

PIEDMONT CITY COUNCIL

Regular Meeting Minutes for Monday, April 21, 2008

A Regular Session of the Piedmont City Council was held April 21, 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 April 17, 2008.

CALL TO ORDER

Following a 6:00 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 held pursuant to Government Code Section 54957.6, Vice Mayor Barbieri called the meeting to order at 7:35 p.m. with the Pledge of Allegiance.

ROLL CALL

Present: Vice Mayor Dean Barbieri and Councilmembers John Chiang, Margaret Fujioka and Garrett Keating

Absent: Mayor Abe Friedman

Staff: City Administrator Geoff Grote, City Attorney George Peyton, Police Chief Lisa Ravazza, Fire Chief John Speakman, Public Works Director Larry Rosenberg, City Clerk Ann Swift, City Planner Kate Black, Planning Technician Sylvia Toruno and Recording Secretary Chris Harbert

CONSENT CALENDAR

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

Minutes

Approves as amended Council meeting minutes of March 31 and April 7, 2008

Resolution

Approves a resolution authorizing the City Administrator to submit an affirmative ballot for the Alameda County Mosquito Abatement District's assessment district at a cost of \$15.00 per year

Agreement

Approves an amended agreement with New World Systems in the amount of \$29,520 for computer aided dispatch software previously approved in the FY 07-08 budget and appropriates an additional \$4,520 for this project to correct an error regarding the redundancy credit

Agreement

Approves an agreement with The Kenerson Group in the amount of \$8,600 for the purchase of TreeWorks software to manage information and claims arising from the City's urban forest as previously approved in the FY 07-08 budget

Agreement

Approves a 1-year agreement with Alameda County for management of Community Development Block Grant Funds (CDBG)

Resolution 34-08

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

Moved by Fujioka, Seconded by Chiang

Ayes: Barbieri, Chiang, Fujioka, Keating

Noes: None

Absent: Friedman
(1030; 0045)

PUBLIC FORUM

There were no speakers for the public forum.

REGULAR CALENDAR

The Council considered the following items of regular business:

Centennial Report

Centennial Committee Chairman Michael Bruck submitted the committee's final report summarizing the 14 wide-ranging events the committee sponsored during 2007 year-long celebration of the City's 100th birthday. He noted that over 6,000 residents of all ages participated in the various events and activities and he thanked his fellow committee members (Billy Allen, Mary Ann Benson, Gail Lombardi, Susan Hill, Jukka Valkonen, Michael Koved, Nancy Lehrkind, Terry London, Shirley Price, Karen Sullivan and Margaret Fujioka) and City Clerk Ann Swift for their tremendous dedication and service during the last two years in planning, promoting and producing the events. The City Clerk added that while 80% of the costs for the Centennial Celebration were funded from private and corporate donations as well as from the sale of Centennial related merchandise, the Committee is requesting an appropriation in the amount of \$85,789 to cover the remaining shortfall and officially *close the books* on the celebration. The Clerk added her belief that continuing sales of Centennial related merchandise will lessen the actual deficit amount and emphasized that one of the major objectives of the Centennial Committee was to produce public events, free of charge to residents. If the Council approves the requested appropriation, all proceeds from future sales of Centennial items will be credited directly to the City's General Fund.

Public testimony

George Childs voiced his disappointment that the Centennial Celebration was not completely self-supporting as originally promised and inquired as to the justification for Committee expenditures of City funds in advance of Council approval.

The Council commended Mr. Bruck for his leadership and thanked committee members for their inspired and spectacular celebration. The Council noted that the committee contributed \$78,000 toward the restoration of Piedmont Park's grotto and creation of a history trail which is a long-term park improvement that will serve and benefit the community for years to come.

Resolution 35-08

RESOLVED, that the City Council appropriates \$85,789 to close out the funding for the City's 2007 *Centennial Celebration*.

