

PIEDMONT CITY COUNCIL

Regular Meeting Minutes for Monday, April 19, 2010

A Regular Session of the Piedmont City Council was held April 19, 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 15, 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 54965.9(a), Mayor Barbieri called the meeting to order at 7:35 p.m. with the Pledge of Allegiance.

ROLL CALL

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

Absent: Vice Mayor John Chiang

Staff: City Administrator Geoff Grote, City Attorney George Peyton, Fire Chief John Speakman, Finance & Human Resources Director Mark Bichsel, Public Works Director Larry Rosenberg, City Clerk Ann Swift, City Planner Kate Black, 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 submitted Council meeting minutes of April 5, 2010

Resolution 35-10

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

Moved by Fujioka, Seconded by Keating

Ayes: Barbieri, Fujioka, Keating, Wieler

Noes: None

Absent: Chiang

PUBLIC FORUM

Ralph Catalano stated that he requested copies of Blair Park related documents from the City Clerk on March 11. He inquired why these documents have not yet been provided and when he can expect to receive this documentation. He also thanked staff for providing the information he requested at the April 5 meeting regarding funding sources for environmental study costs incurred with regard to proposed Moraga Canyon sports field improvements. He noted that based on this information, it appears that City funds in the amount of either \$82,000 or \$105,000 have been expended in connection with the proposed Moraga Canyon sports projects.

George Kersh urged the Council to consider combining the positions of Fire and Police Chief, suggested that the Chief Building Official be promoted to Public

Works Director upon the retirement of the current director and that the Council reduce PERS retirement benefits to 2% at age for new employees.

REGULAR CALENDAR

The Council considered the following items of regular business:

**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 April 1 through April 14. In general the project is proceeding on schedule. There have been no project expenditures since the last update on April 5.

**Public Hearing:
Appeal of Planning
Commission Decision,
201 Park Way**

The City Planner stated that Mr. and Mrs. Andrew Welmond of 137 Park Way have appealed the Planning Commission's March 8 conditional approval of Mr. and Mrs. Jim Riddiough's variance and design review application to substantially alter their existing 2 bedroom, 2 bath single-story-over-basement house by adding 992 sq. ft. through a rear addition and lower level excavation for a resulting 2,534 sq. ft. 4 bedroom, 3 bath house with an expanded kitchen, new family room and expanded garage at 201 Park Way. The Planner noted the Commission's lengthy discussion of this application and the fact that Commission approval was divided. Two Commissioners were absent and the remaining four Commissioners were divided in support/opposition to the design review portion of the application -- there was unanimous support for variance approval. In light of the fact that a split 2/2 vote would deem the application approved, Chairman Kellogg agreed to vote in favor of design review approval in exchange for adding two additional conditions to reduce the impact on 137 Park Way. Thus, the design review application was ultimately approved by a 3 to 1 vote and the variance application approved 4 to 0. In addition, following the Planning Commission's meeting, it was discovered that there were errors in the submitted plans relating to the separation distance between the homes of the applicants and appellants as well as an incorrect indication of true north. Also, since the March 8 meeting, several sun/shadow studies have been submitted by both the applicants and appellants that were not presented to the Commission.

Correspondence was received from: Andrew & Kenna Welmond; Jim & Lisa Riddiough; Jeanette Fish; Owen & Martine Erickson

Public testimony was received from:

Melanie Robertson, Planning Commission Chair, affirmed that no sun/shadow studies were submitted at the March 8 hearing and that the error in failing to indicate the proper location of true north on the plans is significant. She added that because of this error and based upon her review of the sun/shadow studies, it appears that there will be more shadowing of the appellants' property than what the Commission believed to be the case.

Andrew & Kenna Welmond emphasized the significant loss of sunlight, air circulation, privacy and property value and enjoyment they will suffer if the proposed plan is constructed. They cited submitted sun studies indicating that such a towering wall so close to their home will completely block morning sun to several major living areas of their home. They urged that alternative expansion designs that would have less adverse impact on their property be proposed by the Riddioughs.

William Holland, the Welmond's architect, stressed that errors on the submitted plan were material, significant and contributory to the resulting bad decision by the Planning Commission. He stated that the true north designation on the plans was off by 48 degrees and the plans showed a separation distance of 14 ft. between the two homes when in fact the distance is 11 ft. 6 inches. He concurred with the Welmonds that the proposed project will reduce their receipt of morning sunlight by 83%, which is a significant impact and therefore contrary to the City's Design Review Guidelines. He urged the Council to remand the application back to the Commission so that the project can be redesigned to have less negative impact on 137 Park Way.

