

PIEDMONT CITY COUNCIL

Regular Meeting Minutes for Monday, June 2, 2008

A Regular Session of the Piedmont City Council was held June 2, 2008, 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 May 29, 2008.

- CALL TO ORDER** Following a 7:00 p.m. Closed Session regarding employee contract negotiations with the Piedmont Police Officers Association, International Association of Firefighters, Local 1021 and the Confidential Unit Employees, Mayor Friedman called the meeting to order at 7:40 p.m. with the Pledge of Allegiance.
- ROLL CALL** Present: Mayor Abe Friedman, Vice Mayor Dean Barbieri and Councilmembers John Chiang, Margaret Fujioka and Garrett Keating
- Staff: City Administrator Geoff Grote, City Attorney George Peyton, Fire Chief John Speakman, 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, Parks & Projects Manager Mark Feldkamp, Building Official Chester Nakahara, Police Captain John Hunt 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 May 17, 2008
- Consultant** Approves the selection of EDAW as the City's consultant for the development of a Climate Action Plan in conjunction with the City of Albany
- Agreement** Awards the contract for the 2008 Updating and Densification of the Primary Survey Control Network to Wood Rogers, Inc., in an amount not to exceed \$31,950
- Resolution 44-08**
RESOLVED, that the City Council approves the consent calendar as noted.
Moved by Barbieri, Seconded by Chiang
Ayes: Friedman, Barbieri, Chiang, Fujioka, Keating
Noes: None
Absent: None
(0085; 0045)
- PUBLIC FORUM** George Kersh referenced the City's ongoing employee salary negotiations in urging that employee salary increases not exceed the 2007 CPI (3.84%) and that employee retirement benefits be returned to the previous rate of 2% @ 50.
- REGULAR CALENDAR** The Council considered the following items of regular business:

**Public Hearing:
Appeal of Planning
Commission Decision,
111 Ricardo Avenue**

The City Planner stated that Mr. and Mrs. Ken Meyersieck are appealing the Planning Commission's April 14 denial of their variance and design review application to modify a previously approved plan (May 2007) for a new garage at 111 Ricardo Avenue.

Councilmember Keating stated that because he lives in close proximity to the Meyersiecks, he was recusing himself from discussion and action on this matter. He then left the chambers.

Public testimony was received from:

Ken Meyersieck stated that based upon subsequent conversations with his neighbors, it was determined that his originally approved May 2007 garage design was unacceptable to his neighbors and failed to satisfy his needs for additional storage. Therefore, a redesign of the proposed garage was submitted to the Planning Commission in December 2007 and April 2008 in an effort to correct the deficiencies of the original plan. He emphasized that his April design lessens potential impacts on his adjacent neighbors, is preferred by these neighbors and provides the additional storage space that he requires. He disagreed with the Planning Commission's belief that the additional garage storage space and exterior stair would make this garage attic area habitable space, citing that only 76 sq. ft. of the attic space has sufficient ceiling height to be considered habitable. However, he stated his willingness to execute and record a *Notice of Non-Habitation* for this space to alleviate this concern. He also stressed that by having an exterior as opposed to a pull-down, interior stair to the garage attic space, it is more likely that the garage will always be used for parking. Because a pull-down stair is inconvenient, future owners may decide to keep the stair permanently in the down position, thus decreasing the usability of the garage for off-street parking.

Bob Burnett stated that the applicant's originally approved garage plan adversely impacts his property and he requested that the revised April design be approved.

Jim Kellogg, Planning Commission Vice Chair, responded to Council questions in summarizing the reasons the Commission denied the April revised design, stressing that when granting variances, the Commission strives to approve the minimum amount of variance required to achieve the proposed construction. A setback variance was granted for the May 2007 garage design. However a similar setback variance was denied for the December and April redesigns because these redesigns created more bulk and mass within the setback than the May plan. Since a 2-car conforming garage could be constructed without this additional mass and bulk, the request to add more bulk/mass within the setback was denied. The Commission also felt that the addition of more garage attic space and the inclusion of an exterior stair to this space created the potential that this area, essentially on the property line, could be used as habitable space. In addition, the design of the exterior stair also adversely impacted the usability of one of the two garage parking spaces.

