

## PIEDMONT CITY COUNCIL

### Regular Meeting Minutes for Monday, February 1, 2010

A Regular Session of the Piedmont City Council was held February 1, 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 January 28, 2010.

#### CALL TO ORDER

Following a 7:00 p.m. Closed Session regarding the matter of Kurtin v. Piedmont held pursuant to Government Code Section 54956.9(a), Mayor Friedman called the meeting to order at 7:35 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, Acting Police Chief John Hunt, Fire Chief John Speakman, Finance Director Mark Bichsel, Recreation Director Mark Delventhal, City Clerk Ann Swift and Recording Secretary Chris Harbert

#### CONSENT CALENDAR

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

##### Minutes

Approves as amended Council meeting minutes of January 19, 2010

##### Resolution 9-10

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

Moved by Barbieri, Seconded by Fujioka

Ayes: Friedman, Barbieri, Chiang, Fujioka, Keating

Noes: None

Absent: None

#### PUBLIC FORUM

George Childs reiterated his strong objections to the City's contractual involvement with the Piedmont Hills Utility Undergrounding Project and his urging that the City modify its current policy and procedures to prevent the City from acting as a contractual agent in any and all future utility undergrounding projects. He also referenced Council comments made at the January 19 meeting regarding the City's involvement in the Kurtin v. Piedmont litigation, in voicing his anger that the information provided by the Vice Mayor regarding this matter has been contradicted by other sources. He accused the Council of misrepresenting the facts. The Vice Mayor noted that the pleadings in the above-referenced case are available for public review at the Alameda County Courthouse.

#### REGULAR CALENDAR

The Council considered the following items of regular business:

##### CFL Recycling

The Fire Chief announced that the department has instituted a collection program for used CFL bulbs (compact fluorescent light bulbs). Residents may

now leave CFL bulbs at the department during regular business hours for proper disposal. This CFL bulb collection program is being incorporated into the department's on-going collection of used batteries. Information regarding the department's collection of used batteries and CFL bulbs, as well as Alameda County's hazardous waste disposal program, is available on the City's website and KCOM Reader Board.

**City Hall Heating/  
AC System**

The Recreation Director reported that per Council direction of February 17 and May 18, 2009, the design for a new HVAC system for City Hall and the Fire Department has been finalized and staff is ready to proceed with the preparation of bidding documents for the installation of this new system. The bidding documents will include a base bid with three alternatives:

- Base Bid - includes City Hall and Fire Department
- Alternative 1 - replaces wall units in the current locations instead of modular, recessed ceiling units;
- Alternative 2 - would exclude the Fire Department
- Alternative 3 - would include only the City Council Chambers

The Council has previously set aside \$210,000 in the City Maintenance Fund for this project. The estimated cost for the proposed HVAC system is \$180,000. The City Administrator added that part of the proposed project cost includes \$5,000 for the preparation of a bidding package by the City's new engineer, Coastland Engineering. With the exception of specifications for the HVAC system, the bidding package to be prepared by Coastland Engineering will serve as the City's standard/boiler plate bid documentation language for all future bid solicitations.

**Public testimony** was received from:

George Childs and Aaron Salloway urged that the Council defer this non-essential project given the City's current budgetary constraints. Mr. Childs also urged that a careful review of the City's new contract "boiler plate" language be conducted so as to avoid the mistakes which occurred with the City's contract with the Piedmont Hills utility undergrounding contractor.

The Council acknowledged that while the City Hall's current heating system is very inefficient and subject to frequent breakdowns and repairs, no employee safety issues are involved. Therefore, the Council directed that this matter be resubmitted for Council consideration toward the end of FY 09-10 (May 2010) to determine if the City's financial situation is strong enough to go forward with the proposed upgrade. Councilmember Keating requested that a 4th Alternative to the bid package be added -- the option of excluding the Council Chambers. In the interim, the Council requested the City Attorney to work with Coastland Engineering in preparing the standard/boiler plate bid document language. The Council further requested that this generic bid document language be submitted for Council review and comment at a future Council meeting.

**Public Safety  
Committee**

Per Council direction of January 19 and suggestions submitted by Councilmember Fujioka, the City Administrator submitted a proposed charge for a new Public Safety Committee. He stated that the proposed charge has been reviewed by both the Acting Police Chief and Fire Chief. The Council supported the formation of a time-specific Committee as well as the proposed charge, making a few minor amendments to the draft.