Lisa & Jim Riddiough and Lisa Joyce, Project Architect, reviewed their efforts to consult with neighbors and redesign the current submittal in response to Commission suggestions of August 2007 (when their first expansion plan was considered and denied). They emphasized that the downward, rearward expansion design of a single-story over basement is consistent in character, size and mass with many other homes in the neighborhood and that specific design features have been incorporated into the plan to mitigate privacy and shadowing impacts on the Welmond's property. They referenced their sun studies indicating that there will not be a significant difference in the shading of the Welmond's home from what currently exists.

Brian Mooney and Don Eidam requested the Council to uphold the Planning Commission's conditional approval, agreeing that the project is consistent with neighborhood standards, the City should encourage and support well designed upgrades of old housing stock, the applicants abided by the City's long and arduous planning process and it would be a bad precedent and hardship on the applicants to remand this project back to the Commission and further delay their project.

Debbi DiMaggio, a local real estate agent, noted that the Riddiough's home is currently the smallest in the neighborhood and its proposed expansion will increase property value and enjoyment for the applicants without devaluing the Welmond's property.

The Council supported remand back to the Commission, citing that material errors in the submitted plans, new information provided by sun studies not available at the time of Commission consideration and the fact that the Commission was divided in its support of plan approval warranted a re-review of the project. The Council noted its general overall support of the design as proposed and was confident that modifications to this design could be made that would lessen adverse impacts on 137 Park Way. The Council encouraged the applicants' and appellants' architects to discuss possible design modifications to achieve this objective and directed the Commission to re-evaluate the design in terms of its impact on the Welmond property in light of the corrected information concerning north orientation and separation distance (not a de novo rehearing). As a possible mitigation measure, the Councilmember Keating suggested that the Commission consider lowering ceiling heights as well as the overall height of the addition to lessen the light loss on the Welmond's property. The Council reaffirmed that variance approval for the trellis as well as the majority of the plan's elements were acceptable.

Resolution 36-10

RESOLVED, that the City Council remands Mr. and Mrs. Jim Riddiough's application for proposed construction at 201 Park Way back to the Planning Commission for further evaluation as to ways to mitigate sun and light impacts

on Mr. and Mrs. Welmond's property consistent with the Council's discussion of this issue.

Moved by Wieler, Seconded by Keating

Ayes: Barbieri, Fujioka, Keating, Wieler

Noes: None

Absent: Chiang

(0080)

Prior to the Council's consideration of the next agenda item (Hampton/Sea View Underground Assessment District), Councilmember Fujioka recused herself from discussion and action on this item, stating that she lives within 300 ft. of the district. She then left the chambers. Councilmember Wieler also noted that he too lives within 300 ft. of the district but pursuant to the Doctrine of Necessity and in accordance with the Council's March 1 action taken pursuant to Government Code Section 87100 and California Code Section 18708, it was determined that he would be the third voting Councilmember on this matter for the duration of the Council's consideration of the Hampton/Sea View Assessment District and related litigation.

**Hampton/Sea View
Underground
Assessment District**

In response to considerable resident inquiries and input concerning why the Council failed to include the Hampton/Sea View Underground Assessment District in its March 1 moratorium on utility undergrounding districts and what future Council actions will be taken regarding this district, the City Administrator submitted a proposed resolution addressing these concerns. He noted that the proposed resolution will not jeopardize current litigation in the matter of Kurtin v. Piedmont and clarified that funding for the proposed professional reviews of the project referenced in the resolution will come from district proponents -- no City money will be expended.

Correspondence was received from: Diane Allen; Timothy Rood; Rick Schiller; Joe Hurwich; Jim Bert; Jennifer Trainor; Aaron Salloway; Jon & Carolyn Schmidt; Bill Massengill; Dean & Nancy Johnson; William & Elizabeth Schultz; Leon Bloomfield

Public testimony was received from:

George Childs criticized the proposed resolution for failing to clearly indicate that proponent money and not City funds will be expended for professional reviews of the projects' plans, specifications and bid documents and for failing to address whether homeowner liens will be removed.