The Council discussed at length the issues involved with the appeal. In particular, the Council noted its disagreement with the Planning Commission with regard to the following findings:

- Habitable Space – the Council disagreed that the garage structure could be utilized as habitable space, noting: only a small portion of the attic space has sufficient ceiling height, the absence of plumbing and the applicant’s willingness to record a *Notice of Non-habitation*;
- Exterior Stairs – the current design of the stairs does not preclude the parking of a conventionally sized car and the design and configuration of the stair can be revised so as to eliminate any interference with vehicle parking;
- Design – the design modifications in the April plan represent a significant difference from the design denied in December 2007. In addition, the proposed April design is significantly more attractive than the design approved in May 2007;
- Adverse Neighbor Impact – as testified to by neighbors, the proposed April design is much more acceptable and would have less negative impact than the design approved in May;
- Variance Incompatibility – the requested variance in the April design is consistent with adjacent properties and is not incompatible with the surrounding neighborhood. The size, height and location of the April garage is essentially the same as an adjacent neighbor’s garage;
- Usability of Parking Spaces – as testified to by the applicant, it is more likely that the approved “pull-down” stair access to the attic space of the May design could ultimately result in one of the two parking spaces not being used for vehicle parking because the stair would be permanently left in the down position for convenience. In addition, with the greater attic storage space of the April design, it is less likely that the garage floor will be cluttered with stuff that could impede the use of the garage for vehicle parking;

In conclusion, the Council felt that the weight of the evidence did not support the Planning Commission’s April 14 decision and therefore the Council supported granting the appeal.

Resolution 45-08

WHEREAS, Mr. and Mrs. Ken Meyersieck are requesting permission to modify the previously approved design for a new garage by increasing the height of the garage, changing the direction of roof slope, increasing the size of the attic dormers, adding an exterior stair, making window and door modifications, and adding an exterior light fixture located at 111 Ricardo Avenue, Piedmont, California, which construction requires variance and design review; and

WHEREAS, a variance from the requirements of Chapter 17 of the Piedmont City Code is necessary in order to construct additional structure within the right (north) side yard setback; and

WHEREAS, the Planning Commission denied Mr. and Mrs. Meyersieck’s variance and design review application on April 14, 2008, and this denial decision was appealed to the City Council by Mr. and Mrs. Meyersieck; 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 basis for the Planning Commission's decision to deny the proposed redesign is not supported by the weight of the evidence, specifically citing Section 17.20.9(b). The Commission's finding that the requested variance was not compatible with the immediately surrounding neighborhood and would have a negative impact on the adjacent neighbors is not supported by evidence suggesting that the neighbors prefer the redesigned garage and that the variance is consistent with adjacent property.
2. The variance is compatible with the immediately surrounding neighborhood because granting the variance would be beneficial to the neighborhood;
3. Accomplishing the improvement without a variance would cause undue hardship to the applicant because without variance, an undesirable strip of neglected property would be created between the applicant and his adjacent neighbor and the applicant would suffer a significant adverse impact in terms of the use of his property.
4. The exterior design elements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development. These elements include but are 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. The distance between the proposed new multi-level structure and adjacent residences is reasonable and appropriate due to the existing topography and neighborhood development pattern. Upper level setbacks greater than the setbacks required for the lower level have been considered and are/are not necessary to reduce losses of ambient and reflected light. The proposed new garage will match the existing house in exterior materials, including siding, trim materials, roof slope, and window style and materials. The scale and massing is also in keeping with the existing house and that of neighboring houses and garages.
5. The proposed new multi-level structure/expansion has been designed in a way that reasonably minimizes view and light impacts on neighboring properties (as defined in Section 17.2.70), including consideration of the location of the new construction, lowering the height of the addition, expansions within the existing building envelope (with or without excavation), lower level excavation for new multi-level structures, and/or changing the roof slope or ridge direction. The new garage is located in the same location on the north side of the property as the previously approved garage as well as the existing garage. Its location here rather than 4 ft. south at the setback improves the westerly neighbors access to light and sky view. The proposed garage is adjacent to a tall garage to the north and will not affect the light access of the property to the south. The roof design has been revised to address the concerns of the neighbor to the west. The ridge has been turned 90 degrees and the attic headroom decreased, resulting in a lower ridge.

6. The size and height of the addition is commensurate with the size of the lot (excluding the portions of the lot that cannot reasonably be built on), and is in keeping with the existing neighborhood development pattern. The size and scale of the garage is in keeping with the size of the lot and the neighborhood. The adjacent neighbor to the north has a tall, two-story garage as do other homeowners in the neighborhood.

