

PIEDMONT CITY COUNCIL

Regular Meeting Minutes for Monday, September 21, 2009

A Regular Session of the Piedmont City Council was held September 21, 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 17, 2009.

CALL TO ORDER

Mayor Friedman called the meeting to order at 7:30 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, Public Works Director Larry Rosenberg, Recreation Director Mark Delventhal, City Clerk Ann Swift, City Planner Kate Black and Recording Secretary Chris Harbert

CONSENT CALENDAR

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

Minutes

The Council approved its September 9 Council minutes as amended to indicate on page 7 that Councilmembers Chiang and Fujioka left the meeting at 1:35 a.m.

Resolution 78-09

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

Moved by Chiang, Seconded by Fujioka

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:

AC Transit Service Changes

Cory LaVigne, Service & Operations Planning Manager for A.C. Transit reported that because of a \$57 Million budget shortfall, A.C. Transit is proposing reductions in its bus service, noting that some of the proposed cut-backs will directly affect Piedmont ridership. In particular, he reviewed proposed changes in the number and frequency of transbay trips on Lines C & P serving Piedmont, the discontinuation of Line 11 weekend service between Piedmont and downtown Oakland and the elimination of Line 41. He stated that the AC Transit Board of Directors has scheduled public hearings to discuss these proposed service changes on September 23 and September 30. Comments can also be submitted on-line on A.C. Transit's website.

Public testimony was received from:

Elizabeth Childs voiced concern over the elimination of Line 11 weekend service and suggested that the Line 12 bus be rerouted

through Piedmont on weekends to maintain a bus connection between Oakland and Piedmont.

The Mayor stressed the importance to Oakland restaurants and businesses as well as Piedmont residents that weekend bus service between Piedmont and Oakland be maintained and he encouraged A.C. Transit to re-examine its proposal to eliminate such service. Councilmember Fujioka requested that A.C. Transit provide the City with the ridership statistics for Line 41. The Mayor also requested the City Clerk place a direct link to A.C. Transit's webpage on the City's website.

**Appeal of Planning
Commission Decision,
210 Pacific Avenue**

The City Planner stated that Linda Dubins/David Baer, Dr. and Mrs. Jim Saunders and Mr. and Mrs. George Lagusis have appealed the Planning Commission's August 10th conditional approval of Mr. and Mrs. Hong Kim's variance and design review application to make modifications to their residence at 210 Pacific Avenue.

Correspondence was received from: David Baer & Linda Dubins

Public testimony was received from:

Jim & Lynn Saunders emphasized that the Kim's proposed modifications will adversely impact their light, view and property value. They urged that a rearward expansion plan for the Kim's property approved in 1999 be pursued as a means of accommodating the Kim's desire for additional living space without adversely impacting neighboring properties.

Melissa Lagusis voiced concern that the approval of the Kim's upward expansion plan would set a precedent for other homes along the street to expand upward.

Edward Buchanan & Arleta Chang, Project Architects, urged the Council to uphold the Planning Commission's decision, stressing that the Kim's revised design poses no impacts on the significant, panoramic Bay views from neighboring homes, is the best design solution for the applicants and all surrounding neighbors, is modest in size and scale and has minimal impact on neighbor light and privacy.

Robert Dewell, Consulting Architect for the Saunders, stated that alternative design options are available that would impose less impact on adjacent properties.

Linda Dubins & David Baer, referenced their extensive submittals in stressing that the proposed expansion will adversely impact their kitchen light and bedroom privacy.

Donald Mai opposed the proposal, citing loss of light to his kitchen window and bedroom.

Astrid Lacitis, a Piedmont real estate agent, stated that reductions in natural lighting to kitchen areas lower property values.

Jim Kellogg, Planning Commission Chair, responded to Council questions in summarizing the Commission's consideration of the

application and its conclusion that in accordance with the code, the Kim's revised design reasonably minimizes view and light impacts on adjacent neighbors. He noted that the Commission did not consider the 1999 rearward expansion option because that plan was not submitted.

The Council engaged in a lengthy discussion of the proposed construction and appeal. Vice Mayor Barbieri and Councilmember Keating referenced the totality of impacts on four neighboring homes in support for granting the appellants' appeal and overturning the Commission's decision based upon a finding of significant error -- the Commission failed to consider an alternative design option with much less impact (rearward expansion) and improperly weighed the impact of the proposed addition on the light and views of neighboring properties. Mayor Friedman felt that the proposed design was unacceptable because of privacy impacts to the Dubins/Baer's bedroom from the Kim's south side stairway and master bath windows. He also voiced concern that the Commission failed to address the total loss of Bay view from the Saunders' front yard. Councilmembers Fujioka and Chiang felt that there was no basis to overturn the Commission's decision. They felt that privacy concerns regarding window impacts could be successfully mitigated and issues regarding the significance of front yard impacts could be addressed by the Commission. They supported remand.

