

PIEDMONT CITY COUNCIL

Regular Meeting Minutes for Monday, June 1, 2009

A Regular Session of the Piedmont City Council was held June 1, 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 May 28, 2009.

CALL TO ORDER

Mayor Friedman called the meeting to order at 7:10 p.m. with the Pledge of Allegiance. He announced that the Council intends to recess to Closed Session for discussion of significant exposure to litigation regarding the Hampton-Sea View and Piedmont Hills Undergrounding Districts held pursuant to Government Code Section 54956.9(b)(1)(E). He invited any speakers to address the Council on these matters prior to the Closed Session. Three members in the audience indicated a desire to speak to the Hampton-Sea View matter. Therefore, Councilmember Fujioka recused herself from the discussion, citing a conflict of interest because she lives within the Hampton-Sea View District. She then left the Council Chambers.

Public testimony was received from:

David Alexander read a prepared statement outlining the concerns of many residents within the Hampton-Sea View District regarding the Council's May 4th action approving district establishment, their requests for a public discussion of their concerns, their request that the Council rescind its May 4th approval and their objections to the numerous misrepresentations made by district proponents during the formation process.

Joe Hurwich referenced financial and legal threats being directed toward residents who are challenging the legality of the establishment of the Hampton-Sea View District.

The Mayor then recessed the Council to Closed Session at 7:20 p.m.

The Mayor reconvened the meeting at 7:45 p.m. He announced that pursuant to Closed Session discussion, the Council decided: (1) not to schedule a public hearing regarding the Council's May 4th decisions regarding these two undergrounding districts; and (2) authorized the City Administrator to retain trial counsel in the event a lawsuit is filed that involves the City.

ROLL CALL

Present: Mayor Abe Friedman, Vice Mayor Dean Barbieri and Councilmembers Margaret Fujioka and Garrett Keating

Absent: Councilmember John Chiang

Staff: City Administrator Geoff Grote, City Attorney George Peyton, Finance Director Mark Bichsel, Acting Police Chief John Hunt, Recreation Director Mark Delventhal, City Clerk Ann Swift and City Planner Kate Black

CONSENT CALENDAR

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

- Minutes** Approves as submitted Council meeting minutes of May 17 and approves as amended Council meeting minutes of May 18, 2009
- Environmental Task Force** Approves the request from the Environmental Task Force Chair to extend the time frame for their charge through December 2009
- StopWaste.Org** Authorizes participation in the StopWaste.Org Green Packages Program, using \$10,000 of FY 09-10 grant funds

Resolution 52-09

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

Moved by Barbieri, Seconded by Fujioka

Ayes: Friedman, Barbieri, Fujioka, Keating

Noes: None

Absent: Chiang

(0459; 0525)

PUBLIC FORUM

There were no speakers for the public forum.

REGULAR CALENDAR

The Council considered the following items of regular business:

**Public Hearing:
Proposed FY 09-10
City Budget and
Levy of Municipal
Services Tax and
Sewer Tax**

The Mayor opened the first of two scheduled public hearings on the proposed FY 09-10 operation and capital improvement budgets, proposed fee schedules and the proposed levy of the Municipal Services and Sewer parcel taxes.

The City Administrator referenced staff reports in response to information requested by the Council at its May 17th budget work session and updated the Council on the financial impact on City revenue in light of the electorate's May 19 rejection of the Governor's state budget measures. As a consequence, it is likely that Piedmont will receive approximately \$800,000 less than estimated in property tax revenue.

Finance Director recommended that the 09-10 sewer tax be levied at its maximum amount (12% increase over last year), summarized proposed expenditures of Measure B funding, and in response to the expected loss of property tax revenue, proposed additional expenditure reductions of \$91,570 coupled with utilizing the existing fund balances of the worker's compensation and liability insurance funds to fund FY 09-10 projected expenditures of \$708,430 for these accounts.

Public testimony was received from:

George Kersh urged the Council to re-evaluate the City's employee pay schedule and reduce the salaries of public safety and management employees on a sliding scale so that employee layoffs and public works service cuts can be avoided. He also recommended the elimination of the City's KCOM services, the cancellation of the City's library contract with the City of Oakland and the requirement that the Recreation Department to be totally self-supporting.

George Childs suggested that the City collect its own property tax revenue and dictate to the state how much of this revenue it would be

willing to “lend.” He criticized the Council for wasteful spending practices, citing specifically the \$142,550 assessment for Hampton Park’s inclusion in the Piedmont Hills Utility Undergrounding District. As a consequence, he suggested that the Municipal Services Tax be suspended for FY 09-10.

The City Administrator responded that in the proposed FY 09-10 budget all management and mid-management salaries are frozen and previously negotiated salary increases for public safety and union employees are likely to be voided – an estimated savings of \$180,000.

