

PIEDMONT CITY COUNCIL

Regular Meeting Minutes for Tuesday, September 8, 2009

A Regular Session of the Piedmont City Council was held September 8, 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 September 3, 2009.

CALL TO ORDER Following a 7:00 p.m. Closed Session regarding litigation in the matter of Kurtin v. Piedmont held pursuant to Government Code Section 54956.9(a), 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, Councilmembers John Chiang, Margaret Fujioka and Garrett Keating

Staff: City Administrator Geoff Grote, City Attorney George Peyton, Acting Police Chief John Hunt, Fire Chief John Speakman, Public Works Director Larry Rosenberg, Recreation Director Mark Delventhal, City Clerk Ann Swift acting as Recording Secretary, and City Planner Kate Black

CONSENT CALENDAR The following were considered under one vote by the Council.

Minutes Approved as amended the council meeting minutes for 7/06/09 and 8/10/09

Piedmont Hills Assessments Approved a resolution reducing FY 09-10 assessments for the Piedmont Hills Underground Assessment District based on lower than expected cost of funds
1075

Ordinance Approved a second reading of Ord. 690 N.S. regarding lease of city property to Webcor
0705

ARRA Agreement Approved a funding agreement for American Recovery & Reinvestment Act (ARRA) funds between Alameda County Community Development Agency and the City of Piedmont
0045

Resolution No. 73-09

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

(0705)

PUBLIC FORUM Esther Rogers requested that the City Council establish a timeline for consideration of a new crosswalk at Beach Elementary School.

George Kersh asked the City Council to consider a variety of cost savings measures including elimination of KCOM and changes to the PERS contracts for city employee pensions.

REGULAR AGENDA

- Crime Statistics** The City Council received with no action a report from the Acting Police Chief John Hunt regarding crime statistics.
0785
- Piedmont LWV Event Sponsorship** As proposed by the City Administrator, the City Council agreed to co-host with the Piedmont League of Women Voters a reception on October 15, 2009 for a delegation from the Russian Republic of Kalmykia.
0340
- FY 09-10 Budget** The City Council received with no action a report from Finance Director Mark Bichsel regarding the FY 09-10 budget. In future monthly reports Mr. Bichsel was requested to include detail regarding actual expenditures in the “Other Expenses” category for each department. All future reports will occur at the second regular monthly meeting of the City Council, e.g. October 19 and November 16.
0165
- Moraga Canyon Sports Fields** ELS Architecture & Urban Design made a presentation regarding the design elements for the Moraga Canyon Sports Fields Project which would be used for the preparation of a previously authorized Environmental Impact Report. Assisting Clarence Mamuyac in the presentation were Eric Havian, Andy Ball and Steve Schiller. Also present were John Lamon, Nancy Kent, John Sumnicht and Kristen Granback, consultants working on the project.

Correspondence was received from:

- | | |
|-------------------------|-------------------------------------|
| Chris & Lisa Breuner | William J. Conn |
| Leon M. Bloomfield | Robert Lantt |
| Jeff Stein | Bruce Potterton |
| Terrence McGrath | David Hanafee |
| Mark Landheer | Mike Strauch |
| Jacqueline Van Lang | Raquel L. Sefton |
| Jame Mandle & Ann Klein | Suzanne A. Luban |
| Dave and Kelly Richmond | Justine Jacob |
| Valerie Williamson | Karen, Kirk, Theo & Nic Markopoulos |
| Jennifer Cavanaugh | Rick Smith |
| David Stein | Linda Morell |
| Don Eidam | Kobi Menahemy |
| Garrick S. Lew | Amelia Wu |
| Alison Feldman | Zev Rubenstein |
| Tom Baudendistel | Julie Christiansen |
| Isobel Gotto | Blake Kennedy |
| Monica & David McCarty | Kelly Corrigan |
| Katie & Rob Anderson | Walter Conroy |
| Andrew Backer | Anna Picchi |
| Pamela Schwartz | Rod & Barbara Brown |
| Ariel Trost | Julie Gardner |
| Leslie Quantz | Al Peters, Friends of Moraga Canyon |
| Alan Siqueira | Christine M. Rennels |
| Kristin Bradbury | Clay Mitchell |
| Guy Avagliano | Beth Pennington |
| Scott Kucirek | Michele Hofherr |
| Mia & Stephen Tindle | Michael Lee |
| Sara Lillevand Judd | Doug Biehn |