Resolution 79-09

RESOLVED, that the City Council finds that Mr. and Mrs. Hong Kim's home expansion project at 210 Pacific Avenue is categorically exempt under the California Environmental Quality Act pursuant to Section 15301, Class 1E; and

RESOLVED FURTHER, that the City Council denies the appeal filed in connection with Mr. and Mrs. Kim's variance/design review application and upholds the Planning Commission's August 10, 2009, conditional approval of said application, with the exception that pursuant to Section 17.25.7 of the City Code, remands to the Planning Commission consideration of measures to mitigate privacy impacts on 214 Pacific related to the Kim's proposed south side windows and to address the issue of significance in terms of view impacts on 209 Pacific Avenue's front yard.

Moved by Chiang, Seconded by Fujioka

Ayes: Friedman, Chiang, Fujioka

Noes: Barbieri, Keating

Absent: None

(0080)

**Conditional Use Permit
Ann Martin Center
1246 & 1250 Grand**

The City Planner stated that the Planning Commission on September 14th unanimously recommended that the Council grant 5-year Conditional Use Permits to the Ann Martin Center at 1246 and 1250 Grand Avenue. The Center provides psychotherapy, educational therapy and psychological/educational diagnostic testing for youth and families.

Public testimony was received from:

David Theis, Executive Director of the Ann Martin Center explained the modest changes to the Center's current CUPs, noting in particular

the Center's request to reinstate monthly staff and Board of Directors meetings on site. He also relayed the Center's request that one of the two application fees submitted for the properties be waived, adding that the Planning Commission supported this waiver request. Dr. Theis also noted that discord between the Center and Fairview neighborhood remains and he suggested the formation of an arbitration panel to help mediate conflicts.

Betty Simpson, President of the Ann Martin Center's Board of Directors, urged approval of a 10-year CUP term in recognition of the Center's long-time operations at the site and the fact that parking issues between the Center and the Fairview neighborhood have been successfully mitigated by the residential parking district and drop-off plan imposed as a condition of the Center's last CUP renewal in 2007. She stated that Board and staff meeting attendees will not park on Fairview Avenue and that Board meetings would be held in 1246 Grand Avenue to further minimize impacts on the neighborhood.

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

Fairview residents Chuck Chakravartula, Bevan Vinton, Rick Schiller and Don Condon voiced opposition to allowing Board and staff meetings to occur on site, citing that such evening activity will add to the congestion created by the Kehilla Synagogue's extended hours (approved on September 9, 2009). They agreed that relations between the Center and the neighborhood are still strained and Mr. Schiller suggested that a forum be established to address CUP enforcement issues and arbitrate complaints. Mr. Condon requested that the residential parking district hours be extended to coincide with Kehilla Synagogue's extended hours.

Resolution 80-09

WHEREAS, Dr. David Theis, on behalf of the Ann Martin Center, is requesting a Conditional Use Permit to operate a non-profit organization that provides psychotherapy, educational therapy and psychological/educational diagnostic testing for youth and families at 1246 and 1250 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. The use is of benefit to Piedmont residents. The Center has been part of the Piedmont community for over 38 years. It provides services to Piedmont residents as well as residents of surrounding communities.
2. The use will be properly related to other land uses and transportation and service facilities in the vicinity. The Center is located in a mixed-use area of Piedmont where other businesses are located in close proximity. The Center has been located in this area for several years

and over the last few years, the Center has decreased its impact on the surrounding residential neighborhood.

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 Center has been conducting activities in this location for the last several years and there has been no indication of any adverse impact on the health or safety of persons working at the Center or in the vicinity. The requested additional two hours of use a month will also not have any material adverse impact on health or safety of persons in the area.

4. The use will not be contrary to the standards established for the zone in which it is to be located. The Center has been used in that capacity and in that location for the last several years. The proposal is for the continued use as been historically the case, with the slight addition of two extra hours a month for internal meetings.

5. The use will not contribute to a substantial increase in the amount of noise or traffic in the surrounding area. The proposed use is not an increase in existing use except for those two hours a month. There has been no showing that these additional hours of operation will increase the amount of noise or 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 use is located in a mixed-use zone of Piedmont as designated in the General Plan and is a continuation of an existing use.

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. The application proposes to continue using the property as it has been used historically, with the addition of slightly extended hours of operation for internal meetings and not for client contact. There has been no showing that additional driveways or access is required.

8. The plans conform to all other laws and regulations of the City. There is no proposal to physically alter the existing structures or parking.

