

# PIEDMONT CITY COUNCIL

## Regular Meeting Minutes for Monday, January 5, 2009

A Regular Session of the Piedmont City Council was held January 5, 2009, 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 December 31, 2008.

### **CALL TO ORDER**

Following a 7:00 p.m. Closed Session regarding the appointment of John Hunt as Interim Police Chief held pursuant to Government Code Section 54957(b)(1), Mayor Friedman called the meeting to order at 7:35 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, Police Captain John Hunt, Public Works Director Larry Rosenberg, Recreation Director Mark Delventhal, City Clerk Ann Swift, City Planner Kate Black, Assistant Planner Kevin Jackson and Recording Secretary Chris Harbert

### **PROCLAMATION**

In recognition of the one-year anniversary of the opening of *Mulberry's Market*, Mayor Friedman presented market owners Chad Olcott and Laura Pochop with a proclamation declaring December 2008 as "Mulberry's Market Month" in Piedmont. On behalf of the City, the Mayor thanked the Olcott family for their dedication and vision in reviving Piedmont's tradition of having a central gathering place for residents.

### **CONSENT CALENDAR**

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

#### **Minutes**

Approves as submitted Council meeting minutes of December 1, 2008

#### **Grant**

Accepts \$25,000 in Citizens Option for Public Safety (COPS) grant funds and appropriates said amount to the Police Department overtime account

#### **Agreement**

Awards the 2008-09 Street Tree Pruning Contract to The Professional Tree Care Company in the amount of \$64,416 to prune 488 trees located throughout the City

#### **Conditional Use Permit**

Grants a 5 year Conditional Use Permit to Curves for the continued operation of an existing cardio and strength training fitness facility at 1333 Grand Avenue, subject to the findings and conditions contained in Planning Commission Resolution 290-CUP-08, dated November 10, 2008

#### **Conditional Use Permit**

Grants a 10-year Conditional Use Permit to Shell Oil Products U.S. for the continued operation of an existing gasoline and automobile service facility at 29 Wildwood Avenue, subject to the findings and conditions contained in Planning Commission Resolution 241-CUP-08, dated December 8, 2008

**Resolution 1-09**

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

Moved by Barbieri, Seconded by Chiang

Ayes: Friedman, Barbieri, Chiang, Fujioka, Keating

Noes: None

Absent: None

(0088/X0525; 0045; 0340)

**PUBLIC FORUM**

George Kersh urged the Council, as a cost saving measure, to fill the vacant Police Chief position through in-house promotion rather than seek outside candidates for this position.

**REGULAR CALENDAR**

The Council considered the following items of regular business:

**Appointment**

Per Closed Session discussion, the City Administrator recommended that the Council appoint Police Captain John Hunt as Interim Police Chief while a permanent candidate search for the position of police chief is undertaken. Captain Hunt has served as Acting Police Chief since former Police Chief Lisa Ravazza retired on December 29, 2008. The Administrator further recommended that Captain Hunt receive a 10% salary increase over his current captain's salary during this interim appointment period.

**Resolution 2-09**

RESOLVED, that the City Council appoints Captain John Hunt as Interim Police Chief and sets his annual salary at \$158,019 during the period of this interim appointment.

Moved by Barbieri, Seconded by Chiang

Ayes: Friedman, Barbieri, Chiang, Fujioka, Keating

Noes: None

Absent: None

(0085)

**Environmental Task  
Force Quarterly Report**

Piedmont Environmental Task Force Chair Teddy King presented the Council with the Task Force's first quarterly report proposing twenty recommendations for achieving a recycling and solid waste diversion rate of at least 75% in accordance with the Council's charge of May 19, 2008. The Task Force's second and third quarterly reports will focus on reducing energy consumption by public agencies and education and non-regulatory support for community emissions reduction, respectively. The 4<sup>th</sup> quarterly and final report of the Task Force will integrate all of the recommendations and will be prepared and submitted at the end of the examination process. Chairman King noted that the Task Force meets monthly and the public is invited and encouraged to attend. She thanked Task Force members Jonathan Levine, Ryan Gilbert, Robert Houser and Susan Ode as well as Council Liaison Margaret Fujioka and PUSD Liaison Richard Rausenbush for their dedication and effort in this endeavor.

