

# PIEDMONT CITY COUNCIL

## Regular Meeting Minutes for Monday, May 18, 2009

A Regular Session of the Piedmont City Council was held May 18, 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 14, 2009.

### CALL TO ORDER

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, Finance Director Mark Bichsel, Acting Police Chief John Hunt, Public Works Director Larry Rosenberg, City Clerk Ann Swift, City Planner Kate Black, Assistant Planner Kevin Jackson, Recreation Supervisors Erin Rivera and Penny Robb and Recording Secretary Chris Harbert

### CONSENT CALENDAR

The following item was considered under one vote by the Council:

#### Minutes

Approves as submitted Council meeting minutes of May 4, 2009

#### Resolution 43-09

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

### PUBLIC FORUM

There were no speakers for the public forum.

### REGULAR CALENDAR

The Council considered the following items of regular business:

#### Environmental Task Force Quarterly Report

Piedmont Environmental Task Force Chair Teddy King presented the Council with the Task Force's second quarterly report proposing the following recommendations for encouraging residential and City energy conservation:

- A1:** Develop residential energy conservation and efficiency incentives;
- A2:** Adopt a Resolution supporting a countywide or regional renewable energy assessment district;
- B1:** Work with PG&E and EBMUD to complete municipal energy audits;
- B2:** Focus on the "basics" to reduce municipal utility bills;
- B3:** Participate in PG&E's Climate Smart Program;
- B4:** Promote installation of solar panels on renovated or new City facilities and require such panels in the event the Piedmont Swim Club and Pool are reconstructed with City funds;
- B5:** Shift to hybrid or alternative fuel City vehicles;

- B6:** Utilize energy-efficient lighting when City streetlights are replaced or when new streetlights are installed;
- B7:** Replace the incandescent bulbs in the Oakland Avenue Bridge “necklace” with cold cathode bulbs similar to those used in the Lake Merritt Necklace of Lights;
- C1:** Collaborate with the Piedmont Unified School District on energy efficiency projects;
- C2:** Work with PG&E and EBMUD to distribute information on energy and water conservation through the City’s website, City fairs and festivals and other City outlets

The Task Force’s first report, submitted January 5, focused on increasing recycling and solid waste diversion and its third quarterly report (to be submitted in October) will focus on education and non-regulatory support for community emissions reduction. 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 year.

**Public testimony** was received from:

Barry Miller, the City’s Task Force Consultant, advised the Council that the Task Force will finalize its recommendations concerning the possible adoption of a Residential Energy Conservation Ordinance (RECO) in its final report after review of the City’s Climate Action Plan proposals.

George Childs supported the implementation of energy efficiency programs provided such programs are entirely voluntary and do not impose financial hardships on residents.

The Council thanked Chairman King and her Task Force for their efforts and recommendations and requested staff to:

- Encourage the City’s newest utility undergrounding assessment districts (Piedmont Hills & Hampton/Sea View) to consider the use of energy efficient lighting for the new street lights to be installed in their districts;
- Pursue implementation of Recommendations B-1, B-2, C-1 and C-2 as soon as possible; and
- Pursuant to one of the Task Force’s first quarterly report recommendations, consult with the Park Commission and Piedmont Beautification Foundation regarding the design of recycling containers to be placed in City parks and public places to insure that these containers are consistent with Piedmont’s aesthetic standards. If necessary, solicit private donations to supplement Measure D funds for container purchase to guarantee the attractiveness and appropriateness of these containers.

### **Salaries Resolution**

The Finance Director recommended Council approval of a Compensation and Benefits Resolution for Professional, Technical and Supervisory Unit Employees for the period January 1, 2009 through December 31, 2010. The proposed resolution authorizes a 3% salary increase effective January 1, 2009 and a cost of living increase effective January 1, 2010. The cost of living increase will take place

dependent upon two conditions: (1) if the State of California does not borrow or take money from the City during calendar year 2009; and (2) if the City's real property transfer tax revenue for FY 08-09 is \$1.8 Million or higher.

