

## PIEDMONT CITY COUNCIL

### Regular Meeting Minutes for Monday, June 7, 2010

A Regular Session of the Piedmont City Council was held June 7, 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 June 3, 2010.

#### **CALL TO ORDER**

Following a 6:30 p.m. Closed Session regarding Kurtin v. Piedmont litigation and a meeting with outside counsel to review the performance of the City Administrator, City Clerk and Public Works Director, held pursuant to Government Code Sections 54956.9(a) and 54597, respectively, Mayor Barbieri called the meeting to order at 7:35 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, City Attorney George Peyton, Finance Director Mark Bichsel, Interim Fire Chief John Speakman, Acting Police Chief John Hunt, 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**

There was no consent calendar.

#### **PUBLIC FORUM**

Paul Bailey-Gates inquired why there are so few "Entering Piedmont" signs posted along the roadways leading into Piedmont, believing that the presence of such signs would be a crime deterrent. He requested that the City's Public Safety Committee consider this issue.

George Kersh urged that street resurfacing not be deferred in the proposed FY 10-11 City budget.

#### **REGULAR CALENDAR**

The Council considered the following items of regular business:

##### **Minutes**

Julia Fenske, Serra Apaydin and Cynthia Gorman referenced their letter of June 7 in requesting that the Council's May 17 meeting minutes detailing the Council's discussion of their appeal of the Planning Commission's conditional approval of proposed construction at 1078 Annerley Road be amended to delete the bullet point on page 5 stating that "the Council majority felt that the Harvard property views were not 'significant views'."

The Council considered the speakers' request, agreeing to the following amendments to the May 17 meeting minutes:

**Page 5, 1st paragraph, last sentence:** In making this remand, members of the Council expressed the following opinions:

**Page 5, last bullet point:** The Council was of mixed opinion concerning whether the Harvard views were "significant views."

The Council also made the following revisions to its May 22 budget session minutes:

**Page 1, Budget Overview, 1st sentence:** ". . . the proposed budget is not balanced (an estimated \$315,000 deficit) because of the fulfillment of a 3-year \$1.2 Million commitment to the Piedmont Unified School District for the Havens Schoolmates Facility and Playfield construction." (language deleted);

**Page 1 & 2, Budget Review:**

**1st bullet point:** add the following: ". . . and include the impacts on services of these reductions."

**2nd bullet point:** add the following sentence: Staff will notify Council of its intent to fill regular, full-time positions before seeking applicants."

**4th bullet point:** "Determine if \$20,000 in remaining Congestion Management Agency funding . . ."

**Add a new bullet point:** A review of the Equipment Replacement Fund as part of the next Muni Tax Review Committee

- All acronyms be spelled out

**Resolution 46-10**

RESOLVED, that the City Council approves as amended herein its meeting minutes of May 17 and 22, 2010.

Moved by Chiang, Seconded by Wieler

Ayes: Barbieri, Chiang, Fujioka, Keating, Wieler

Noes: None

Absent: None

**Piedmont Hills  
Underground  
Project Update**

The Chief Building Official and Finance Director highlighted the major points in their written status report regarding the Piedmont Hills Underground Construction Project for the period May 13 through June 2. It was noted that the underground trenching portion of the project has been completed and final construction payments totaling \$1,127,013 have been made to the project contractor Valley Utility. This amount is the full "not to exceed" amount formulated on February 6. The Council discussed with staff the basis on which the total construction costs were calculated and verified.

