

## PIEDMONT CITY COUNCIL

Regular Meeting Minutes for Monday, April 5, 2010

A Regular Session of the Piedmont City Council was held April 5, 2010, 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 April 1, 2010.

### CALL TO ORDER

Following a 7:00 p.m. Closed Session (attended by Mayor Barbieri and Councilmembers Keating & Wieler) regarding Kurtin v. Piedmont held pursuant to Government Code Section 54956.9(a), Mayor Barbieri called the meeting to order at 7:40 p.m. with the Pledge of Allegiance.

### ROLL CALL

Present: Mayor Dean Barbieri, Vice Mayor John Chiang and Councilmembers Margaret Fujioka, Garrett Keating and Jeff Wieler

Staff: City Administrator Geoff Grote, Deputy City Attorney Judith Robbins, Acting Police Chief John Hunt, Fire Chief John Speakman, Finance Director Mark Bichsel, Public Works Director Larry Rosenberg, Recreation Director Mark Delventhal, City Clerk Ann Swift, Chief Building Official Chester Nakahara and Recording Secretary Chris Harbert

### CONSENT CALENDAR

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

#### Minutes

Approves as amended Council meeting minutes of March 15, 2010

#### Resolution 31-10

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

Moved by Chiang, Seconded by Wieler

Ayes: Barbieri, Chiang, Fujioka, Keating, Wieler

Noes: None

Absent: None

### PUBLIC FORUM

George Kersh referenced a recent press article reporting that a Piedmont resident has filed a complaint with the Alameda County Grand Jury requesting an investigation of the funding of the Piedmont Hills Utility Undergrounding Project. He also reiterated his previous requests that the Council rescind the City's 3% at age PERS retirement benefits.

Ann Chandler presented to the Council and staff copies of the Piedmont League of Women Voters' 2010 edition of *Piedmont, Our Town*.

Ralph Catalano submitted a financial breakdown of environmental study costs incurred with regard to proposed Moraga Canyon sports field improvements and inquired if the figures cited in the report were actually expended. He noted the discrepancy between study costs versus the amount the City has received in private donations for these studies and he asked if the City has subsidized the cost of any of the cited studies.

Terry Smith and Margaret Ovendin announced the formation of CONNECT, a local environmental sustainability organization dedicated to encouraging residents to share ideas for developing and implementing "green" lifestyles. All residents are encouraged to participate. They invited interested residents to attend the organization's first meeting on April 27 and to learn more at the organization's website.

**REGULAR CALENDAR**

The Council considered the following items of regular business:

**SkateBoard Camp**

The Recreation Director recommended Council approval of an agreement with the Regents of the University of California Department of Recreational Sports to provide summer skateboard camps at the City's skateboard facility. The Director noted that the City and U.C. Berkeley have successfully collaborated in offering skateboard camps at Kennelly Skate Park for the last eight years. Councilmember Fujioka requested that U.C. Berkeley be requested to add "the City of Piedmont" to its waiver of liability form. It was noted that the City's standard indemnity/liability waiver is included as part of the proposal.

**Public testimony** was received from:

George Kersh inquired re enrollment levels for the skateboard camps. The Recreation Director responded that historically the camps have been filled, with waiting lists.

**Resolution 32-10**

RESOLVED, that the City Council approves an agreement with the Regents of the University of California Department of Recreational Sports to provide five week-long skateboard camps this summer for a fee of \$222 per participant with a deposit in the amount of \$1,332 per camp; and

RESOLVED FURTHER, that the U.C. Department of Recreational Sports be requested to include the City of Piedmont on its waiver of liability form for the summer skateboard camps.

Moved by Chiang, Seconded by Fujioka

Ayes: Barbieri, Chiang, Fujioka, Keating, Wieler

Noes: None

Absent: None

(0045)

**Transportation**

Christine Monsen, Executive Director of Alameda County Transportation Improvement Authority (ACTIA) and Dennis Fay, Executive Director of Alameda County Congestion Management Agency (ACCMA) narrated a power point presentation detailing a proposal to merge the two agencies into one Alameda County Transportation Commission. They requested Council approval of a proposed Resolution endorsing a joint powers agreement to facilitate the merger as well as described proposed transportation funding measures that will be placed on future election ballots to help fund transportation needs and improvements in Alameda County.

**Public testimony** was received from:

George Kersh and George Childs felt that the voting arrangement for the newly merged commission was unwieldy and opposed the proposal for instituting a \$10 Vehicle Registration Fee in Alameda County and the extension of the county's 20-year half-cent sales tax.

**Resolution 33-10**

RESOLVED, that the City Council adopts the Resolution, on file in the City Clerk's Office, endorsing the Joint Powers Agreement creating the Alameda County Transportation Commission and approving an amendment to the Joint Powers Agreement for the Alameda County Congestion Management Agency.