7. 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. In accordance with Sections 17.16.1 and 17.22.1, the existing or proposed on-site parking is appropriate to the size of the new multi-level structure or addition, and additional parking is not required to prevent unreasonable short and/or long term parking impacts on the neighborhood. Located in the rear of the property, the garage has no adverse affect on pedestrian or vehicular traffic. Although not required by a change in bedroom count, the addition of the garage will provide the two covered parking spaces normally required. The applicants currently park both of their cars off of the street and having a garage will allow them to use it for both cars.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont City Council grants Mr. and Mrs. Meyersieck's appeal, overturns the Planning Commission's April 14 decision and approves the variance and design review application of Mr. and Mrs. Meyersieck for construction at 111 Ricardo Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. The applicants shall execute and record a *Notice of Non-Habitation*, or other similar document recommended by the City Attorney, for the attic space above the new garage;
2. The approved plans are those submitted on March 14, 2008, with additional information submitted on April 3, 2008, after neighbors were notified of the project and the plans were available for public review;
3. The exterior stair to the garage attic area shall be redesigned so as to maximize the vehicle parking area within the garage while retaining design consistency with the rest of the garage and remaining sensitive to potential privacy impacts on adjacent neighbors. Said design change shall be subject to Staff Design Review approval.
4. The conditions placed on the prior related design review application #07-0129 still apply.

Moved by Barbieri, Seconded by Fujioka
Ayes: Friedman, Barbieri, Chiang, Fujioka
Noes: None
Recused: Keating
(0080)

Piedmont Sports Field Mr. Bill Harris of Harris Landscape Design, displayed colored

Master Plan Renovation renderings of the proposed Master Plan renovation of Hampton Park/Piedmont Sports Field. It was noted that this proposed Master Plan renovation was extensively reviewed by both the Park and Recreation Commissions beginning in 2006 and on July 11, 2007, both Commissions recommended Council approval of the proposed plan. The proposed renovation is estimated to cost between \$1.3 and \$1.5 Million and involves comprehensive improvements to the park's drainage system, playfield surface, tennis and basketball courts, landscaping, pathways and entrances and PlaySchool play area.

Public testimony was received from:

Nancy Witter Bates stated that her parents initiated efforts to develop the site as a "youth" facility and she requested that the *baseball mosaic* monument in memory of her father that was once at the field be returned and placed at the Hampton entrance to the playfield. The Parks & Projects Manager noted that the *baseball mosaic* was removed to avoid damage when the new PlaySchool building was constructed and the mosaic has been stored at the City's Corporation Yard since that time. It is staff's intention to incorporate the mosaic back into the park as part of the renovation project and will honor Mrs. Bates' request that it be installed at the Hampton entrance.

George Childs urged that for cost reasons the renovation project be significantly scaled back so as to just accomplish needed drainage improvements and basic upgrades. He also urged that the City pursue funding sources other than the General Fund for financing the proposed improvements.

Resolution 46-08

RESOLVED, that the City Council approves the master plan for Hampton Park/Piedmont Sports Field as designed by Bill Harris of Harris Landscape Design to serve as the framework for future design and renovation improvements at the site and further directs that the baseball mosaic memorial to Mr. Witter be incorporated into the design of the Hampton entrance to the park.

Moved by Fujioka, Seconded by Chiang

Ayes: Friedman, Barbieri, Chiang, Fujioka, Keating

Noes: None

Absent: None

(0745)

The Mayor noted that the park's renovation plan is not wholly funded at this time and he encouraged private fund raising efforts to bring this plan to fruition.

**Public Hearing:
Proposed FY 08-09
City Budget**

The Mayor opened the first of two scheduled public hearings on the proposed FY 08-09 operation and capital improvement budgets, proposed fee schedules and the proposed levy of the Municipal Services and Sewer parcel taxes.

The Finance Director reviewed proposed tentative changes to the budget suggested by the Council at its May 17th budget work session and the City Clerk, Public Works Director, Police Chief and Fire Chief responded to questions regarding various proposed line-item expenditures.

Public testimony was received from:

George Childs referenced his letter in objecting to any General Fund expenditures for the proposed Master Plan redevelopment of the Civic Center, the proposed development of Blair Park as a multi-use sports complex, KCOM station renovations, Oakland Avenue Bridge lighting improvements and the replacement of the Havens Schoolmates portable as part of the School District's rebuilding of Havens School. He urged that expenditure reductions be made in the proposed FY 08-09 budget so that it is not necessary to levy the municipal services tax for 08-09.

George Kersh inquired re proposed costs of the City's contract with the Oakland Library and the necessity of solar-powered radar traffic speed displays. He requested that the City eliminate KCOM as a cost savings measure and that the Public Works Director be required to itemize his list of tools.