Greg Barton	Raymond Lee
Doreen Ludemann	Roderick Alemania
Maolin Zheng	David Lindenbaum
Claudia Harrison	Joannie Semitekol
Peter M. Ormond	Sara & Bill Cumbelich
Terri Burge	Tom Huffaker
Tim Aebi	Stacy Turner
Leslie Pannell	Susan & Chris Willrich
Wendy & Steve Martinez	Oren Jacob
Jeff Meredith	Jeff Gao and Ling Chiao
Mary E. Prisco	Barbara Love-Gustke
Nicki Shaw	Mia & Stephen Tindle
Len Gilbert	Jeff Dorman
Samuel Daffner	Jonah
Brad Polvorosa	Patrick and Kate Devine
Adam Betta	Steven D. Roland
Eric Davison	Paul D. Low
Jon Adams	Patrick Bukowski
Scott Adams	Peggy Esposito
Nancy Havassy	Stephen & Lynn Dee
Nick Levinson	James Lord
Chris Eldridge	Michael D. Aldridge
Narciso Jaramillo	Ken Koretz
Sandra Pohutsky	Gary Bernstein
Nick Vigilante	Chris Ford
Michele Gajda	Tom Webster
Jo Loughran	Charmaine Clay
Paul Adams	Hilary Cooper
Robert Gotto	Tiffanie & Steve Kalmbach
Michael Bott	Dan Harvitt
Adam Thacher	Juan M. Tellez
Cress Kearny	Lance Fong
Tom Ramsey	Sarah Kingston
Kim Rhody	Annick Schields
John Schields	Kathleen & Geoff Henrikson
Bruce Copeland	John Ehrlich
Douglas Hubert	Maria Dais
Jean Delaney	Glyn Burge
Bob Gray	Anja & Chris Hart
Leigh Symkowick	Steve Vawter
Michael Rufo & Marcie Rubel	Mary Krentz
Jeff Simon	Lynn Dee
Dan Harvitt	Paul Tiao
Derek de Petra	Lawrence McKendell
Lisa Lin	Matt Disco
Carl Goeriz	Marta De Pierris
Elizabeth Briones	Linh Cao
Mallory Hill	Hilary Zukerman
Jessica & Michael Berg	Brian & Bonnie Walker
John Dotson	Jeff Clapp
Diana Dotson	Morrisa Sherman
Alison Kuehner	Nicole M. Phillips
Valerie Rogers	Judy A. Kelly

Public Testimony was received from the following individuals in opposition to the project and/or the specific elements of the ELS presentation:

Julie Waters	Sandra Pohutsky
Nick Vigilante	Peggy Esposito
Michelle Gajda	Rebecca Sternberg
George Childs	Jim Semiteköl
Randy Wedding	Al Peters
Barbara Peters	Ralph Catalano
Joannie Semiteköl	Julie Waters

Public Testimony in favor of the project and/or the specific elements was received from:

Gilbert Getz	Jessica Berg
Bob Lally	Mark Landteer
Steve Collins	Ephraim Greenwall
Steven Schiller	

RESOLVED, that the City Council authorizes staff to forward to LSA Associates/Benson Lee the supplemental design information and studies prepared by ELS Urban Design for use in preparing the Environmental Impact Report previously approved by the City Council on December 1, 2008. Moved by Barbieri, MOTION DIED for lack of second

MOVED by Councilmember Chiang, seconded by Councilmember Fujioka and unanimously carried, the Council agreed to extend tonight's meeting to 1:00 a.m. in order to complete agenda consideration.

Resolution No. 74-09

RESOLVED, that the City Council continues for two weeks, until its next regular meeting on September 21, 2009, the consideration of the design studies for the Moraga Canyon Sports Fields project. Moved by Chiang, seconded by Keating
Ayes: Chiang, Fujioka, Keating
Noes: Friedman, Barbieri
Absent: None

**Public Hearing:
Appeal of Planning
Commission Decision
210 Pacific Avenue
0080**

Mayor Friedman thanked the homeowner and appellants for their patience during the previous items but suggested that there was insufficient time to properly evaluate the appeal on this agenda.

Resolution No. 76-09

RESOLVED, that in accordance with Section 17.27.3 of the Piedmont Municipal Code, the City Council continues to its next regular meeting on September 21, 2009, the public hearing of an appeal of the Planning commission's decision regarding 210 Pacific Avenue.