Aaron Salloway inquired re City costs incurred in defending the *Kurtin* lawsuit, the process for bid document review and the Council's recusal procedure in this matter. His questions were answered by the City Administrator and Councilmember Wieler.

Kathleen Quenneville felt that the proposed resolution failed to address resident concerns, citing in particular that funding sources for the professional reviews were not indicated and it is not explicitly stated that the Council will abide by the recommendations of its Audit Subcommittee's investigation of City undergrounding policies and practices. She also criticized the City for including in its public notice regarding tonight's issue that "seating is limited." She felt that such language was intended to discourage public attendance at the meeting. The City Clerk responded that she had received numerous complaints from residents who were upset that at prior meetings they had been unable to find room in the chambers and therefore had to watch the meeting via a cable feed in

the conference room and hallway. Many of these residents indicated that had they known of the limited room capacity, they would have stayed home and sent their comments via e-mail. The "limited seating" inclusion in the notice was intended to advise residents that if they wish to sit in the chambers, they need to arrive early.

Councilmembers Keating and Wieler noted their preference that the proposed resolution be revised to better reflect e-mail suggestions received from residents. They agreed to provide the City Administrator with additional language to be included in the resolution. Therefore, the Mayor requested that the resolution be revised and resubmitted for Council consideration at the May 3rd meeting. In addition, the Council requested that the public notice for this item on the May 3rd agenda state that all issues related to the Hampton/Sea View project will be discussed, including possible district abandonment, release of liens, etc. The Council requested that draft resolutions addressing actions related to district abandonment, liens, etc. be prepared for consideration. The Council also requested that the public notice for this agenda item encourage residents who cannot attend the meeting to submit their comments via e-mail and indicate that the seating capacity of the Council Chambers is 49.

**City Attorney
Recruitment**

The City Administrator stated that in response to the City's Request for Proposal to fill the vacancy of City Attorney upon the June 30th retirement of City Attorney George Peyton, the City has received 17 proposals from individuals or firms. He recommended that a Council subcommittee be appointed to identify and interview 5 to 6 finalists for the position and then recommend 1 to 2 candidates to the entire Council for consideration and action. The subcommittee would consist of two Councilmembers, the City Administrator and the City Attorney. The Council agreed with this process, with Mayor Barbieri and Councilmember Fujioka volunteering to serve on the subcommittee.

Resolution 37-10

RESOLVED, that the City Council appoints a subcommittee consisting of Mayor Barbieri, Councilmember Fujioka, City Administrator Grote and City Attorney Peyton to review and select finalists for the position of City Attorney. Moved by Wieler, Seconded by Fujioka
Ayes: Barbieri, Fujioka, Keating, Wieler
Noes: None
Absent: Chiang
(0750)

Interim Fire Chief

The Finance & Human Resources Director recommended that the Council appoint John Speakman as Interim Fire Chief for the months of May and June while a permanent candidate search for this position is under way. Chief Speakman will officially retire on April 30, 2010. Under the proposed interim appointment agreement, Chief Speakman will be hired at his current monthly salary of \$14,201, with no additional benefits and no employee or employer retirement contributions made to CalPERS. The City Administrator noted that he is exploring the possibility of a shared Fire Chief position with the City of Albany and will report on his findings and recommendations at a future meeting.

Resolution 38-10

RESOLVED, that the City Council appoints John Speakman to serve as Interim Fire Chief per the terms set forth in the Finance & Human Resources Director's staff report of April 19, 2010.
Moved by Fujioka, Seconded by Wieler

Ayes: Barbieri, Fujioka, Keating, Wieler
Noes: None
Absent: Chiang
(0045)

ANNOUNCEMENTS

Children's Support League -- the league's annual House Tour fundraiser will be held April 23-24 and include four Piedmont homes on display. Residents were encouraged to support this worthwhile organization while enjoying a tour of magnificent homes.

Camp Augusta -- the camp's annual "work weekend" will be held April 24-25. Interested residents were encouraged to sign-up and volunteer.

Public Safety Committee -- the next meeting will be April 29 in the Police Department's EOC Room. The meeting is open to the public.

Arbor/Earth Day -- the City's annual *Arbor/Earth Day* celebration will be held April 29 at the Highland Avenue entrance to Piedmont Park. The public was encouraged to attend.

Council Business Cards -- the City Clerk was commended for her redesign of the Council's business cards, which now include City department phone numbers on the back of the cards.

ADJOURNMENT

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