**Facilities Replacement  
Fee**

Mayor Barbieri referenced his discussions with Piedmont Unified School Board President Ray Gadbois to address issues raised by School Board Member Rick Raushenbush relating to the need for the Piedmont Unified School District to develop a funding plan for financing the eventual replacement of school athletic facilities, such as the synthetic field surface and track at Witter Field. Mr. Raushenbush's proposal is to terminate the 25-year old Joint Use of Facilities Agreement between the School District and City and impose fees on the City for use of school facilities as one method of raising funds to cover replacement costs. In response, the Recreation Director has prepared

preliminary estimates of the fees the City could impose on the School District for its use of City athletic and non-athletic facilities. The Mayor and City Administrator agreed that pursuing an approach whereby both entities charged each other for facility use would be exceedingly time intensive and burdensome on both parties. Instead, the Mayor and City Administrator recommended that they be authorized to continue to discuss with Mr. Gadbois a cooperative, collaborative effort for developing a designated sinking fund to finance future replacement costs for both City and School athletic facilities. They felt that this would be the best approach for attaining a fair and equitable solution for both entities. The Mayor anticipated that these discussions would continue over the summer, with the expectation that a proposal could be prepared for School Board and City Council review and approval later this year.

**Correspondence** was received from: Ray Gadbois, June 7.

**Public testimony** was received from:

Jon Elliott referenced his e-mail to the Council outlining suggestions for how the City and School District could jointly work together to develop a special fund to finance athletic facilities replacement costs. He supported the Mayor and City Administrator's recommendation and requested that monthly status reports regarding the negotiations be provided to both the School Board and City Council.

George Childs agreed with Mr. Elliott's approach, supported a collaborative effort with the School Board and strongly urged that the City and School Board not create a bureaucracy in order to track facility use and impose back and forth charges on each other.

Robert McBain, Recreation Commission Chair, agreed that residents support a cooperative, collaborative approach to resolving this issue and recognize the need for both entities to prepare for sport facility replacement costs.

The Council supported the Mayor's recommendation, agreeing that both the School District and City will benefit from preparing in advance for the eventual replacement of athletic facilities and that a joint collaborative effort is far superior to each entity creating an accounting nightmare of tracking and prorating individual facility use, hours and costs. The Council also voiced support for the concept of a non-profit athletic foundation to help raise money toward facility replacements. Councilmember Keating requested that the discussions with Mr. Gadbois focus strictly on athletic facility uses only and also address community sport group uses of school and city facilities.

**Resolution 47-10**

RESOLVED, that the City Council acknowledges receipt of the information contained in the staff report and authorizes Mayor Barbieri and City Administrator Grote to meet with School Board President Gadbois and School Superintendent Hubbard regarding this matter and report back to the Council as appropriate.

Moved by Fujioka, Seconded by Chiang  
Ayes: Barbieri, Chiang, Fujioka, Keating, Wieler  
Noes: None  
Absent: None  
(0165)

**Public Hearing:  
Proposed FY 10-11  
City Budget and Levy  
of Municipal Services  
& Sewer Tax Rates**

The Mayor opened the first of two public hearings on the proposed FY 10-11 City Budget, fee proposals and the levy of the Municipal Services Tax and Sewer Tax. The Finance Director reviewed the information contained in his staff report and responded to a series of questions concerning specific proposed expenditures and recommendations.

**Public testimony** was received from:

George Kersh urged that proposed expenditures for the Oakland Library Services Contract and KCOM be deferred until such time as the City has recouped the money it expended on behalf of the Piedmont Hills Utility Undergrounding Project.

George Childs urged the Council to be very fiscally prudent this year, refuse to fund projects proposed by special interest groups and consider not levying the maximum rate allowable for the Municipal Services Tax and Sewer Tax.