**Resolution 44-09**

RESOLVED, that the City Council approves the proposed compensation and benefits resolution for Professional, Technical and Supervisory Unit Employees, for the period January 1, 2009 through December 31, 2010, authorizing a 3% salary increase effective January 1, 2009, and a cost of living increase effective January 1, 2010. The cost of living increase will take place dependent upon two conditions:

- if the State of California does not borrow or take money from the City during calendar year 2009; and
- if the City's real property transfer tax revenue for FY 08-09 is \$1.8 Million or higher.

Moved by Barbieri, Seconded by Chiang

Ayes: Friedman, Barbieri, Chiang, Fujioka, Keating

Noes: None

Absent: None

(0910)

**Electronic Advertising  
Devices**

Pursuant to issues raised at the Planning Commission's March 9 meeting relating to the use of TV advertising monitors on commercial property, the City Planner submitted proposed modifications to the definitions and sign provisions of City Code Chapter 17 to specifically address electronic advertising devices. She acknowledged the controversy concerning the use of such devices, highlighted the arguments in favor and in opposition cited by proponents and opponents and submitted two alternative modifications to the code: allowing such devices on a case by case basis or prohibiting such devices based upon clear criteria and findings. The City Attorney cited his legal opinion setting forth guidelines when considering proposed language changes to the code relating to this issue.

**Public testimony** was received from:

Jim Kellogg, Planning Commission Chair, summarized the Commission's March 9<sup>th</sup> discussion of this issue and stated that either of the two proposed alternative modifications to the Code could be successfully implemented by the Commission. However, he suggested that Section 17.19.2(a) be clarified with regard to the maximum number of signs permitted on a property if electronic advertising devices are now to be defined as "signs."

The Council was divided in its support for either allowing or prohibiting electronic advertising signs. Vice Mayor Barbieri strongly opposed the use of such devices in Piedmont, stressing that such signs are bright, loud and intrusive, not in keeping with Piedmont's residential character and traditions, cannot be restricted to limit their content to strictly local business advertising and there has been no evidence submitted that such signs are essential for local business profitability. Councilmember Keating agreed with the Vice Mayor that many residents in Piedmont oppose the use of such signs for aesthetic reasons and he was reluctant to support the proposal at this time. He requested that if such devices are allowed, the brightness of such

electronic displays also be regulated, suggesting the use of footcandles to determine what is an acceptable level of illumination.

The remaining Councilmembers supported allowing such signs on a case by case basis pursuant to regulation, believing that such advertising techniques cannot be legally prohibited without strict findings of compelling state interest, regulations can successfully mitigate any adverse impact to the general public and this new technology is needed by many local businesses to remain profitable during these difficult economic times.

**Resolution 45-09**

RESOLVED, that the City Council approves amending Chapter 17 of the City Code to allow and regulate the use of electronic advertising and information devices and directs staff to submit language amending the code to allow such use on a case by case basis.

Moved by Chiang, Seconded by Fujioka

Ayes: Friedman, Chiang, Fujioka

Noes: Barbieri, Keating

Absent: None

(0665)

**Public Hearing:  
Review of Planning  
Commission Decision,  
340 Highland Avenue**

The City Planner reported that the City Administrator has initiated proceedings for review of the Planning Commission's March 9, 2009, design review denial of the Valero Service Station's application for retroactive approval of the installation and use of TV advertising monitors atop the gas pumps at 340 Highland Avenue.

**Public testimony** was received from:

David Alexander, Attorney representing the applicant Simon Ho, emphasized that the Valero Service Station is an important business in central Piedmont that has suffered a series of ownership turnovers. He noted that Mr. Ho has significantly improved the aesthetics and operations of the station since he assumed ownership in January 2009, the TV advertising monitors were in place and in operation at the time Mr. Ho purchased the station and revenue from the advertising monitors cover the station's electricity costs. He stressed Mr. Ho's willingness to abide by the reasonable regulation of monitor use, provided such restrictions do not breach his contract with the TV advertisers. He also urged that Mr. Ho be allowed to resume TV monitor operation pending adoption of the Chapter 17 amendments authorized by the Council's earlier action. He noted that the station's TV monitors have been off, pursuant to City order, since March 16.