The Council thanked Mrs. King and her task force for their efforts and directed staff to prepare suggestions and a timeline for implementing the task force recommendations, with special emphasis on the high priority, short-term goals contained in the report. The Council also requested staff to work with community organizations, such as the Piedmont Beautification Foundation and Boy Scouts as well as

interested residents in exploring private sources of funding and public/private partnership opportunities to assist the City in implementing task force recommendations.

**Blair Park/Coaches  
Playfield EIR Contracts**

Per Council direction of December 1, 2008, as well as previous Council discussion and actions regarding proposed sports field improvements at Coaches Playfield and Blair Park (Oct. 2007, May 5, June 16, Aug. 5, Oct. 6 & 20, 2008), the City Administrator presented a series of professional services contract proposals to expand the current EIR process relating to these proposed improvements to include the potential of Blair Park being used for the placement of classroom portables during the School District's upcoming seismic upgrade of school buildings. The City Administrator stated that the City has received an extraordinary gift of \$165,000 from Steven Ellis to help offset the funding of these additional contracts. The Administrator stressed that the timeline of required EIR examination of Blair Park precludes the possibility that classroom portables could be located on the site in time for the 2009-10 school year; however, it is possible that Blair Park could be a site option for portable placement for the 2010-11 and 2011-12 phase of the School District's seismic upgrade project. The Administrator recommended that proposed contracts for site survey and geotechnical evaluation work be approved at this time, emphasizing that such information would be required for any type of future development at Blair Park. However, he recommended that the proposed contract for design services related to portable classroom placement at Blair Park be deferred until such time as the School Board decides whether or not to pursue Blair Park as a possible site for its interim housing needs.

**Correspondence** was received from: Dr. R.E. Albert; Dan Marks; Jason Throne; Joannie Semitekoi; Mark & Judith Giardina; Sandra Pohutsky; Kathleen Phillips; Sara wood-Kraft; John Kraft; Peggy Esposito; Ken Koretz; Barbara Peters; Michelle Gajda; Al Peters for Friends of Moraga Canyon.

**Public testimony** was received from:

Piedmont residents Julie Watters, Jason Stein, Martha Holstlaw, Marjorie Blackwell, George Childs, William Blackwell, Lynn Ennis, Randy Wedding, Barbara Peters, Celia Wedding, Dan Marks, Al Peters, Nick Sibal and Stephen Tindle; and

Oakland residents Sandra Pohutsky, Peggy Esposito, Kathleen Phillips, Nicholas Vigilante, Ann Henning, Michelle Gajda, Stephen Dee, Leslie Silbergh, Priscilla Carson and Susan Kahn

all voiced strong opposition to the proposed development of Blair Park for either a sports field complex or site for the School District's temporary portable classrooms, citing the following reasons: (1) Blair Park is currently a beautiful natural habitat and wildlife corridor and the proposed improvements would destroy a community-enjoyed open space and a fragile eco-system for the benefit of special interests; (2) Blair Park is too narrow and small to safely accommodate the proposed improvements; (3) Moraga Avenue is already a heavily traveled major thoroughfare that cannot safely accommodate the addition of school traffic related to portable placement; (4) the proposed improvements

