

# PIEDMONT CITY COUNCIL

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

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

### **CALL TO ORDER**

Following a 7:00 p.m. Closed Session regarding potential litigation held pursuant to Government Code Section 54956.8, Mayor McEnroe called the meeting to order at 7:35 p.m. with the Pledge of Allegiance.

### **ROLL CALL**

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, Police Chief Lisa Ravazza, Finance Director Mark Bichsel, Public Works Director Larry Rosenberg, Recreation Director Mark Delventhal, City Clerk Ann Swift, City Planner Kate Black, Assistant Planner Kevin Jackson, Planning Technician Sharon Lai 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 September 4, 2007

#### **Agreement**

Awards the contract for the City Building Painting Project (City Hall, Fire Station, Recreation Center & Community Hall) to Affordable Painting Services, Inc. in the amount of \$55,300

#### **Resolution 71-07**

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

Moved by Barbieri, Seconded by Chiang

Ayes: McEnroe, Barbieri, Chiang, Keating

Noes: None

Absent: Friedman

(0045)

### **PUBLIC FORUM**

Centennial Committee Chairman Michael Bruck and Committee members Margaret Fujioka and Mary Geong invited the public to attend the combined Oakland Avenue Bridge Lighting Dedication and the Mid-Autumn August Moon Festival on Sunday, September 23. These two events are being co-sponsored by the Centennial Committee and the Piedmont Asian-American Club. Activities are planned for all ages, with free admission. On behalf of the City, the Mayor thanked Piedmont Ace Hardware for its generous donation in connection with this event.

Bill Drum, Co-Chair of the Harvest Festival, invited residents to participate and/or attend the community's 9<sup>th</sup> annual Harvest Festival on Sunday, September 30. In addition to the traditional cooking and

growing contests, school carnival, scarecrow auction, jazz festival and farmer's market, the festival in connection with the City's Centennial Celebration, will feature displays from the *Blue Vase* public art project and awards for heirloom fruits and vegetables.

## REGULAR CALENDAR

The Council considered the following items of regular business:

### **Municipal Election**

For information purposes, the City Clerk outlined the timetable for the submittal of nomination papers, direct and rebuttal ballot measure arguments and voter registration for the March 4, 2008, Municipal Election. Two seats on the City Council and three seats on the Board of Education will be on the ballot.

### **Public Hearing: Street Closures**

The City Administrator reported that per Council direction of September 4, all homeowners in the general vicinity of the October 1 *Every 15 Minutes* Program have been notified of scheduled street closures in connection with this event to be held along the Sheridan Strip. These residents were invited to submit any comments and/or concerns either in writing or at tonight's meeting. To-date, no objections have been received.

**Public testimony** was received from:

Briony Bax urged Council support of the *Every 15 Minutes* event noting that it is a very valuable program for addressing the serious problem of teenage drinking and driving.

There being no other speakers, the Mayor closed the public hearing.

### **Ordinance**

The Finance Director recommended first reading approval of proposed Ordinance 672 N.S. authorizing an amendment to the contract between the City and the Board of Administration of the California Public Employee's Retirement System (PERS). The Director stated that the City's current Memorandum of Understanding with public safety employees states that the PERS 3% @ 50 pension plan shall become effective December 31, 2007. However, PERS regulations require that the start date be January 1, 2008. The proposed ordinance amends the MOU to change the start date in accordance with PERS requirements – this change has been approved by the public safety labor unions. At the Mayor's request, the Director reviewed the cost to the City for this new 3% @ 50 plan (the current plan is 3% @ 55) as well as the employee cost sharing provisions contained in the MOU. The director noted that while the new 3% @ 50 plan is non-negotiable in future labor union MOU's, cost sharing provisions are subject to renegotiation.

**Public testimony** was received from:

George Kersh strongly objected to the 3% @ 55 retirement benefit believing that it is too generous and not comparable with private sector retirement benefits. The City Administrator provided an overview of the 3% @ 50 deliberations held by cities statewide over the last few years, noting that Piedmont is one the last cities in the state to adopt this new retirement benefit.