Moved by Chiang, Seconded by Keating

Ayes: Barbieri, Chiang, Fujioka, Keating

Noes: None

Absent: Friedman
(0088)

**Public Hearing:
Light Brown Apple
Moth Eradication**

The Public Works Director reported that the City has received numerous e-mails and letters expressing strong concern and/or objections to the California Department of Food & Agriculture's

Program

proposed plans to conduct an aerial spraying program to eradicate the Light Brown Apple Moth; which program was presented to the Council on March 3 by CDFA officials. In response to Council direction and public outcry, staff submitted a letter on March 19 to the CDFA requesting that certain specific information be addressed as part of the EIR regarding this eradication program. Based upon the tremendous controversy this issue has generated as reported in Bay Area newspapers and staff's research into the matter, staff is recommending Council adoption of a proposed resolution setting forth the City of Piedmont's opposition to the aerial spraying component of the eradication program pending the completion of a full Environmental Impact Report. To date, there has been no response to the City's letter of March 19.

Public testimony was received from:

Douglas MacLean, Communications Director for State Assemblyman Sandre Swanson, urged Council adoption of the proposed resolution, referencing the tremendous outcry Sacramento legislators have received from their constituents regarding the aerial spraying program. He stated that 18 cities, representing over 1 million Californians, are currently on record in opposition to the CDFA's aerial spraying proposal and action is planned to lobby the Governor to stop the spraying until an EIR on the matter is completed.

George Childs questioned the usefulness of local agencies to require that an EIR be completed prior to any more aerial spraying for the moth since on March 3, CDFA officials made it clear that they are proceeding under an emergency directive which does not require EIR completion. He felt that since it is unlikely that CDFA will change its decision, an EIR will be a costly waste of time and resources with no effect on CDFA or the outcome.

Oakland residents Lisa Tracy, Lynn Harding, Helen Kozoriz, Elliot Lavine, Tracey Bigelow and Piedmont residents Margaret Ovendin, Tracey Woodruff and Pam Majtoles all urged Council adoption of the proposed resolution in opposition to the aerial spraying, citing the following reasons: (1) U.C. botanists and entomologists have reported that no emergency situation exists with regard to the apple moth nor has crop damage been evidenced; (2) the spray formulas under consideration contain known toxins and carcinogens; (3) the long-term health effects of the spray's inert ingredients have not been adequately tested nor determined, especially with regard to potential health impacts on infants; (4) respiratory ailments and other health effects have been reported in those areas which have been sprayed; (5) it has not been demonstrated that the spraying program is safe, effective or necessary; (6) numerous municipalities and organizations are on record in strong opposition to the spraying program; and (7) the long-term effects of spraying densely populated urban areas is not known and should not be conducted prior to a full EIR review.

Maxina Ventura urged that the Council oppose the CDFA's entire eradication program and not just the aerial spraying component since the chemicals contained in the twist ties and traps also pose serious health risks to people with respiratory and immune system disorders.

The Council supported resolution adoption, requesting that the resolution be amended to request completion of a full and independent environmental impact report. The Council also requested the City Attorney to contact other municipalities to determine if any legal action from those entities is pending in an attempt to stop the aerial spraying program.

Resolution 36-08

WHEREAS, there is a confirmed presence of Light Brown Apple Moths (LBAM) in Alameda County and this pest is subject to federal and state quarantine/eradication orders; and

WHEREAS, the California Department of Food and Agriculture (CDFA) plans to begin an LBAM eradication program in Alameda County and surrounding areas in summer of 2008 during which aerial and other pheromone applications will occur; and

WHEREAS, the state has claimed an emergency exemption under the California Environmental Quality Act (CEQA) in order to begin the LBAM aerial spraying program without conducting an environmental review; and

WHEREAS, without a full and complete EIR process, local jurisdictions do not have sufficient information to respond to the concerns of their residents regarding past health effects of aerial pheromone spraying, the safest methods of pheromone distribution or the possible inhalation risks regarding microscopic plastic encapsulation; and

NOW, THEREFORE, BE IT RESOLVED, that the Piedmont City Council opposes the aerial spray program to eradicate the Light Brown Apple Moth until a full and independent EIR has been completed; and

BE IT FURTHER RESOLVED, that the Piedmont City Council directs the City Administrator to notify the Governor and other relevant state and federal officials of the city's position.

