcel tax measures being voted on too close in the election cycle which could adversely impact tax measure passage. She suggested that a June election date would be more convenient for the School District. It was noted that a June municipal election date would impact the City's budget process and that the School District retains the ability to hold a special election in June for its parcel tax ballot measure. However, the School District would have to bear the cost of consolidating its special election with the state primary election. Due to the lateness of the hour, the Council agreed to continue consideration of this matter to the next meeting.

Ordinance Municipal Tax Renewal

Per Council discussion of October 1, the City Clerk submitted for first reading approval proposed Ordinance 674 placing a municipal service tax measure on the City's March 4, 2008, municipal ballot. The proposed ordinance implements a new 4-year municipal services tax, effective 2009-2010, in accordance with the recommendations of the Municipal Services Tax Review Committee.

Public testimony was received from:

Martha Jones, Chairman of the Municipal Services Tax Committee, described the purpose of the three alternative rate scenarios set forth in the proposed ordinance as well as suggested revisions to language in Section 20B.4 (Adjustment for ERAF) to clarify the Committee's intent.

By procedural motion made by Councilmember Barbieri, seconded by Councilmember Chiang and unanimously carried, the Council agreed to extend tonight's meeting until 1:15 a.m.

June Monach, President of the Piedmont Board of Education, urged the Council to insure that a sufficient amount of time will elapse between when the City places its parcel tax measure before the voters and when the School District places its special parcel tax measure on the ballot to avoid any possible confusion by the electorate as to the purpose and rationale of both measures and corresponding tax.

George Childs urged the Council to exercise restraint in keeping the City's tax burden as low as possible.

The Council thanked the Municipal Services Tax Committee for their recommendations regarding the parcel tax renewal measure but felt that the three funding scenarios and ERAF language proposed in the ordinance (Sections 20B.3 & 20B.4) could lead to voter confusion and thus compromise the successful passage of parcel tax renewal. The Council therefore preferred that the proposed ordinance repeat the language of the last ballot measure setting forth parcel tax renewal at a maximum rate schedule of \$1.5 Million.

Resolution 80-07

RESOLVED, that the City Council approves the first reading of proposed Ordinance 674 N.S. placing a municipal service tax measure on the March 4, 2008, municipal election ballot, with the following amendments:

- Section 20B.3 – restore the language of the City's prior parcel tax measure setting a maximum of \$1.5 Million, adjusted for CPI;
- Section 20B.4 – eliminate the proposed "Adjustment for ERAF" section;
- Section 20B.5 – remove the two proposed maximum rate schedules and substitute with the basic municipal service tax schedule at the maximum rate of \$1.5 Million

Moved by Barbieri, Seconded by Friedman

Ayes: McEnroe, Friedman, Barbieri, Chiang, Keating

Noes: None

Absent: None

(0765)

Resolution

Per Council discussion of October 1, the City Clerk submitted a proposed resolution that would place before the voters at the March 4, 2008, municipal election a ballot measure implementing a 15% minimum in the City's General Fund Reserve and eliminating the current 25% cap in the City's charter, as recommended by the Municipal Services Tax Review Committee.

Public testimony was received from:

Martha Jones, Chairman of the Municipal Services Tax Review Committee, suggested text revisions to the proposed resolution to more accurately reflect the Committee's recommendations.

By procedural motion made by Councilmember Barbieri, seconded by Councilmember Chiang and unanimously carried, the Council agreed to extend tonight's meeting until 1:30 a.m.

George Childs opposed the proposed removal of the General Fund Reserve cap from the City Charter, objecting to a loss of control by the electorate over City spending. He also felt that the current 25% cap was adequate and should be retained.

The Council agreed that establishing a minimum reserve cap would be self-defeating and that it would be politically unwise to remove the reserve cap from the City Charter at the same election that the electorate is being requested to renew the City's municipal parcel tax.

Pool Referendum

The Mayor submitted for Council consideration a proposed non-binding referendum for the March 4, 2008, municipal election to determine voter support or lack thereof for a City operated and maintained community aquatics facility.

Public testimony was received from:

George Childs voiced strong opposition to a City operated community pool for cost reasons.

The other Councilmembers felt that the proposed referendum was unnecessary at this time given that there will be wide spread community input solicited re this issue during the upcoming public hearing review of the City's Civic Center Master Plan.

Appropriation

The Public Works Director recommended approval of a supplemental appropriation in the amount of \$15,000 to the CIP Highland Way Bus Shelter Project to construct a bus shelter in front of the Piedmont Community Church on Highland Way. The bus shelter would be located on church property and is designed to compliment the architecture of the church's recent extensive remodel (same architect designed both the church remodel and the bus shelter). The church has agreed to the placement of the shelter on its property and has requested waiver of the conditional use permit, design review and variance fees associated with this project (\$3,700). Currently, there is \$25,000 in the CIP Highland Way Bus Shelter CIP Account. The City Administrator recommended approval of this request, noting that it reflects a City/private partnership agreement, would benefit Piedmont residents as the location is at a heavily used bus stop and there is a great likelihood that private donations will be received to reimburse City costs.

Public testimony was received from:

George Childs opposed the expenditure of so much money for a bus shelter.

The Mayor and Councilmember Keating opposed the supplemental request, noting that because of the significant decline in transfer tax revenue, the City is currently in a deficit budget situation. They preferred to delay project approval until the mid-year budget review or private money has been received. The remaining Councilmembers disagreed, stressing that the site is a heavily used bus stop and it is appropriate to provide residents with weather protection before the winter rains begin. They also noted that the design of shelter is very attractive and compatible with the church's architecture. They were confident that private donations would be forthcoming to offset this expenditure.

Resolution 81-07

RESOLVED, that the City Council appropriates an additional \$15,000 to the CIP bus shelter project, approves the proposed design of the Highland Way bus shelter, waives City fees in the amount of \$3,700 associated with this project and encourages staff to solicit private donations to offset the cost of said project.

Moved by Friedman, Seconded by Barbieri

Ayes: Friedman, Barbieri, Chiang

Noes: McEnroe, Keating

Absent: None

(0465)

ANNOUNCEMENTS

Civic Center Master Plan—The City Administrator announced that the City's last public workshop concerning the Civic Center Master Plan will be held Wednesday, October 17 at 7:30 p.m.

ADJOURNMENT

There being no further business, Mayor McEnroe adjourned the meeting at 1:40 a.m.