**Resolution 10-10**

RESOLVED, that the City Council approves the charge of the Public Safety Committee as follows:

More and more Piedmont residents are concerned about increasing public safety and have expressed interest in strengthening the partnership between the police/fire departments, and residents. The Piedmont Public Safety Committee shall identify achievable, low cost, short-term and long-term actions that the City and its residents may take to address these concerns. Its efforts shall focus on the following areas:

1. Design and implement public education and awareness programs, including but not limited to, crime reduction strategies, community outreach, engagement of citizen volunteers and disaster preparedness throughout the City. Organize City-wide education and training of residents by holding a Disaster Preparedness event in collaboration with the School District during the year. Actively encourage and work collaboratively with residents to organize training sessions on disaster preparedness and neighborhood crime watch.
2. Establish a formal relationship between members of both the Police and Fire Departments and designated neighborhoods where individual police officers and firefighters are assigned to provide a personal police and fire contact to answer concerns and/or questions.
3. Investigate ways and make informed recommendations on how to increase communication and coordination between the Police and Fire Departments and between those departments and the community in the event of natural disaster or other City wide emergency.
4. Investigate and apply for grants that would potentially fund the activities and recommendations of the Committee.

RESOLVED FURTHER, that the following additional rules shall apply to the Committee:

1. The Committee shall be comprised of five members. One member of the public shall be appointed by the City Council. One member of the public shall be appointed by the School Board. One member shall be the Chief of Police or his designee. One member shall be the Chief of Fire or his designee. The Committee chair shall be appointed by the City Council upon recommendation by a subcommittee consisting of

the Mayor and the councilmember appointed as liaison to the committee. In addition, two non-voting members, one representing the City Council and the other representing the Piedmont Board of Education shall act as liaisons to the Committee. The Council may appoint other non-voting members to the Committee at its discretion.

2. The Committee shall meet at a regular date and time to be collaboratively determined based on the schedules of its members, on a monthly basis. All meetings shall be open to the public, and shall include an opportunity for public comment and feedback.
3. The Committee shall begin meeting in April 2010. Each quarter thereafter it shall report in writing to the City Council, with the first report to be prepared by July 1, 2010, and thereafter on October 1, 2010, January 1, 2011 and a final report to be prepared by April 1, 2011.
4. The Committee shall terminate on April 30, 2011 unless the City Council takes action to continue the Committee.
5. The Committee is an advisory body to the City Council and is not an independent decision-making body. All of its recommendations regarding public safety are subject to discussion and approval of the City Council.
6. The Committee shall limit its discussion to the four areas stated above. Its focus shall be on tangible, practical, cost-effective actions that can be implemented at the local level; and

RESOLVED FURTHER, that Councilmember Fujioka shall serve as the Council liaison and non-voting member of the Committee.

Moved by Chiang, Seconded by Fujioka

Ayes: Friedman, Barbieri, Chiang, Fujioka, Keating

Noes: None

Absent: None

(0320)

**Piedmont Hills Utility  
Undergrounding  
Project Update**

Per Council request, the City Clerk updated the Council on the status of the Piedmont Hills trenching activity, the projected timetable for PG&E to install the underground wires and project financing. She reported that trenching progress has been hampered by frequent rains and the continuing encounter of hard bedrock. However, PG&E expects to begin a two-phased installation of the underground wires on February 16. As to financing, district property owners have raised \$100,300 to assist in covering project cost overruns and their contribution efforts are continuing. In addition, the City anticipates receiving \$246,000 from Comcast but contractor credits owed to the City are expected to be approximately \$100,000 less than originally estimated. The City Clerk also reported that because of continuing rock issues and the discovery of significant errors in the plans of PG&E and the Project Engineer, it is highly

likely that extra funding, in addition to that currently available, will be required in order to finish the project. Staff has scheduled a meeting with Valley Utility and Coastland Engineering for February 3rd to review recent billings, the list of remaining work items and determine a final cost for project completion.

**Public testimony** was received from:

George Childs voiced his outrage over the possibility that more City funds will be appropriated for this project, reiterated his request that the City divest itself from acting as a contracting agent for undergrounding projects and urged that any Council consideration of additional appropriations to the project occur at a publicly held meeting.