Moved by Fujioka, Seconded by Chiang

Ayes: Barbieri, Chiang, Fujioka, Keating

Noes: None

Absent: Friedman
(0459)

ADA Compliance

The Public Works Director introduced Mr. Peter Margen of Margen and Associates who was retained by the City in December 2007 to prepare a Transition Plan in accordance with the Americans' with Disabilities Act. ADA Title II regulations require public entities to develop a transition plan for providing access to public facilities for individuals with disabilities.

Mr. Margen, Principal Consultant of Margen and Associates, stated that approximately 95% of the City's rights-of-ways have been examined. In addition to completing the survey, he intends to hold a community meeting in May to receive feedback from residents regarding prioritizing needed ADA improvements, conduct policy reviews and staff training related to ADA regulations, examine the adequacy of

previously constructed ADA improvements to City facilities and prepare and submit his final report.

Public testimony was received from:

George Childs voiced concern over the costs associated with ADA improvements and urged the Council to keep costs as low as possible.

The Council thanked Mr. Margen for his status report.

Utility Undergrounding The City Clerk recommended that the Council authorize the use of \$128,309 in Rule 20A funds to pay for PG&E engineering costs incurred with regard to the Central Piedmont Underground Assessment District. The Clerk stated that on April 16, 2007, the City passed a resolution abandoning proceedings for forming the proposed Central Piedmont Undergrounding District. District proponents raised \$223,062 "at risk" funds for district formation and deposited said amount with the City in accordance with its Preliminary Expense Agreement. While all of these funds have been or will be expended for engineering related expenses, there still remains a shortfall of \$128,309 for PG&E related engineering expenses. The City Clerk stated that the Council could either require District proponents to raise this additional amount for an abandoned project or authorize the use of Rule 20A funds in accordance with the City's Utility Undergrounding Policy. The policy provides that the City will guarantee the payment of PG&E engineering costs up to \$150,000 from Rule 20A funds if the district is not successful. The Clerk noted that currently the City has \$253,885 in uncommitted Rule 20A funds (\$300,000 has been committed but not expended for the proposed Piedmont Hills and Hampton SeaView Undergrounding Districts). Authorizing the use of Rule 20A funds for the Central District would leave an uncommitted balance of \$125,576; funds accrue at the rate of \$87,500 per year.

Public testimony was received from:

George Childs urged the Council to be mindful that the intent of Rule 20A funds is for projects that benefit the entire community and not just particular neighborhoods.

Denny McLeod inquired and was advised that if the Council accepts the City Clerk's recommendation, all obligations and liabilities of the members of the Central Piedmont Undergrounding Assessment District will be completely discharged.

Resolution 37-08

RESOLVED, that the City Council authorizes the City Clerk to notify Pacific Gas & Electric that \$128,309 in the City's Rule 20A funds should be used to retire the PG&E engineering debt of the Central Piedmont Underground Assessment District; and

RESOLVED FURTHER, the Council approves the payment of all remaining outstanding financial obligations of the Central Piedmont Undergrounding District in the amount of \$40,013 from the Preliminary Expense Fund deposited by supporters of this district, leaving a zero balance in the account. This action will use all at risk funds deposited by district supporters.

Moved by Chiang, Seconded by Fujioka
Ayes: Barbieri, Chiang, Fujioka, Keating
Noes: None
Absent: Friedman
(1075)

ANNOUNCEMENTS

General Plan Workshop – The City Clerk announced that the Planning Commission will hold a General Plan workshop meeting on April 24 to discuss community design, historic preservation and parks and recreation policies. The public is invited to attend.

Arbor Day – The City Clerk announced that the City will celebrate *Arbor Day* on April 25 in Piedmont Park. The public, especially children, are encouraged to attend this kid-friendly event.

Real Estate Forum – Councilmember Chiang announced that the Piedmont Asian-American Club is sponsoring a real estate forum on April 25 to discuss the current real estate market with local realtors. The public is invited to attend.

Utility Undergrounding – Councilmember Fujioka announced that the Piedmont League of Women Voters is holding a seminar regarding utility undergrounding on April 23.

CIP Tour – Councilmember Fujioka announced that the CIP Committee will be touring the sites of proposed capital improvement projects on April 26. The public is invited to attend.

ADJOURNMENT

There being no further business, Vice Mayor Barbieri adjourned the meeting at 9:40 p.m.