will have a significant impact on the quality of life of adjacent Oakland residents and Piedmont should make a concentrated effort to work with Oakland residents, the City of Oakland and the Montclair Safety and Improvement Council in insuring that any development mitigates potential adverse impacts on Oakland residents; (5) any proposed traffic study of the proposed improvements should take into consideration the impact on the entire length of Moraga Avenue (Highway 13 to Pleasant Valley Avenue) and not just that portion of the roadway located adjacent to Blair Park. In addition, Piedmont should pay the costs for any traffic/safety mitigation measures in Oakland required as a result of Blair Park development; (6) the proposed placement of portable classrooms will decrease property values in the area; (7) inevitable traffic congestion along Moraga Avenue will cause drivers to take short-cuts through adjacent neighboring streets, posing traffic hazards to neighborhood kids and a loss of tranquility and safety to these currently quiet neighborhoods; (8) there is no assurance that the State School Architect would approve locating classroom portables at Blair Park, therefore the expenditure of funds to prepare the site could be a waste of money; (9) the consideration process for portable classroom placement seems to be unusually rushed and being pushed by the advocates of the sports complex for their own purposes – the acceptance of funding from these advocates creates the impression that the Council is being pressured to expedite and approve the projects without a thorough and unbiased evaluation; (10) Blair Park is unsuitable for either a sports complex or interim school because of its location on a tributary earthquake fault and its dark, dank atmosphere; (11) the size of the proposed sports facility should be dictated by Blair Park site constraints rather than the desires of sports groups – 40 ft. high retaining walls proposed by the sports groups are totally inappropriate; (12) the Council should insure that all necessary funding for the sports facility is in place before site preparations are undertaken to avoid the possibility that the site is destroyed for classroom portable location only to realize later that the proposed sports facility cannot be constructed because of a lack of funding;

Joannie Semitekol reiterated her previous strong objection to the addition of field lighting at Coaches Playfield.

Stephen Tindle also voiced opposition to field lighting at Coaches Playfield and requested that the City's lighting study be analyzed by an independent third party to insure its objectivity and comprehensiveness.

Joe Loduca voiced support for the proposed improvements and staff recommendations.

June Monach, President of the Piedmont School Board, stated that on January 14 the Board will consider three possible classroom portable locations: a vacant school facility in Emeryville, a split school option utilizing City and school property at Wildwood School and Blair Park. It is anticipated that the Board will decide which option to pursue on January 27.

The Council supported staff recommendations as to proposed professional service contracts, with the proviso that the City Administrator would be authorized to either proceed or eliminate those

professional services related to classroom portables at Blair Park based upon whether the School Board decides to pursue Blair Park as a possible interim school site. The Council further emphasized that even if the School Board decides to pursue Blair Park as a possible interim housing site, that decision does not guarantee that classroom portables will ultimately be located at Blair Park. On behalf of the Council, the Mayor also clarified for the record that no City Councilmember is involved in fundraising activities for the proposed Blair Park sports field project.

**Resolution 3-09**

RESOLVED, that the City Council approves the agreement with Mr. Steven Ellis in accepting a donation in the amount of \$165,000 and appropriates said amount to the Geotech Et Al CIP Account #127-0432-004-001; and

RESOLVED FURTHER, approves a contract with BKF Engineers in the amount of \$17,860 for the preparation of a site survey of Blair Park and authorizes the City Administrator to execute a contract with Treadwell & Rollo or another qualified firm in an amount not to exceed \$25,000 for the preparation of a geotechnical and geologic hazard evaluation report for Blair Park.

Moved by Chiang, Seconded by Barbieri

Ayes: Friedman, Barbieri, Chiang, Fujioka, Keating

Noes: None

Absent: None

(0045/X0745)

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

**Resolution 4-09**

RESOLVED, that the City Council approves a contract with LSA Associates, Inc. and Benson Lee in an amount not to exceed \$95,000 for the preparation of an Environmental Impact Report for the Coaches Field Synthetic Turf/Field Lighting Project, the Blair Park Sports Field Project and, if deemed appropriate by the City Administrator, the Interim School Housing Project; and

RESOLVED FURTHER, approves a transfer and appropriation of \$10,000 from the Moraga Canyon (Blair Park) Study CIP Account #127-0432-004-000 to the Coaches/Blair EIR CIP Account #127-0434-034-000 to pay for the unfunded costs of the above contracts and authorizes the City Administrator to negotiate with the Piedmont Unified School District for the remaining \$10,000 required for the above contracts.

Moved by Chiang, Seconded by Barbieri

Ayes: Friedman, Barbieri, Chiang, Fujioka, Keating

Noes: None

Absent: None

(0045/X0745)

**Resolution 5-09**

RESOLVED, that the City Council approves a contract with ELS Design Group in an amount not to exceed \$124,530 for design of an interim school site at Blair Park, with reimburseables not to exceed \$500, subject to a decision by the Piedmont School Board to pursue Blair Park as a site for an interim school.