RESOLVED, that in consideration of the findings and facts set forth above, the Piedmont City Council approves the applications for conditional use permits by Dr. David Theis, on behalf of the Ann Martin Center for property located at 1246 and 1250 Grand Avenue, Piedmont, subject to the following conditions:

1. *Days & Hours of Operation* – 8 a.m. to 8 p.m. Monday to Friday, 9 a.m. to 1 p.m. Saturday. A monthly Board of Directors meeting from 7:00 p.m. to 9:00 p.m. and a monthly staff meeting from 7:30 p.m. to 9:00 p.m., restricted to Ann Martin Center staff only and no client contact.

2. *On-Site Parking* –3 parking spaces in the driveway and 1 in the garage reserved for staff (1246 Grand); and 3 parking spaces in the driveway reserved for staff (1250 Grand)
3. *Maximum No. of People on Site* – 7 people, based on 3 treatment rooms (with 1 therapist + 1 child per room), and 1 administrative staff person (1246 Grand); and 22 people, based on 10 treatment rooms (with 1 therapist + 1 child per room), and 2 administrative staff person (1250 Grand)
4. *Types of Staff/Personnel* – 2 FTE therapists/tutors (combined FTE of mostly part-time staff) and 1 FTE administrative staff (1246 Grand); and 4 FTE therapists/tutors (combined FTE of mostly part-time staff) and 2 FTE administrative staff (1250 Grand)
5. *Term* --The term of this CUP shall be for 5 years

RESOLVED FURTHER, that the City Council waives one of the two application fees submitted by the Center for these properties.

Moved by Barbieri, Seconded by Fujioka

Ayes: Friedman, Barbieri, Chiang, Fujioka, Keating

Noes: None

Absent: None

(0340)

Moraga Canyon Sports Field EIR

The Mayor announced that tonight the Council will resume its consideration of whether supplemental design materials prepared by ELS Urban Design related to the proposed Moraga Canyon Sports Field Project should be forwarded to the City's EIR consultant (LSA Associates) to assist LSA in preparing its Environmental Impact Report on proposed improvements to Coaches Playfield and Blair Park, authorized by the City on December 1, 2008. The Mayor noted that this matter was continued from the September 9th meeting to provide interested residents more time to review the informational material. The Mayor emphasized that tonight's matter in no way indicates or predetermines Council approval of any project or element of a project.

Correspondence was received from: Audrey Holt & Asif Sayeed; Kieran Turan; Meredith Brown; Steve Collins; Robin Altman, Valerie Fahey, Steve Schiller; Steve Mills; Lore Melnick; Murray Davis; Rick Smith; Stephen Leist; Lisa Kaplan; Christina Henrikson; William Schwartz; Nicole Leverich; Hart Family; Morrissa Sherman; Nicole Shaw; John Rech; Karen Silverberg; Heidi Killeen; David Kaplan; Dana Wiltsek; Mia & Stephen Tindle; Michele Gajda; Elizabeth Paez; Joseph Tudisco; Pauline & Michael Marx; Ken Koretz; Virginia & Todd Keeler-Wolf; Ed & Helayn Francis; Cindy Fleming; Alan Cohen; Deb Kaplan; K. J. Furtado; Rebecca Sternberg; Vickie Robinson; Karen Harley; Narcisco Jaramillo; Jeff Kahn; Lynn Dee; Liz Strauss; Elaine Yates & Michael Costello; Debbie Underwood; Kristine Haataja; Celia & Randy Wedding; Joannie Semitekoll; Cheryl Morris; James Clardy; Jenna Yott; Reva Fabrikant; Mia & Stephen Tindle; Mallory Hill; Dan Marks

Public testimony was received from:

Clarence Mamuyac of ELS Urban Design and Eric Havian of the Piedmont Soccer Club narrated a power-point presentation addressing issues related to the need, design and construction of the proposed project.

Ken Koretz, Sandra Pohutsky, Kieran Turan, Susan Kahn, Nick Vigilante, George Childs, Audrey Holt, Al & Barbara Peters, Marjorie Blackwell, Morrisa Sherman, Robin Nasitir, Kathleen Hurley, Richard & Cheryl Rowe, Jim & Joannie Semitekoll, Richard Rocke, Winnie Zeligler, Ralph Catalano, Randy Wedding, John Rech, Peggy Esposito, Chris Read, Pam Hirtzer, Tom Brightbill and Doug Vance: Voiced opposition to the proposed sports field development in Blair Park, citing the following reasons: (1) traffic and pedestrian safety concerns related to sight line distances, emergency vehicle access, pedestrian bridge design and use, left turns from the site/nearby side streets and parking lot overflow; (2) the lack of adequate public input related to the proposal as well as the absence of any consideration of alternative land use options for the site; (3) site security and maintenance costs; (4) loss of property value and enjoyment of surrounding homes because of the noise impact from sports activity echoing throughout the canyon; (5) lack of information concerning the proposed hours of usage of the sports fields; (6) loss of natural open space and wildlife habitat; (7) the absence of any effort by Piedmont to work with the City of Oakland and Oakland sports organizations to jointly develop sports fields that will have less impact on residential areas; (8) concurrence with the concerns and recommendations contained in professional planner Dan Marks' letter of September 16; (9) the absence of a sidewalk bordering Moraga Avenue to enable people to continue to walk along the street edge;

Many of the speakers encouraged the Council to appoint a task force or advisory committee to determine the desires of the entire community with regard to Blair Park development before proceeding with the EIR. Many speakers also urged that a comprehensive traffic/pedestrian safety study be conducted prior to an EIR to ascertain if the proposed project is even feasible.