Eric Behrens, Piedmont Community Church Board of Trustee Member, stressed that the Church's Board of Trustees does not oppose the monitors, noted that the service station has changed hands five times in the last 10 years and emphasized that the City risks the potential for much more serious visual blight if the station again closes because the current station owner fails to generate enough revenue to stay in business. He urged approval of the TV monitors.

The Council discussed the matter at length, with the majority agreeing that delaying action pending final adoption of code amendments to allow the use of electronic TV advertising monitors would impose an

economic hardship on the applicant, may be in violation of the Permit Streamlining Act and is unnecessary since conditions mitigating the monitors' impact on the general public can be imposed tonight. Such conditions would be consistent with the Council's policy direction set forth earlier tonight in Resolution 45-09. Councilmember Barbieri reiterated his opposition to electronic advertising devices and stressed that pursuant to Mr. Ho's conditional use permit (granted March 16, 2009), approving monitor operation tonight would allow monitor operation for the next 10 years (the term of Mr. Ho's CUP). He felt that this time period was too long given the fact that the effectiveness of the proposed use regulations have not yet been tested and evaluated to determine that such devices will not have a detrimental impact on the community.

**Resolution 46-09**

WHEREAS, Piedmont Valero is requesting permission for retroactive approval of the installation of television monitors on top of the gas pumps located at 340 Highland Avenue, Piedmont, California, which installation requires design review; and

WHEREAS, the Piedmont Planning Commission denied Piedmont Valero's design review application for such installation on March 9, 2009, and this denial decision was called up for review by the City Administrator; and

WHEREAS, after reviewing the application, plans and any and all testimony and documentation submitted in connection with such application and review, and after having visited subject property, the Piedmont City Council overturns the Planning Commission's denial and approves the installation and operation of the television monitors at Piedmont Valero, subject to the following conditions:

1. *Days & Hours of TV Monitor Operation* shall be limited to 7 a.m. to 7 p.m., Mondays through Friday and 8 a.m. to 4 p.m. on Saturdays;
2. *TV Monitor Audio* levels shall have a maximum decibel level of 50 decibels measured at 5 feet from the monitor screen and 0 decibels measured at all property lines;
3. *TV Monitors* shall comply with all applicable City building codes.

Moved by Fujioka, Seconded by Chiang

Ayes: Friedman, Chiang, Fujioka, Keating

Noes: Barbieri

Absent: None

(0080)

**Blair Park Project**

The City Administrator recommended Council approval of: (1) an amendment to the City's agreement with Steven Ellis to allow the use of his previously donated funds (\$165,000) for architectural design work at Blair Park; and (2) an agreement with ELS Architecture and Urban Design for the preparation of specific design elements for the proposed Moraga Canyon Sports Field Project at Blair Park in an amount not to exceed \$123,300. The Administrator noted that the City's EIR consultant (LSA) preparing the combined environmental

impact report for both the Coaches Field Synthetic Turf and Lighting Project and the Blair Park Fields Project has requested more design specificity in order to proceed with the evaluation of the Blair Park portion of the study. Mr. Ellis has consented to the use of his donation for the funding of the ELS design work. The Administrator also stated that LSA has requested that for purposes of the EIR study, the project be retitled *Moraga Canyon Sports Fields Project*.