Moved by Barbieri, Seconded by Chiang
Ayes: Friedman, Barbieri, Chiang, Fujioka & Keating
Noes: None
Absent: None

**CUP Kehilla
Synagogue 1300
Grand Avenue**

The City Council considered a request for a new Conditional Use Permit from Kehilla Community Synagogue at 1300 Grand Avenue which was recommended for approval by the Planning Commission.

Correspondence was received from:

Judy Kriege
Bevan Vinton & Manny Myers
Vivian Barron

Mayor Friedman briefly excused himself from the chambers at 11:45 p.m. and returned at 11:49 p.m.

Public Testimony was received from the following individuals in opposition to one or more elements of the CUP:

George Kersh	Wilma Leather
Chuck Chakravartula	Manny Myers
Bevan Vinton	David Riker
Rosie Newhall	Rick Schiller
Angela Teixeira	Gregory Jurin

Public Testimony was received from the following individuals in favor of the CUP:

Joshua Wirtshafter	Rabbi David Cooper
William Corman	Sandy Bredt
Timothy Silk	Monica Haddad
Andy Gold	Jay Koch
Amy Battzipora	Shoshana Finacom

MOVED by Councilmember Chiang, seconded by Councilmember Barbieri and unanimously carried, the Council agreed to extend tonight's meeting to 1:30 a.m. in order to complete agenda consideration.

Resolution No. 75-09

WHEREAS, Kehilla Community Synagogue is requesting modifications to its Conditional Use Permit related to operations, programs, employees and hours of operation at the Synagogue and to operate a new preschool with 15 students at 1300 Grand 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. This project is categorically exempt from the provisions of the California Environmental Quality Act pursuant to Article 19, Sections 15301 and 15323.
2. The use is of benefit to Piedmont residents. It is societally accepted that religious and cultural institutions are beneficial. The pre-school and adult school are community services.

3. The use will be properly related to other land uses and transportation and service facilities in the vicinity. The site is near main thoroughfares and all necessary utilities are available. Parking, pick-up and drop off for the pre-school is provided.
4. 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. As conditioned with regard to hours of operation, number of attendees and students at the school, impacts on the neighborhood will be reduced to a less than substantial level.
5. The use will not be contrary to the standards established for the zone in which it is to be located. Religious and educational facilities are listed as conditional uses in Zone A. Similar restrictions have been applied to other religious facilities.
6. The use will not contribute to a substantial increase in the amount of noise or traffic in the surrounding area. As conditioned, the hours of operation and access to public streets will cause a limited, but not substantial, increase in noise and traffic to adjacent areas. The Piedmont Noise Ordinance further regulates noise as an additional protection to the surrounding neighborhood.
7. 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 City's General Plan envisioned a community served by religious and educational facilities such as that proposed.
8. 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. Access is provided from a main thoroughfare (Grand Avenue) and traffic and parking studies have shown that there will not be a substantial and undue impact from the limited expansion in use and hours.
9. The plans conform to all other laws and regulations of the City, provided, however, that the Council shall have the right to require front, rear and side yard setbacks greater than those otherwise provided in the laws and regulations of the City if the Council finds that such larger front, rear and side yard areas are necessary to provide for the health, safety and general welfare of the residents of Piedmont in accordance with its zoning laws. The proposed expansion of use does not affect building setbacks.

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 Kehilla Community Synagogue for property located at 1300 Grand Avenue, Piedmont, subject to the following conditions:

1. The term of the CUP shall extend to November 15, 2014;

2. Days & Hours of Operation shall be as follows

Monday: 8:00 a.m. – 9:00 p.m.
 Tuesday: 7:30 a.m. – 9:00 p.m.
 Wednesday: 8:00 a.m. – 9:00 p.m.
 Thursday: 8:00 a.m. – 9:00 p.m.
 Friday: 8:00 a.m. – 10:00 p.m.
 Saturday: 8:00 a.m. – 10:00 p.m.
 Sunday: 9:00 a.m. – 7:00 p.m.

with the understanding that exceptions to the above times can be made to accommodate the seasonal Jewish holiday schedule.

Preschool Hours: Monday-Friday: 8 a.m. – 3 p.m.;

3. Adult School use shall be limited to one class per week from 9:00 a.m. till 2:00 p.m.

4. Maximum Occupancy: 285, not to exceed the maximum allowed by the Piedmont Fire Code

5. There shall be no amplified sound allowed outside the church building.

Moved by Chiang, Seconded by Barbieri
 Ayes: Friedman, Barbieri, Chiang, Fujioka & Keating
 Noes: None
 Absent: None

ANNOUNCEMENTS

Harvest Festival – Mayor Friedman urged everyone to attend the Harvest Festival on Sunday, September 27.