**Resolution 72-07**

RESOLVED, that the City Council approves the first reading of Ordinance 672 N.S. authorizing an amendment to the contract between the City of Piedmont and the Board of Administration of the California Public Employees' Retirement System.

Moved by Barbieri, Seconded by Chiang

Ayes: McEnroe, Barbieri, Chiang, Keating

Noes: None

Absent: Friedman

(0080)

**Resolution 73-07**

RESOLVED, that the City Council adopts the *Resolution of Intention to Approve an Amendment to Contract between the Board of Administration California Public Employees' Retirement System and the City Council of the City of Piedmont* on file in the City Clerk Office.

Moved by Barbieri, Seconded by Chiang

Ayes: McEnroe, Barbieri, Chiang, Keating

Noes: None

Absent: Friedman

(0080)

**Public Hearing:  
Appeal of Planning  
Commission Decision  
575 Crofton Avenue**

The City Planner stated that Mr. and Mrs. Larry Tramutola have appealed the Planning Commission's August 13, 2007, conditional approval of Mr. David Ng's variance and design review application for proposed construction at 575 Crofton Avenue.

**Public testimony** was received from:

Larry Tramutola, speaking on behalf of himself and other neighbors, objected to the Planning Commission's requirement that Mr. Ng construct a 1-car garage underneath the front of his house in order to comply with City parking regulations when new bedrooms are being added to a residence. Mr. Tramutola stated that while he no longer objects to the design and construction of Mr. Ng's rear addition, he strongly disagrees with the Commission's requirement that Mr. Ng construct a second covered parking space on the property. Mr. Tramutola felt that constructing a new 1-car garage underneath the front of the house is out of character with the existing neighborhood and the enlargement of the existing driveway curb-cut to accommodate this new parking space will result in the loss of on-street parking in a very congested neighborhood. In addition, Mr. Tramutola felt that the new garage also creates a potential safety hazard given its location at the crest of a hill and the narrowness of Crofton Avenue. Mr. Tramutola felt that there is adequate room to park a second car on the property's long driveway and preferred that a parking variance be granted to Mr. Ng in order to avoid the necessity of constructing this second garage.

Richard Jansen, Project Architect, stated that the second garage space was required by the City because Mr. Ng was adding a bedroom to his residence. Several locations for this second parking space were examined but the front location was the only feasible option – there is insufficient room in the rear for a necessary turnaround and expanding the existing garage in the rear would eliminate the property's only

private outdoor yard space. Mr. Jansen felt the design of the new garage was compatible with the architecture of the existing home, the existing driveway curb-cut is only being widened by 4 ft., vehicle and pedestrian sight line safety issues have been mitigated by the redesign of driveway retaining walls in accordance with the Planning Commission's request and there will be no significant loss of existing on-street parking – two parking spaces will remain in front of the Ng residence.

York Ng, the applicant's son, emphasized his parents' belief that the location of the new garage does not pose any vehicle or pedestrian safety hazards, Crofton Avenue is not unique in Piedmont in terms of its topography, width or on-street parking situation, many homes in Piedmont have similar garage locations and sight line issues have been addressed in the revised design of the driveway retaining wall and curb-cut apron.

Bobbe Stehr, Planning Commission Chair, and the City Planner responded to Council questions in noting that the Commission thoroughly considered safety issues involved with the Ng's garage situation, felt that widening the curb-cut would facilitate a straighter and thus safer situation for backing out of the garages, noted that the Ng's parking/bedroom count situation is quite commonplace in Piedmont and the Commission has tried to be consistent in applying the City's parking policy requirements to applications proposing the addition of new bedrooms and the Ng's modified site plan regarding changes to the driveway retaining wall appear to address the Commission's concerns and requests related to pedestrian/vehicle sight lines.