The Council reviewed the proposed budget, requesting the following changes:

Administration

- Reduce Arc View Software funding to \$3,000;
- Reduce KCOM equipment maintenance by \$3,500;

Public Works

- Recycling/Greenwaste Agreement be funded by Measure D;
- Re-examine the feasibility of allocating some Prop 1B funding for Civic Center Master Plan traffic related expenditures or other traffic safety needs rather than allocating the entire amount for street resurfacing;
- Defer \$172,200 in funding for SeaView Avenue resurfacing;
- Re-examine whether any proposed 08-09 street resurfacing projects, in addition to SeaView Avenue, can be deferred
- Re-examine whether the proposed \$123,620 for ADA compliance is really required and if said expenditure is required, propose reductions elsewhere in the budget to off-set this additional cost;

Recreation

- Reduce department supplies by \$11,250;
- Reduce tables/chairs funding by \$6,000;

Police

- Defer \$20,000 in funding for solar radar vehicle speed displays and reconsider this expenditure request during mid-year budget review;

Equipment Replacement Fund

- Defer \$45,000 in funding for GMC dump truck;
- Police motorcycle to be funded by Abandoned Vehicle Fund;
- Defer \$28,000 in funding for Recreation copy machine;
- Defer \$40,000 in funding for Fire pick-up truck;
- Defer \$145,000 in funding for Fire ambulance;

- Re-examine whether the amount of the 08-09 General Fund contribution to the Equipment Replacement Fund can be reduced;

Capital Improvement Projects

- Reduce Fire Dept. Kitchen renovation funding by \$10,000;
- Reduce Rose/Kingston median funding to \$5,000;

The Council also tentatively approved the proposed Fee Schedules contained in the proposed FY 08-09 budget.

On a Motion by Vice Mayor Barbieri, Seconded by Councilmember Keating and Unanimously Carried, the Council agreed to extend tonight's meeting to 11:30 p.m. in order to complete agenda consideration.

Ordinance

The City Planner requested Council first reading approval of Ordinance 678 replacing Chapter 9 of the City Code in its entirety to implement provisions of the City's new garbage franchise agreement with Richmond Sanitary Service. The City approved a new 10-year agreement with Richmond Sanitary Service on January 7th to provide trash, recycling and green waste collection services. The new service agreement commences on July 1, 2008.

Public testimony was received from:

George Kersh voiced his opposition to the increased costs associated with the new collection agreement and his objection to proposed penalties for failing to promptly remove collection containers after pick-up.

Resolution 47-08

RESOLVED, that the City Council approves the first reading of Ordinance 678 NS. Replacing Chapter 9 of the Piedmont City Code Regarding Garbage.

Moved by Chiang, Seconded by Barbieri

Ayes: Friedman, Barbieri, Chiang, Fujioka, Keating

Noes: None

Absent: None

(0705)

Ordinance

The Assistant City Planner requested Council first reading approval of a proposed ordinance amending Chapter 17D to permit modifications to the exterior of non-conforming second units to make said units more architecturally consistent and/or address building code issues as well as to correct a typographical error in Section 17D.7.

Resolution 48-08

RESOLVED, that the City Council approves the first reading of a proposed Ordinance Amending Section 17D.7 of the City Code Creating New Regulations Regarding Modifications to Approved Second Units and Making Other Minor Revisions.

Moved by Barbieri, Seconded by Chiang

Ayes: Friedman, Barbieri, Chiang, Fujioka, Keating

Noes: None

Absent: None

(0705)

**Management
Compensation**

Because of the lateness of the hour, Mayor Friedman suggested that Council review of the *Performance Based Compensation Plan for Management Employees* be continued to the next meeting. The Council concurred and agreed with Councilmember Chiang's request that as a courtesy to the City's consultant in this matter, consideration of this issue be scheduled early on the agenda.

ANNOUNCEMENTS

Election – Councilmember Chiang encouraged residents to vote in tomorrow's State Primary Election.

Congratulations – The Mayor congratulated the PHS Baseball team on winning the NCS Championship.

Budget – The Mayor encouraged residents to comment on the City's proposed FY 08-09 budget, either by e-mail, letter, phone or attendance at the next public hearing scheduled for June 16.

Block Party Permits – The City Clerk encouraged residents to apply for block party permits/street closure requests in connection with July 4th neighborhood celebrations. Forms are available on the City's website or at City Hall.

Elementary School Relays – The Vice Mayor announced that the Elementary School track relays will be held June 4 for 2nd through 5th graders.

Environmental Task Force – The City Clerk announced that application forms for appointment to the City's Environmental Task Force are available on the City's website. The deadline for application submittal is June 24.

Summer Meeting Schedule – The Mayor announced that the Council will be in summer recess on July 21 and August 18. The Council's regularly scheduled first meeting in August (August 4) may also be cancelled if there is no pressing business.

ADJOURNMENT

There being no further business, Mayor Friedman adjourned the Council to Closed Session at 11:40 p.m. to resume its earlier discussion of employee contract negotiations.