**Public testimony** was received from:

George Childs, Cheryl Rowe, Lynn Ennis, Jeff Blaney, Peggy Esposito, Al & Barbara Peters, Morrisa Sherman, Joannie Semitekol, Tom Brightbill, Marjorie Blackwell and Ray Catalano, many of whom were members of the *Friends of Moraga Canyon*, all voiced opposition in general to the proposed sports field development of Blair Park and in particular to the use of Mr. Ellis' donated funds in connection with the EIR study. Reasons cited in opposition included: (1) the creation of a "concrete canyon" along Moraga Avenue as a result of the necessity for large retaining walls; (2) the loss of the last remaining open, natural space in Piedmont; (3) the fiscal irresponsibility, given the current economic crisis, of proceeding with the planning of a multi-million dollar sports complex when the likelihood of actual funding and construction of such a facility is unrealistic; (4) the fact that better, more cost effective sites for the development of soccer fields exist and should be explored – in particular, field development options at Merritt College was repeatedly emphasized; (5) concerns that the proposed development could undermine hillside stability and threaten homes along Scenic Avenue; (6) concerns that the continuing donations of private money toward the proposed Blair Park development is "railroading" the process and predisposing the Council to approving the proposal; and (7) suggesting that the EIR be tabled given tomorrow's likely defeat of state ballot measures and the corresponding impact such defeat will have on City coffers – since it is unlikely that field construction will proceed in the next few years, the EIR study should be delayed until actual project construction is more likely to occur. Many of the speakers urged that the Council appoint a committee to explore the field development potential at Merritt College as well as evaluate if the proposed development at Blair Park should be significantly scaled back to be more appropriate to the size and topography of the park. Many of the speakers also felt that Mr. Ellis' donation could be better spent in exploring the feasibility of field construction at Merritt College or that Mr. Ellis should fund the ELS contract directly, rather than involve the City in the process of finalizing the design.

Jack Fullkic, Vice President of the Jack London Soccer League, and Steve Schiller of the Piedmont Soccer Club, emphasized the area-wide shortage of soccer fields, the need for the proposed Coaches and Blair Park improvement projects and the fact that alternative fields sites in Alameda and at Merritt College have been explored for years and will continue to be pursued. They emphasized the importance of proceeding with the EIR study so as to properly evaluate the appropriateness and feasibility of the proposed development.

Leesy Taggart concurred that many residents are concerned that private money is driving the Blair Park project forward but she voiced

confidence that the City Council will continue to gather information in order to make an impartial decision in the best interest of the community. She also stressed that opposition to the Blair Park project should not jeopardize proceeding with the proposed turf and lighting improvements at Coaches Playfield. She urged that these two projects not be linked during the decision making process.

Mallory Hill cited EIR studies performed in 1985-86 in connection with the City's Turfed Field Task Force in support of his contention that a compromise was reached regarding the scale and scope of sports field development in Moraga Canyon and that the current process is in violation with the spirit and agreements reached in the late 1980's.

Clarence Mamuyac of ELS Architecture and Urban Design, responded to Council questions concerning the types of tasks and evaluations to be undertaken per the proposed agreement.

On a motion by Vice Mayor Barbieri, seconded by Councilmember Chiang and unanimously carried, the Council agreed to extend tonight's meeting to 12 midnight in order to complete agenda consideration.

The Mayor responded in detail to comments made by proposal opponents and also informed the audience that Mr. Ellis' donation cannot and should not be diverted to the General Fund or School District per the terms and intent of his donation to the City. The Council then engaged in a lengthy discussion of the matter, with special attention devoted to whether the EIR should proceed or be deferred. In the end, the Council agreed that it is necessary next step to define the proposed Blair development project in greater detail so that its feasibility and appropriateness can be better evaluated. Councilmembers Keating and Fujioka voiced their position that proceeding with design refinement does not necessarily obligate the Council to continue any further with the EIR process should it become apparent from the fleshed-out design that the project is not feasible. The Administrator noted that once ELS has completed its work, the results will be submitted to the Council for review. Full neighborhood notice will be made when Council review is scheduled and no CEQA reports will be prepared until the Council approves the material that describes and identifies the project. It was also noted that the alternate sites mentioned by speakers, including Merritt College, are being explored by City staff.

**Resolution 47-09**

RESOLVED, that the City Council approves the proposed amendment to the City's agreement with Steven Ellis to allow the use of previously donated funds for architectural design work at Blair Park Fields; and

RESOLVED FURTHER, that the Council approves a contract with ELS Architecture and Urban Design for creation of specific design elements for the Moraga Canyon Sports Fields Project in an amount not to exceed \$123,000.