The Council discussed the garage related issues at length, with Councilmember Barbieri voicing strong support for remanding the issue of safety related to the new garage and wider curb-cut back to the Commission for reconsideration, with the understanding that all other aspects of the Ng application would remain approved. He requested that the Commission be asked to examine whether the requirement for a second garage and wider curb-cut would pose safety concerns given the crowded, narrow nature of the Crofton/Boulevard neighborhood and determine whether or not these potential safety concerns outweigh the benefit of requiring a second garage space. If so, approval of a parking variance may be justified in this particular case. He suggested that the Commission consult the Police Chief and City Administrator in reconsidering these safety issues. Councilmember Keating supported a remand strictly on the issue as to whether the width of the modified curb-cut can be reduced so as to increase on-street parking. A MOTION TO THIS EFFECT DIED FOR LACK OF SECOND. The Mayor supported upholding the Commission's decision in this matter, noting that it was consistent with the City's parking policy, with previous Commission decisions and with the City's long-standing practice of requiring the addition of covered parking when new bedrooms are being added. She passed the gavel in order to make a motion.

The City Attorney recommended that if the Council incorporates by reference the Planning Commission's findings and conditions in its motion relating to the appeal, the word *recorded* be substituted for the

phrase “attached to the property’s deed” in Condition #5 of Planning Commission Resolution 197-DR-07.

**Resolution 74-07**

WHEREAS, Mr. David Ng is requesting permission to remodel and expand the residence by adding an approximately 531 sq. ft. rear and rear side addition; constructing a new attached 1-car conforming garage at the front of the residence; adding a new driveway with retaining walls; and constructing an approximately 90 sq. ft. new rear yard deck. The application also proposes new windows and doors; exterior light fixtures, railing, guardrails, and other on grade hardscape and landscape improvements located at 575 Crofton Avenue, Piedmont, California, which construction requires variance and design review; and

WHEREAS, variances from the requirements of Chapter 17 of the Piedmont City Code are necessary in order to exceed the City’s limits for hardscape and lot structure coverage and allow non-conforming off-street parking; and

WHEREAS, the Piedmont Planning Commission conditionally approved Mr. Ng’s variance and design review application on August 13, 2007, and this conditional approval was appealed by Mr. and Mrs. Larry Tramutola; and

WHEREAS, after reviewing the application, plans and any and all testimony and documentation submitted in connection with such application and appeal, and after having visited subject property, the Piedmont City Council makes the following findings:

1. The underlying lot and existing improvements present unusual physical circumstances, including but not limited to the fact that the property is a split border parcel between Piedmont and Oakland. Per City Code, only the portion of the lot located within Piedmont’s border is used to calculate structure and impervious surface coverages, rather than the entire parcel. If the calculations were based upon the size of the entire lot, no coverage variances would be required. In addition, the property’s existing 1-car garage can accommodate the parking of one vehicle, however, because the length of this garage is a few inches shorter than that required by Code, a parking variance is necessary. Because of these circumstances, strictly applying the terms of this chapter would keep the property from being used in the same manner as other properties in the zone which conform to the zoning requirements.
2. The variances are compatible with the immediately surrounding neighborhood and the public welfare.
3. Accomplishing the improvement without variance would cause unreasonable hardship in planning, design, or construction.
4. The exterior design elements (including but not limited to height, bulk, area openings, breaks in the façade, line and pitch of the roof, materials, arrangements of structures on the parcel, and concealment of mechanical and electrical equipment) are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development in that it complies with Design Review Guidelines II-3(a)

and (b) in that the architectural style, scale, mass and materials are compatible with the existing home and neighborhood residences.

5. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because there is no material impact on neighboring properties. The proposal complies with Design Review Guidelines II-1, II-2 and II-3. Proposed windows and doors are in keeping with existing window and door treatments.

6. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress because modifications to the driveway and its interface with the curb are required as conditions of project approval in order to improve pedestrian/vehicle sight lines and ingress/egress safety.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont City Council denies Mr. and Mrs. Tramutola's appeal and upholds the Planning Commission's approval of Mr. David Ng's variance and the design review application for construction at 575 Crofton Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. The existing 1-car garage shall be maintained as usable space for on-site parking and include an electronically operated garage door. Said modifications shall be subject to staff review and approval.
2. Based on the scope and nature of the proposed landscape and development plans, a best management practice plan for construction which complies with the Alameda Countywide Clean Water Program General and Residential Conditions of Approval will need to be developed by the applicant prior to obtaining a building permit;
3. Due to the scope and nature of the application, a construction management plan shall be developed and approved by staff prior to obtaining a building permit. Said plan shall be comprehensive while specifically addressing the duration of the project, construction hours, the staging of materials, and parking of worker vehicles to ensure the free flow of traffic along Crofton Avenue;
4. Compliance with Chapter 9 Article III of the Municipal Code, which governs the recycling of construction and demolition debris, will be required on all permits issued on or after February 1, 2007. Applicants of covered and non-covered projects are eligible to participate in the Incentive Program in which the City will provide one-half the cost of debris boxes provided by the City's franchised waste hauler and used exclusively for the purpose of removing recyclable construction and demolition debris;