During the Council’s review of the proposed budget, the following requests were made of staff: (1) in future reports, a break-down be provided of the Recreation Department’s “Other Expenses” totaling \$504,000; (2) explore whether the City of Oakland would be interested in contracting for Animal Control services similar to the City’s arrangement with the City of Emeryville; (3) examine whether currently allocated CIP funds related to traffic/median/sidewalk improvements could be transferred back to the General Fund Reserve and Measure B funds used instead for these traffic/sidewalk/median related expenditures; (4) provide revenue/cost offset information if one planning technician position is eliminated; (5) provide information regarding projected revenue increases if planning permit fees are increased beyond that currently proposed (8% & 10% increase), with the corresponding staff costs for processing said permits; (6) provide costs for KCOM filming/streaming video of only City and School Board meetings, as well as the League of Piedmont Voters candidate forum, that take place in the Council chambers; (7) provide the hourly rate and annual salaries of all KCOM employees and contractors; (8) revise the proposed budget to reflect the \$180,000 in employee salary savings anticipated given the likelihood that negotiated salary increases will not occur; (9) provide revenue/cost offset information if one Animal Control officer position is eliminated; (10) provide information/recommendation as to whether City park/playground facilities currently restricted to resident reservation only, should be modified to allow non-resident reservations; and (11) examine potential cost savings options regarding Skate Park operations and monitoring.

The Mayor acknowledged Council receipt of a detailed e-mail from Ms. Liz Schultz containing useful suggestions/comments related to the proposed FY 09-10 budget. He thanked Ms. Schultz for her input.

Piedmont Swim Club

The City Administrator reported that the Piedmont Swim Club is requesting City permission under its current lease to sell annual passes to non-residents.

Councilmember Keating, in connection with his recusal from discussion and action on this matter, read a prepared statement citing Government Code Section 1091.5(a)(7) in disclosing that he is a member of the Piedmont Swim Club and has a non-interest as a non-salaried member of a non-profit corporation. Councilmember Keating then left the chambers. His written statement is attached for the record.

The City Administrator referenced a legal opinion from Mr. J. Brittain Habegger, attorney for the Swim Club, concluding that the Club’s current lease, as amended, does not preclude the use of the Piedmont

Swim Club by non-residents, citing instances of use of the City facility by non-residents (e.g. interscholastic competitions, Recreation Department classes and City and School District employees). The City Administrator noted his and the City Attorney's concurrence with Mr. Habegger's interpretation of the lease provisions and that the limited expansion of the sale of annual passes is consistent with the current lease, as amended and extended. The City Administrator noted that the current lease expires June 30, 2011. He also cited the benefit for the future planning of pool operations to determine if there is a viable market for non-Piedmonter use of the pool, the revenue generation potential from non-resident use and whether such use impacts the community.

Correspondence was received from: Timothy Rood, President of the Piedmont Swim Club, dated May 20, 2009; J. Brittain Habegger, dated May 19, 2009.

Mayor Friedman and Councilmember Fujioka disagreed with the Club's and staff's legal interpretation, believing that the sale of non-resident passes is not allowed under the lease agreement. However, the Mayor and Councilmember Fujioka were not opposed in concept to the sale of non-resident passes but felt that the current lease would have to be amended to allow for this sale. It was acknowledged, however, that the process and timetable for amending the current lease would most likely preclude any sale of passes until well after the start of the summer swim season. The Vice Mayor agreed with staff's interpretation, noting his belief that there is a distinction in the lease between Club membership/ownership and annual passes. The Mayor requested staff to consult with the Piedmont Swim Club and submit a proposed amendment to the current swim lease at the next Council meeting to facilitate the club's request. The Vice Mayor suggested that staff also explore with the Club the option for the sale of monthly passes as an interim solution so that the summer swim season is not missed.

ANNOUNCEMENTS

School Parcel Tax Election – the Mayor encouraged residents to vote in tomorrow's special election on the School Board's parcel tax measures (Measures B and E).

Movie in the Park – The Mayor encouraged residents to attend the Recreation Department's summer *movie in the park* series, beginning this week.

Climate Action Plan – Councilmember Fujioka reported on the recent Community Forum held in connection with the preparation of the City's Climate Action Plan. At the Councilmember's request, the City Planner will make a presentation regarding this program at the next Council meeting.

Emergency Preparedness – Councilmember Fujioka announced that she has requested the Fire Chief to update the community at the next Council meeting regarding emergency preparedness information now available on the City's website.

Employee Appreciation Day – Councilmember Fujioka announced that the Council’s annual *Employee Appreciation Day* will be held June 26 at the Community Hall.

ADJOURNMENT

There being no further business, Mayor Friedman adjourned the meeting at 10:20 p.m.