Moved by Barbieri, Seconded by Chiang

Ayes: Friedman, Barbieri, Chiang, Fujioka, Keating

Noes: None

Absent: None

(0045/X0745)

On behalf of the Council, Mayor Friedman thanked Mr. Ellis for his generous donation.

**Wireless Facility Upgrade**

The Assistant Planner recommended Council approval of T-Mobile and PG&E's wireless communications facility application to upgrade the T-Mobile equipment at the site of the existing PG&E tower at 275 Sandringham Road by replacing three existing wireless antennae with three new antennae, increasing the number of cables from six to twelve and replacing the existing grade-mounted equipment cabinet with a new cabinet of the same size and location. On December 8, 2008, the Planning Commission approved variance and design review for this installation and also recommended Council approval of the communications facility application.

**Public testimony** was received from:

Stuart Schneck reiterated his objections made at the Planning Commission's meeting in requesting that the City put a stop to the addition of more antennae and cables at this site. He noted that the communications tower is a neighborhood eyesore and unlike the original approval of the wireless facility 12 years ago, the proposed new antennae and cables are not needed for cell phone reception. The proposed upgrades are being made to enhance TV, video and computer download capabilities. He felt that such services were not a communication necessity and therefore, the neighborhood should not be burdened by additional wireless installations.

Bobbie Stehr, Planning Commission Chair, summarized the Commission's findings with regard to the application, stressing that the existing PG&E tower is the main eyesore cited by Mr. Schneck. The existing and proposed antennae and cables are barely visible and will not change the neighborhood's existing visuals.

The Council agreed that the TV, video and computer services being provided by the new installation are desired by Piedmont residents.

**Resolution 6-09**

WHEREAS, KDI Land Use Planning, on behalf of T-Mobile and PG&E, is requesting permission to upgrade communication equipment by replacing three existing wireless transmission antennas (54"L by 12"W by 3.5"D) with three new antennae (55.9"L by 13"W by 3.5"D) at the same 42-ft. maximum height above grade, increasing the number of cables from six (two per antenna) to 12 (four per antenna) and replacing the existing grade-mounted equipment cabinet with a new

cabinet of the same size and location located at 275 Sandringham Road, Piedmont, California, which construction requires compliance with Chapter 17G of the Piedmont City Code; and

WHEREAS, after reviewing the application, plans and any and all testimony and documentation submitted in connection with such application, and after having visited subject property, the Piedmont City Council finds that the proposal conforms with the criteria and standards of Section 17G.3.1

- (a) the proposal is an upgrade of the existing facility by replacing existing panel antennas with new ones and are collocated with existing facilities to minimize overall visual impact. The service provider has demonstrated cooperation in siting the equipment and antennas to accommodate the reasonable number of operations at this particular site;
- (b) the new ground mounted equipment is the same height and dimensions as the existing structure it replaces which is the smallest functional size;
- (c) the finish of the antennas and equipment shall be non-reflective and of a color to minimize visual impact – a light gray, non-reflective finish;
- (d) the proposed ground mounted facilities are located within areas where substantial screening by existing vegetation is achieved and will continue to cover the new ground equipment;
- (e) the new antennas shall have a light gray, non-reflective finish;
- (f) the proposed modifications are located on a PG&E tower which is an appropriate co-existing use of this tower;
- (g) the applicant holds a master lease agreement with PG&E consistent with the City's requirement that following a discontinuation of the use, all equipment associated with the facility shall be removed and the site returned to its original condition;
- (h) there has been no showing that the proposed modifications will adversely affect public health, peace or safety;

and with the criteria and standards of Section 17.G.4 of the Piedmont City Code:

- (a), (b) and (c) The purpose of the T-Mobile Universal Mobile Telecommunications System (UMTS) upgrade is to enhance the level of service within the existing T-Mobile coverage area. The proposed facility does not intend to expand the footprint of the existing coverage area provided by the current facility within Zone A. Instead, the upgrade will add a new service to the existing GSM voice data service. This UMTS service will open broadband service to more customers for web browsing, movie and TV downloads, video conferencing and large file transfers. UMTS offer higher data rates supporting broadband applications and greater efficiency in radio frequency spectrum utilization which increases user capacity. The purpose of the proposed UMTS

modification is to upgrade existing facilities within the T-Mobile network; therefore, exploring alternative sites where no T-Mobile facility exists was not explored. Seeking alternative locations inside or outside Zone B does not meet the intent of the upgrade. An alternative to upgrading the existing facility would be to construct a new T-Mobile facility within this coverage area in addition to the existing facility so that UMTS could be accommodated. This option would not allow for an upgrade and defeat the purpose of utilizing the existing T-Mobile facility. The applicant has provided a list of over 300 addresses within the coverage area currently provided GSM voice data services by the subject facility (BA12364A – 275 Sandringham). The proposed UMTS upgrade will provide the listed address with the new UMTS services. Since alternative locations were not explored, costs for such locations are not applicable to this proposal. However, as technology advances wireless communication facilities will likely continue to advance as well. It appears that in most cases, where feasible, it would be more economical to modify existing facilities in lieu of constructing new ones. In addition, there is the added benefit of consolidating the technologies, facilities and services which minimize visual impact and unnecessary sprawl;

- (d) as demonstrated by this application, all development standards in 17G.3 and applicable findings have been fully considered;
- (e) the existing facility to be modified as part of the UMTS upgrade is located within Zone A. The facility is located on a 74' 1" tall PG&E tower which is substantially taller than any other structure in the coverage area. This existing structure would provide wireless coverage for the existing GSM service as well as the upgraded UMTS service for the T-Mobile facility;
- (f) the upgraded T-Mobile facility is in conformance with the existing design review approval and the design review provision of Chapter 17. The facility utilizes the existing facility to minimize the overall visual impact. The three new antennae would replace the existing three antennae so that a new facility is not created. As part of the antenna replacement, two additional cables per antenna will be incorporated into the facility. The cables will be grouped with the existing cables and run along the PG&E tower to minimize visual impact. There is no net increase in the number of antennas or ground equipment. The equipment and antennas have a non-reflective finish and are painted to minimize visual impact. The ground mounted equipment is screened by an existing wood fence and chain link enclosure surrounding the PG&E tower.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont City Council approves the wireless communications application of KDI Land Use Planning for construction at 275 Sandringham Road, Piedmont, California, in accordance with the plans and specifications on file with the City.



Moved by Chiang, Seconded by Barbieri  
Ayes: Friedman, Barbieri, Chiang, Fujioka, Keating  
Noes: None  
Absent: None  
(1127)

**Lease Termination**

The City Administrator recommended Council approval of an agreement with the Piedmont East Bay Children's Choirs to terminate the Choirs lease of City property at 401 Highland Avenue, effective January 9, 2009, and authorize a payment to the Choirs in the amount of \$10,000 as a buy-out for early lease termination (lease expires December 31, 2010). The Administrator stated that during 2008, the City became aware of the Choirs desire for larger office space while the City was exploring options for providing adequate working space for City personnel. Staff determined that it would be more cost effective to take over the office space at 401 Highland rather than renovate the City Hall basement to create additional offices. In December Piedmont Choirs accepted the City's offer of \$10,000 to vacate the premises early so that the office space can be renovated and City personnel can take possession of the space this summer. Funding for the buy-out will be made from the City Hall Basement Renovation Account – no appropriation from the General Fund Reserve is required.

**Resolution 7-08**

RESOLVED, that the City Council approves an agreement with the Piedmont East Bay Children's Choirs which will terminate their lease of City property at 401 Highland Avenue, effective January 9, 2009, and authorize a payment to the Choirs in the amount of \$10,000 from the City Hall Basement Renovation CIP Account #127-0433-032-000.

Moved by Fujioka, Seconded by Chiang  
Ayes: Friedman, Barbieri, Chiang, Fujioka, Keating  
Noes: None  
Absent: None  
(0045)

**ADJOURNMENT**

There being no further business, Mayor Friedman adjourned the meeting at 11:25 p.m.