Moved by Barbieri, Seconded by Chiang

Ayes: Friedman, Barbieri, Chiang, Fujioka, Keating

Noes: None

Absent: None

(0045)

**Havens Schoolmates  
Temporary Location**

Recreation Supervisor Rivera recommended that while Havens School kindergarten students are located at Beach School during the 09-10 school year while a new Havens Elementary School is being constructed, the Recreation Department's Havens Schoolmates Program be temporarily relocated to the Beach Play Area immediately adjacent to the Oakland Avenue Bridge. The Recreation Commission held a public hearing regarding this request at its meeting of April 22 and after testimony and deliberation, the Commission unanimously supported the relocation recommendation.

**Resolution 48-09**

RESOLVED, that the City Council approves a Notice of Exemption to CEQA (California Environmental Quality Act) pursuant to Section 15062 and Section 15304 e of the CEQA guidelines; and

RESOLVED FURTHER, approves the temporary relocation of Havens Schoolmates to the Beach Play Area immediately adjacent to the Oakland Avenue Bridge for the 2009-2010 school year.

Moved by Fujioka, Seconded by Chiang

Ayes: Friedman, Barbieri, Chiang, Fujioka, Keating

Noes: None

Absent: None

(0920)

**Public Hearing:  
Conditional Use Permit  
And Wireless  
Communication Facility  
400 Highland Avenue**

The City Planner stated that Jacob Reeves on behalf of T-Mobile is requesting a conditional use permit and wireless communication facility approval to install antennas and wireless communication equipment in the bell tower of the Piedmont Community Church at 400 Highland Avenue. The Planning Commission unanimously recommended Council approval of the requests on May 11. The wireless communication equipment will operate 24 hours a day/seven days a week. The facility will be unmanned, with maintenance technicians visiting the site once a month for routine cleaning and maintenance. The Commission recommended that the term of the conditional use permit be 10 years.

**Public testimony** was received from:

Jacob Reeves, T-Mobile Representative, stated that T-Mobile has been seeking a communication site in Piedmont for two years as a means of eliminating dropped calls and providing quality service to existing and potential Piedmont customers. The proposed site within the Piedmont Community Church bell tower will provide the widest and best cellular coverage while completely hiding the equipment from public view.

The Council supported application approval. The Council requested that because of pre-school activities at the church and security issues arising from non-school personnel on the property, T-Mobile provide the church with the name of the construction company responsible for installing the equipment and the days and times construction crews will be on site. In addition, the Council requested that when on site, construction personnel and maintenance technicians wear picture I.D. badges for easy identification.

**Resolution 49-09**

WHEREAS, Jacob Reeves on behalf of T-Mobile is requesting a Conditional Use Permit to install new wireless antennas, including related cabinets, cables and other equipment, inside the existing Piedmont Community Church bell tower at 400 Highland Avenue, Piedmont, California, and;

WHEREAS, the Piedmont City Council has reviewed the application, the staff report, and any and all other documentation and testimony submitted in connection with the application and has visited the subject property;

The Piedmont City Council makes the following findings:

1. The use is of benefit to Piedmont residents. The proposed facility will improve and increase T-Mobile service in an area that is currently underserved. The facility has been designed to have no visual impacts.
2. The use will be properly related to other land uses and transportation and service facilities in the vicinity. The proposed facility will not be visible and will not disrupt any of the surrounding land uses. The facility will improve service in the area that will benefit the other land uses in the area.
3. Under all the circumstances and conditions of the particular case, the use will not have a material adverse effect on the health or safety of persons residing or working in the vicinity. The facility will be constructed in accordance with all applicable codes. In addition, it will operate in full compliance with the FCC's Guidelines.
4. The use will not be contrary to the standards established for the zone in which it is to be located. The use is compatible with all zones. It has been designed to be completely invisible; there will be minimal noise associated with the use and there will be no increased traffic or demand on parking.
5. The use will not contribute to a substantial increase in the amount of noise or traffic in the surrounding area. The cabinets are proposed to be inside an existing storage room inside the building and therefore will not contribute to a substantial increase in noise in the area. The facility will be unmanned and will only require visits once per month by the technicians. Therefore, there will not be a substantial increase in traffic in the area.
6. The use is compatible with the General Plan and will not adversely affect the character of the surrounding neighborhoods or tend to adversely affect the property values of homes in the surrounding neighborhoods. The proposed facility will not be visible, will not generate noise or traffic and will not adversely affect the character of the surrounding neighborhood. The facility will improve telecommunications in the surrounding neighborhood.
7. Adequate provision for driveways to and from the property has been made; facilities for ingress and egress from secondary streets instead of arterials, where possible, have been made; provision for parking in compliance with this Chapter 17 has been made, together with