Moved by Fujioka, Seconded by Chiang

Ayes: Barbieri, Chiang, Fujioka, Keating, Wieler

Noes: None

Absent: None

(1060)

**Appeal Hearing**

The City Administrator stated that both the appellant and applicant have requested a continuance of the hearing regarding the appeal of the Planning Commission's decision related to proposed construction at 201 Park Way.

**Resolution 34-10**

RESOLVED, that the City Council, pursuant to Piedmont Municipal Code Section 17.25.4, approves a continuance of the public hearing on an appeal regarding 201 Park Way to the next regular City Council meeting on April 19, 2010.

Moved by Chiang, Seconded by Wieler

Ayes: Barbieri, Chiang, Fujioka, Keating, Wieler

Noes: None

Absent: None

(0080)

**Piedmont Hills  
Underground  
Project Update**

The Chief Building Official and Finance Director highlighted the major points in their written status reports regarding the Piedmont Hills Underground Construction Project for the period March 15 through March 31. In general, the project is proceeding on schedule and within the budget projected at the February 6 special meeting.

**Crime Statistics**

The Acting Police Chief reported on crime statistics for the first quarter of 2010, noting a 22% decrease in crime over 2008 and 2009 first quarter levels. Councilmember Fujioka encouraged residents to continue participating in neighborhood watch meetings and to take advantage of crime prevention tips listed on the police department's website.

**Swim Club Lease**

Stating he is a member of the Piedmont Swim Club, Councilmember Keating recused himself from discussion and action on this matter and left the chambers.

The City Administrator reported that the City's current lease with the Piedmont Swim Club to operate a community pool on City property at 777 Magnolia Avenue expires June 30, 2011. The Piedmont Swim Club has presented a proposed 15-year lease renewal agreement to the City and the Administrator requested that the Council begin the process for considering this proposal, noting that tonight's staff report includes School District and Piedmont Swim Team comments regarding the proposed renewal.

**Correspondence** was received from: Mary Louise Morrison; Michael Lee; Piedmont Swim Team Board Members; Kelly O'Neal; Stephanie & Chris Dauer; Margaret Fisher; Duncan Watry; Elizabeth Shook; Leslie Pannell; Leslie Fennell; Timothy Rood; Martha Gilbertson.

**Public testimony** was received from:

Bill Drum, Martha Gilbertson and Alice Talcott, all Piedmont Swim Club Board Members and Jennifer Ray and Jody Cornelius, Swim Club members, urged expedited Council approval of lease renewal. They felt that a long-term lease renewal is the best option given the City's current economic situation, emphasized the club's successful efforts over the years in maintaining a fair and equitable balance of pool access between all user groups, and stressed the need for resolution of the lease issue before the summer swim season begins. They reviewed the economic loss in terms of membership levels and revenue from dues and swim classes that the club has suffered because of the uncertainty as to whether the club will continue to operate the City pool, noting in particular that club membership has fallen to a historic low -- 482 current members as opposed to a club average of 550 members. As a consequence, the proposed lease renewal agreement will allow the club to accept non-resident members as a means of providing financial stability for the future.

In general, the Council voiced support for a 15-year lease renewal term, agreeing that public hearings before the Recreation Commission should be scheduled to discuss issues related to pool access by user groups and that a decision on the lease should be made before the summer swim season begins. In addition, the Council voiced support for:

- non-resident club membership;
- a \$5 Million liability insurance coverage for the club and \$1 Million coverage for the Piedmont Swim Team;
- rent payments, perhaps based upon an escalating scale as club membership/revenue increases;
- inclusion of a modification clause;
- a determination in the dispute resolution clause as to whether mediation or arbitration is the best option;
- inclusion of capital improvement/maintenance fund provisions similar to those included in the 1993 lease agreement;

The Council opposed the proposed early termination clause.

The Council requested that the club provide: (1) a 3 to 5-year financial projection of potential growth in terms resident and non-resident membership; and (2) a matrix indicating current pool usage days & hours by user group, with overlays indicating the difference in use between the proposed lease and that in the old lease as well as the increased use being requested by the School District. As a general matter, Councilmember Fujioka requested staff to confirm per the practices of other cities that an "attorney's fees" clause should not be included in proposed lease agreements/contracts and whether the Mayor or City Administrator should sign lease agreements/contracts.

#### **ANNOUNCEMENTS**

Appointments -- Councilmember Fujioka announced that the Council has completed its appointments to vacant positions on various City commissions, committees and boards and the new appointees will assume their posts this month.

Census -- The Council reminded residents to complete and return the 2010 Census Forms.

#### **ADJOURNMENT**

There being no further regular business, Mayor Barbieri adjourned the meeting at 9:50 p.m., announcing that he, and Councilmembers Keating and Wieler will resume their Closed Session discussion of Kurtin v. Piedmont held pursuant to Government Code Section 54956.9(a) immediately following meeting adjournment.