Environmental Task Force – Councilmember Fujioka announced that the next meeting of the City’s Environmental Task Force will be September 22 at 5:30 p.m. She also asked that the review of ETF recommendations be scheduled for September of October as previously calendared.

MOVED by Councilmember Chiang, seconded by Councilmember Barbieri and unanimously carried, the Council agreed to extend tonight’s meeting to 2:00 a.m. in order to complete agenda consideration.

**Hampton-Sea View
Underground
Assessment District**

Per Council action of October 20, 2008, based on the Doctrine of Necessity and pursuant to Government Code Section 87100 and California Code Section 18708, Councilmembers Chiang and Fujioka recused themselves from discussing and acting on the proposed Hampton/Sea View Underground Assessment District (both Councilmembers live within 500 ft. of the district boundaries). Councilmembers Chiang and Fujioka left the meeting at 1:35 a.m.

Correspondence was received from:

Robert J. Majteles	John S. Mead
Valentina Pozin	Kathleen Quenneville & Diane Allen
Barbara Bysiek	Joseph M. Hurwich
Nancy & John Lenahan	James Bert

Public Testimony was received from the following individuals:

Joe Hurwich, Carolyn Schmidt and Bill Massengill urged the council to release liens on properties in the Hampton Sea View Underground Assessment District in addition to removing assessment collection for FY 09-10 and refunding prepayments.

Having confirmed with Bond Counsel Sam Sperry that it was not possible to remove the liens on the subject properties without triggering a new assessment balloting procedure, the City Council asked that the City Clerk assist residents who might be selling their properties by providing a letter giving the status of the undergrounding project.

Resolution No. 77-09

WHEREAS, by resolution adopted on May 5, 2009, this City Council (this Council”) levied special assessments on parcels of land within the Hampton – Sea View Avenues Underground Assessment District (the “Assessment District”); and

WHEREAS, certain of the property owners elected to pay the assessment levied on their parcel or parcels in cash, as authorized, with the deadline for receipt of such cash payments having been June 8, 2009; and

WHEREAS, by resolution adopted on June 15, 2009, this City Council (this “Council”) of the City of Piedmont (the “City”) determined the amount of assessments remaining unpaid and, in anticipation of issuance of limited obligation improvement bonds (the “Bonds”) to be issued with respect to the Hampton - Sea View Avenues Underground Assessment District (the “Assessment District”) in a principal amount equal to the principal amount of unpaid assessments, this Council directed the City Clerk of the City (the “Clerk”) to transmit a copy of the resolution to the Alameda County Auditor (the “County Auditor”) and requested that the County Auditor provide for posting of an installment on account of each unpaid assessment to the secured property tax roll of the County of Alameda (the “County”), commencing with the 2009-2010 tax roll; and

WHEREAS, due to the initiation of litigation challenging the validity of the assessments levied by this Council on the parcels within the Assessment District, the City is unable to move forward with issuance and sale of the Bonds as intended and wishes by this resolution to (a) direct the return of the cash payments received to the respective property owners who submitted such cash payments prior to the June 8 cash payment deadline and (b) cancel the request submitted to the County Auditor to post installments on account of unpaid assessments to the secured property tax roll of the County;

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Piedmont hereby finds, determines and declares as follows:

SECTION 1. RETURN OF CASH PAYMENTS. This Council hereby authorizes and directs the Finance Director of the City (the “Finance Director”) to provide for the disbursement of the amount received on account of cash payments of assessments to the respective property owner or owners who submitted such cash payments. Such disbursement shall be made as soon as reasonably practicable.

SECTION 2. CANCELLATION OF REQUEST TO COUNTY AUDITOR.

The Clerk is hereby authorized and directed to (a) advise the County Auditor that the City withdraws its prior request respecting posting of installments on the secured property tax roll of the County, commencing with 2009-2010, and (b) transmit a copy of this resolution to the County Auditor, who is hereby requested to cancel the previously-requested collection of installments of the unpaid assessments of the Assessment District and the interest thereon on the secured property tax assessment roll of the County of Alameda, commencing with the 2009-2010 tax roll.

Moved by Barbieri, Seconded by Keating
Ayes: Friedman, Barbieri, & Keating
Noes: None
Recused: Chiang, Fujioka

Adjournment

There being no further business, the Mayor adjourned the meeting at 2:00 a.m.