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

Stephen Tindle and Tom Brightbill voiced opposition to the proposed installation of field lighting at Coaches Playfield and requested more public input and review of this issue before proceeding with the EIR.

Hilary Newman of the Montclair Soccer Club concurred re the great need for additional playfields and urged Piedmont to work with the Club in obtaining a long-term lease of field space at Merritt College.

Philip Liebscher opposed the project, citing a loss of privacy and enjoyment to his garden area that immediately borders one of the proposed parking lots. He also voiced concern over potential problems of vandalism, litter and nighttime noise disturbance.

Kirit Shah, Sara Judd, Ephraim Greenwall, Jeff Meredith, Glyn Burge, Rick Smith and Steve Ellis: Voiced support for the proposed project, citing the following reasons: (1) reduction of the current fire danger posed by the undeveloped park, with its diseased trees and dry vegetation; (2) the creation of an unifying walkway between the Moraga end of Piedmont and the center of town; (3) the potential of the sports fields to be used as a emergency center/staging site in case of a major disaster; (4) will provide more recreational activities for Piedmont children to keep them physically fit; (5) will discourage Oakland residents from using Moraga Avenue as a short-cut during commute periods; (6) the tremendous need for additional sports fields; (7) the existence of widespread community support for the project; (8) the appropriateness of proceeding with an EIR to provide a comprehensive and professional assessment of the project, address concerns and determine if the proposed development is feasible; and (9) funds for proceeding with the EIR have been privately donated – there is no cost to the City to proceed.

On a motion by Councilmember Chiang, seconded by Councilmember Fujioka and unanimously carried, the Council agreed to extend tonight's meeting to 2:00 a.m. in order to complete agenda consideration.

During Council discussion, City staff indicated that a traffic study will be performed by LSA Associates, the Moraga Canyon Sports Field Project is a City project and the City of Piedmont is the lead agency for purposes of the EIR, EBMUD and City of Oakland input will be solicited during the EIR preparation, in addition Oakland's Director of Traffic and two Councilmembers are on the project's e-mail list.

On a motion by Councilmember Chiang, seconded by Councilmember Fujioka and unanimously carried, the Council agreed to extend tonight's meeting to 2:30 a.m. in order to complete agenda consideration.

Resolution 81-09

RESOLVED, that the City Council authorizes staff to forward supplemental design materials prepared by ELS Urban Design to LSA Associates Inc. for use in preparing the Environmental Impact Report previously approved by the Council on December 1, 2008, and

RESOLVED FURTHER, that the Council clarifies that the City of Piedmont is the Moraga Canyon Sports Field Project Applicant, this is a City project located on City property and the City of Piedmont is the lead agency for the project.

Moved by Barbieri, Seconded by Chiang

Ayes: Friedman, Barbieri, Chiang, Fujioka, Keating

Noes: None

Absent: None

(0136)

**Public Hearing:
Piedmont Hills
Underground
Assessment District**

The City Clerk recommended Council approval of a submitted resolution designating Piedmont Hills as an Underground Utility District and setting October 16, 2009, as the deadline for completion of individual service connections in the district.

There was no **public testimony** or **correspondence**

Resolution 82-09

RESOLVED, that the City Council adopts the resolution, on file in the City Clerk's Office, *Designating Underground Utility District, Ordering Removal of Overhead Wires, Poles and Associate Overhead Structures* pertaining to the Piedmont Hills Underground Assessment District.

Moved by Fujioka, Seconded by Chiang

Ayes: Friedman, Barbieri, Chiang, Fujioka, Keating

Noes: None

Absent: None

(1075)

ANNOUNCEMENTS

Harvest Festival – the City's annual *Harvest Festival* will be held Sunday, September 27.

Environmental Task Force – next meeting will be held September 22 at 5:30 p.m.

Linda Avenue/Beach School Traffic Study – will be discussed at the October 19 Council meeting.

Nomination – Piedmont resident Jeff Blich has been nominated by President Obama to be the next U.S. Ambassador to Australia.

ADJOURNMENT

There being no further business, Mayor Friedman adjourned the meeting at 2:30 a.m.