sufficient agreements to enforce the carrying out of such plans as may be required by the Council. There are no changes to the ingress/egress proposed for this site. No additional parking is needed or proposed as part of this application.

8. The plans conform to all other laws and regulations of the City. The proposal conforms with the laws and regulations of the City.

RESOLVED, that in consideration of the findings and facts set forth above, the Piedmont City Council approves the application for a conditional use permit by T-Mobile for property located at 400 Highland Avenue, Piedmont, subject to the following conditions:

1. *Permit Term: 10 years*
2. *Hours of Operation: 24 hours daily/7 days a week*
3. *Facility will be unmanned*
4. *Monthly maintenance visits by 1-2 technicians*
5. *Project construction crews shall display picture I.D. badges and the contractor shall consult with church and pre-school personnel to allay concerns regarding security issues*

Moved by Chiang, Seconded by Barbieri

Ayes: Friedman, Barbieri, Chiang, Fujioka, Keating

Noes: None

Absent: None

(0340)

*(Note: Councilmember Fujioka moved, seconded by Councilmember Keating and unanimously carried to amend Resolution 49-09 to include Condition #5)*

#### **Resolution 50-09**

WHEREAS, Jacob Reeves on behalf of T-Mobile is requesting permission to install new wireless antennas inside the Piedmont Community Church's existing bell tower and add faux stained glass panels in the six bell tower openings. The related cabinets and other equipment, including cables, are proposed to be located in the interior of the tower and located at 400 Highland Avenue, 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) New wireless communication facilities shall be collocated with existing facilities and with other planned new facilities whenever feasible and aesthetically desirable. In addition, where feasible and aesthetically desirable, service providers are encouraged to collocate with other facilities where the collocation is found to minimize the overall visual impact.

**The only possible collocation site is the Fire Station at 120 Vista Avenue. A facility at this location would not minimize the overall visual impact--in fact, a facility at the Fire Station would be much more visible. The proposal at the Piedmont**

**Community Church is completely invisible--no part of the facility will be seen and there will be no exterior changes to the existing building. A facility at the Fire Station would be roof-mounted and would be highly visible.**

**In addition, a facility at the Fire Station would not provide the necessary coverage to the surrounding area and would not provide the same level of coverage that a facility at the Piedmont Community Church would provide. Please see the enclosed exhibits for further comparison of the church and the fire station.**

**We understand the City's desire for us to locate our facility on the Fire Station. However, as part of our ongoing research into the feasibility of locating there, we had a structural engineering firm evaluate the Fire Station. Their results and conclusions (shown in the attached letter dated August 5, 2008) find that the existing tower "is not in conformance with the requirements of the relevant standards for the existing, reserved, and proposed loading." They further conclude that "it will not be feasible to reinforce this tower because of the very thin tube wall thicknesses." They state that in order to provide an adequate tower foundation, a steel structure would have to be designed and built that would support the imposed tower mast and guy loads. Foundation for this steel structure would also have to be designed and built which would most likely disrupt the existing layout and use of the building and is not practical in this case.**

(i) In order to facilitate collocation, all service providers shall cooperate in the siting of equipment and antennas to accommodate a reasonable number of operators at a given site where found to be feasible and aesthetically desirable.

(b) All ground mounted wireless communication equipment, antennas, poles, or towers shall be of a minimum functional height.