5. A Notice of Non-Habitation shall be recorded in order to insure that proposed spaces within the basement area will not result in the creation of habitable space;
6. The design of the new portion of the driveway shall be revised, subject to Staff Design Review Approval, to comply with Design Review Guideline IV-2. The proposed retaining walls shall be stepped, at a maximum of 30 inches high whenever possible to avoid the requirement for a guardrail. Those portions of the retaining wall that exceed the 30 inch height limit, shall have a wrought iron guardrail in keeping with the style of the railing of the home's entry terrace. Said guardrail shall only be installed on those portions of the retaining wall exceeding the 30 inch height limit;
7. The design of the driveway as it interfaces with the curb-cut shall be modified to maximize pedestrian sight line safety. The width of the driveway curb-cut at the southern edge of the sidewalk shall be approximately 12 ft. wide. Said design modifications shall be subject to Staff Design Review Approval.

Moved by McEnroe, Seconded by Chiang  
Ayes: McEnroe, Chiang, Keating  
Noes: Barbieri  
Absent: Friedman  
(0080)

**Proposed New  
Construction  
Survey Policy**

In response to recent problems which have arisen as a result of inaccuracies in approved plans as they relate to the proximity of proposed construction to property lines, the City Planner recommended Council approval of a proposed policy to require *Structure Location Surveys* when new construction is proposed to be within a setback and to require that an affected property line be *staked* when new construction is proposed to be within one foot of a setback. This two-tiered approach is intended to address the problem while minimizing the cost and time delays for applicants. She described the multitude of problems and costly remedies for homeowners when it is discovered after-the-fact that the actual location of a property line is different than that indicated on approved plans and as a consequence improvements have been built closer to property lines than originally proposed and approved. The Planning Commission has endorsed Council approval of the proposed policy, suggesting that the policy also require staff to keep survey information on file so subsequent property owners and/or applicants do not have to duplicate previously prepared surveys. Staff has incorporated the Commission's suggestion into the policy.

**Public testimony** was received from:

Gil Hayes, a licensed surveyor, approved the policy in concept but suggested several revisions to minimize the cost to applicants, including: (1) requiring submitted survey information to be submitted to the City both on paper as well as electronically; (2) accepting written certified letter reports from surveyors attesting to the location of improvements to property lines rather than always requiring official field survey reports to avoid very complex and costly state/county filing procedures and fees; (3) insuring that there is no copyright

infringement problems if survey information prepared for one property owner is made available to other homeowners; and (4) requiring the inclusion of a vertical datum plane in addition to property line boundary information.

The City Planner assured the Council that Mr. Hayes' concerns and suggestions are or will be addressed in the proposed policy and agreed to provide the Council with the specific forms to be used/filed by the surveyors prior to Council approval of the proposed policy. Mayor McEnroe endorsed Mr. Hayes' suggestion that survey information be electronically submitted to the City as well as in written form. Councilmember Keating requested that the policy contain provisions allowing staff to waive further analysis and requirements if there is only a slight deviation in dimension discrepancy with regard to construction within one foot of a setback, provided said construction remains outside of the setback. The City Planner agreed to incorporate these requests into the policy.

**ANNOUNCEMENTS**

P.A.I.N.T.S. – Councilmember Keating briefly reported on the success of last Sunday's Pancake Breakfast sponsored by the Beach School Dad's Club, noting in particular the club's appreciation for food donations received from Monterrey Market.

**ADJOURNMENT**

There being no further business, Mayor McEnroe adjourned the meeting at 9:50 p.m.