Aaron Salloway shared Mr. Childs' outrage and urged the Council to authorize an independent audit of the process which has led to this staggering financial impact to the City.

George Kersh felt that a written, rather than oral report, of this issue should have been provided to the public given the amount of financial information and detail involved.

Sunny Bostrom inquired if the City is pursuing errors and omissions insurance payments to help cover project cost overruns, whether tenting the streets being trenched has been considered to expedite contractor progress during the rain and whether the City has consulted residents with professional expertise in construction for advice and assistance.

The Council voiced its anger and frustration over the Clerk's opinion that more money will be required to complete the project, with the Mayor insisting that a meeting be arranged tomorrow with officials from Valley Utility and Coastland Engineering to re-enforce the Council's position that its December 12, 2009, \$1,004,832 appropriation was all the money that was to be required and provided to finish the project.

The Council discussed issues related to why plan errors are being discovered so late in the process, the absence of reliable cost figures for project completion, the pro and cons of issuing a stop work order and the impracticality of modifying the design/placement of the remaining trench work. In the end, the Council agreed that the Mayor, Councilmember Chiang and City staff would meet with Valley Utility and Coastland Engineering tomorrow to discuss the project. In addition, the Council agreed to schedule either a emergency or special meeting to publicly discuss the outcome of tomorrow's meeting. The Mayor recessed the meeting at 9:50 p.m. to allow the City Attorney time to determine if an emergency meeting could be called in this case. The Mayor reconvened the Council at 9:55 p.m., with the City Attorney citing the relevant Government Code sections related to emergency and special meetings. The Council agreed to schedule a special meeting on this matter for Saturday, February 6 at 9:00 a.m. Councilmember Fujioka requested that a written report detailing the results of tomorrow's meeting with the project contractor and

engineer be provided at the February 6 meeting. The Council also directed that the February 6 special meeting be properly noticed in accordance with the City Code.

**City Attorney  
Recruitment**

The City Administrator submitted proposed options for the recruitment of a new City Attorney in recognition of Mr. Peyton's scheduled retirement in July 2010. He requested each Councilmember to review the proposed options and provide input as to the preferred approach individually to him and/or the Mayor. Based upon the input, the Administrator would then prepare a draft *Request for Proposal* for Council review. The Mayor agreed, noting a desire to defer discussion on this item tonight given the need for the Council to adjourn to Closed Session in order to meet with outside counsel. For the record, the Mayor thanked and congratulated Mr. Peyton for his phenomenal service to the City over the last 44 years as City Attorney.

**Public testimony** was received from:

Aaron Salloway inquired regarding the cost differential between contracting for legal services from an outside firm or having such services provided by an in-house attorney.

The Council deferred discussion and action on this item to a future Council meeting.

**ANNOUNCEMENTS**

Municipal Election -- The Mayor encouraged Piedmont's electorate to vote in tomorrow's municipal election.

League of Women Voters -- Councilmember Fujioka announced that the Piedmont League of Women Voters will celebrate the 90th Anniversary of the founding of the national League of Women Voters on February 7. The public is invited to attend this celebration at the Piedmont Community Hall. Mayor Friedman also thanked the Piedmont League of Women Voters for all the services it provides to the community, with special appreciation to Ann Chandler who provides *Agenda Insight* before each Council meeting.

Council Installation -- The Mayor invited the public to attend the February 16th installation of the February 2nd elected candidates to the City Council and the selection of a new mayor. The installation will be held at 6:30 p.m. at the Community Hall.

Special Council Meeting -- The Mayor reiterated that the Council will hold a special meeting on Saturday, February 6 to discuss issues related to the Piedmont Hills Utility Undergrounding Project.

Wildwood School Dad's Club -- Councilmember Chiang encouraged residents to attend the Dad's Club annual *Crab Feed* fundraiser on February 6.

Beach School Dad's Club -- Councilmember Keating encouraged residents to attend the Dad's Club annual *Jazz Night* evening of good food and music on February 27.

**ADJOURNMENT**

There being no further regular business, Mayor Friedman adjourned the Council at 10:25 p.m. to Closed Session relating to the initiation of litigation held pursuant to Government Code Section 54956.8.