**The antennas are proposed to be inside the existing belltower and will not be visible. The antennas are proposed to be 41'9" above ground level. This is the lowest functional height that will 1) allow us to provide the necessary coverage to the area and 2) enable us to design a facility that will be not only visually unobtrusive, but virtually unnoticeable.**

**All other equipment will be inside the existing building and will not be visible.**

(c) All equipment, antennas, poles, or towers shall have a non-reflective finish and shall be painted or otherwise treated to minimize visual impacts.

**No portion of the facility will be visible. The antennas will be inside the existing belltower behind stained glass windows and all other equipment will be inside the building.**

(d) All ground mounted equipment, antennas, poles, or towers shall be sited to be screened, by existing development, topography, or vegetation, to the extent feasible. Ground mounted facilities are encouraged to be located within areas where substantial screening by existing vegetation can be achieved. Additional new vegetation or other screening may be required as a condition of approval for the permit.

**The facility is not proposed to be ground-mounted, however it has been sited to be completely screened by the existing building. The antennas will be inside the existing belltower behind stained glass windows and all other equipment will be inside the existing building.**

(e) Roof mounted equipment and antennas shall be located as far away as feasible and aesthetically desirable from the edge of the building. Antennas attached to a building shall be painted or otherwise treated to match the exterior of the building or the antenna's background color.

**The antennas are proposed to be completely hidden inside the existing belltower and will not be visible. They are proposed to be behind stained glass windows at top of the existing belltower.**

(f) Where feasible, the location of wireless communication facilities shall be encouraged to be located on publicly owned or controlled property or right-of-way.

**As described above, the Fire Station would not provide adequate coverage to the area in need. In addition, a facility at the Fire Station would be visually obtrusive. We are unable to place our antennas on the existing lattice guy tower and would have to locate them elsewhere on the roof. The Fire Station is not structurally able to support our antennas without constructing a steel structure and foundation to support them which would likely disrupt the existing layout and use of the building.**

**Locating on other publicly-owned or publicly-controlled property or right-of-way in the area would have similar problems of being highly visible and of not providing adequate coverage and service to users.**

(g) All equipment associated with a wireless communication facility shall be removed within 30 days of the discontinuation of the use and the site shall be restored to its original preconstruction condition. In addition, the service provider shall provide the City with a notice of intent to vacate a site a minimum of 30 days prior to the vacation. For facilities to be located on public property, this removal requirement shall be included within the terms of the lease. For facilities to be located on private property, since the subject property owner shall be ultimately responsible for removal of the equipment, the terms of private leases are encouraged to include the equipment removal as a provision of the lease.

**T-Mobile agrees to remove any facility within 30 days of the discontinuation of the use and to restore the site to its original preconstruction condition.**

(h) A wireless communication receiving and transmission facility shall not adversely affect the public health, peace and safety.

**The proposed facility will not adversely affect the public health, peace, and safety. The facility will operate in full compliance with the FCC's guidelines. The enclosed *Statement of Hammett & Edison, Consulting Engineers, Inc.*, dated July 27, 2007, describes the proposed facility and its compliance with the FCC's guidelines. In addition, no noise or visible impacts will result from this facility.**

(i) For any application, the City Council may require an independent third party review, at the expense of the applicant, to confirm the radio frequency needs of the applicant.

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

(a) The applicant shall prove beyond a reasonable doubt that no site within Zone B and no site outside of the City can provide adequate wireless communications coverage to the area within the City which is in question.

**As mentioned above, the Fire Station--which is in Zone B-- would not provide sufficient coverage to the area. There is a coverage deficit of approximately 520 homes with the Fire Station versus the Piedmont Community Church (please see *BA12792 Coverage Comparison*) and the coverage to several areas is not as good from the Fire Station (please see *BA12792 CW Test Results*).**

(b) The applicant shall further prove beyond a reasonable doubt that the site outside of Zone B being applied for is either the best site to provide wireless communications coverage for the Piedmont homes in question or that it is one of several equally good sites outside of Zone B, the location of such other sites to be clearly identified.

**As shown in the exhibits, the Piedmont Community Church would provide more and better coverage to the surrounding area than the Fire Station would. In addition, we also looked at the commercial shopping center across Highland Avenue to the west ("Citibank Building"). While this candidate would provide improved coverage over the Fire Station, it would not provide as much coverage or as good of coverage as the Piedmont Community Church would provide. Please see *BA12792 Coverage Comparison* and the other exhibits for additional comparison information on this candidate.**

**It is clear from the comparisons that the coverage from the Piedmont Community Church is more comprehensive, thus reducing the need for additional sites in this area.**

(c) Cost shall not in itself be considered in the recommendation. However consideration may be given to whether a specific location will

be substantially uneconomic for the applicant over a period of years, including consideration of all possible costs of construction, leasing or developing the proposed site as compared to the enhancement in revenues, economic benefits and coverage that such site will provide both within the City and outside the City limits.

**T-Mobile has a lease with the Piedmont Community Church, and all cost factors have been reviewed and worked out between both parties. The cost for this site will justify the coverage and revenue the site will generate. The cost to modify the Fire Station to allow T-Mobile to locate on the roof and existing lattice guy tower alone does not justify the cost for the coverage and will not create much (if any) revenue for years to come, and with the high monthly rent, the coverage provided by this candidate does not justify the high cost.**

(d) The development standards in Section 17G.3 shall be fully considered.

**The development standards have been considered and are addressed in items a-h above.**

(e) If the site is to be located in Zone A, strong preference shall be given to a site that is not a single family residence, particularly a higher structure already in existence which would provide appropriate wireless coverage for the area in the City which cannot otherwise be served as set forth in Section 17G.4.1(a) hereof.

**The facility is proposed to be in Zone A. In accordance with this criterion, the site is proposed to be on a site that contains a non-residential use, the Piedmont Community Church. In further accordance, we are proposing to utilize a higher structure already in existence, the existing church belltower. As described above, and shown in the enclosed exhibits, a facility at the Piedmont Community Church would provide appropriate wireless coverage for an area of the city which cannot otherwise be served. BA12792 Coverage Comparison shows the coverage that would be provided by this facility and the additional homes to be served by locating the site on the church--above and beyond the coverage to be provided and the homes to be served if located at another site.**

**Further, a site at this location would enable T-Mobile to construct a completely screened and invisible facility. A facility at the other locations would be much more visible.**

(f) The proposed site and the facilities to be installed by the applicant should be in as close conformance with the design review provisions of Chapter 17 of the City Code as is reasonably possible.

**As described, the proposed facility will be completely screened and invisible. The antennas will be inside the existing church belltower and all equipment will be inside the existing church building.**

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont City Council approves the wireless communications application of Jacob Reeves on behalf of T-Mobile for construction at 400 Highland Avenue, 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

(0340)

**Agreement**

Per Council direction of February 17, 2009, the City Administrator recommended Council approval of a contract with H & M Mechanical Group in the amount of \$14,500 for the preparation of alternative designs for a new HVAC system in City Hall and the Fire Department and the preparation of bid documents for the selected alternative. The approved funding for this project is \$210,000. The Administrator added that replacing the existing HVAC system will significantly improve energy efficiency.

**Resolution 51-09**

RESOLVED, that the City Council approves the proposed contract with H & M Mechanical Group in the amount of \$14,500 for the preparation of alternative designs for a new HVAC system in City Hall and the Fire Department and the preparation of bid documents for the selected alternative.

Moved by Barbieri, Seconded by Fujioka

Ayes: Friedman, Barbieri, Chiang, Fujioka, Keating

Noes: None

Absent: None

(0270)

**ANNOUNCEMENTS**

Special Election – Councilmember Chiang encouraged Piedmont electorate to vote in tomorrow’s special state election.

Congratulations – Vice Mayor Barbieri congratulated the PHS Tennis Team for winning the North Coast Sectional Title last week.

**ADJOURNMENT**

There being no further business, Mayor Friedman adjourned the meeting at 12 midnight.