During discussion, the City Clerk provided the cost/benefit analysis of proposed business license software requested by the Council on May 22 and the City Administrator noted that the City Planner has determined that the proposed \$20,000 expenditure for the General Plan Housing Element could probably be reduced to \$10,000. In the end, the Council requested the following information for the next meeting:

- prepare a list of all the proposed budget changes suggested tonight and at the May 22 budget session;
- determine if there are available funds to pay for the Ronada/Ramona Traffic Island Capital Improvement Project, e.g. surplus funds remaining from the Ricardo/York stairway project and/or Measure B funds;
- Under the Capital Improvement Projects Budget, list the *Community Pool* under the Buildings & Grounds category rather than under Street/Traffic/Public Safety;
- provide historical data regarding the number of library cards issued to Piedmont residents under the City's library contract with Oakland, the level of use by Piedmont residents at each library branch, and the frequency of library materials checked out by Piedmont residents;

- recalculate the percentage of the Consumer Price Index increase for the proposed Municipal Services Tax and Sewer Tax rates, e.g. is it 2.6% or 2.72%;
- re-examine if the proposed medical insurance premium expenses for the Public Works Department should be adjusted downward given that there is one less position in the department due to a FY 09-10 layoff;

The Vice Mayor also suggested that in the fall the Council consider the possibility of requiring residents to pay a library usage fee to help fund the City's library contract with Oakland if such an arrangement is necessary to avoid staff layoffs.

**Interim Public Works  
Director Appointment**

The City Administrator recommended that Chief Building Official Chester Nakahara be appointed Interim Director of Public Works, effective July 1, 2010, at a salary of \$132,950. The City's current Public Works Director, Larry Rosenberg, is retiring on June 30. The Administrator highlighted Mr. Nakahara's qualifications for this position, noting his intention that this interim appointment be for six months. Thereafter, the Council can consider either making this appointment permanent or proceed with an internal or outside recruitment process to fill the directorship position.

**Public testimony** was received from:

George Kersh supported the Administrator's recommendation, suggested that the proposed salary of \$132,950 remain in effect for the permanent appointment and that the title of "Chief Building Official" be changed to "Chief Building Inspector."

The Council concurred with the Administrator's recommendation, agreeing that Mr. Nakahara is an outstanding choice to fill the position.

**Resolution 48-10**

RESOLVED, that the City Council appoints Chester Nakahara as Interim Director of Public Works, effective July 1, 2010, and adopts the salary and benefit resolution on file in the City Clerk's Office setting compensation at \$132,950.

Moved by Chiang, Seconded by Wieler

Ayes: Barbieri, Chiang, Fujioka, Keating, Wieler

Noes: None

Absent: None

(0085)

**PERS Retiree  
Medical Trust Fund**

The Finance Director recommended that the Council establish a trust fund for Other Post Employment Benefits (OPEB) to reduce the City's future liability consistent with new Governmental Accounting Standards Board 45 requirements. He felt that the establishment of a trust fund, with monies invested by Osterweis Capital Management (the City's Police & Fire Pension Account Manager) in Osterweis Funds appears to be the best vehicle to

maximize earnings while meeting the City's OPEB obligations to retired City employees. The Council agreed.

**Resolution 49-10**

RESOLVED, that the City Council approves the establishment of an Other Post Employment Benefits (OPEB) trust fund organized under Section 115 of the Internal Revenue Code to reduce the City's future liability consistent with new Governmental Accounting Standards Board 45; and

RESOLVED FURTHER, transfers \$1.8 Million from the PERS Medical Fund to Osterweis Capital Management (50% of the trust fund invested in The Osterweis Equity Fund and 50% in The Osterweis Strategic Income Fund); and

RESOLVED FURTHER, appoints a subcommittee of the Police and Fire Pension Fund, made up of the Mayor or his designee, the Vice Mayor and the Chairperson of the Police and Fire Pension Board to oversee the trust fund on a quarterly basis.

Moved by Chiang, Seconded by Wieler

Ayes: Barbieri, Chiang, Fujioka, Keating, Wieler

Noes: None

Absent: None

(0747)

**Ordinance**

The City Administrator recommended Council approval of an ordinance to sell a small piece of City property to Mr. and Mrs. Robert Rachwald at 56 Sharon Avenue. He stated that the City owns a 6 ft. wide strip of property going up the hillside between 56 and 60 Sharon Avenue. A stairway sits atop this property and dead-ends at the Rachwald's house. The owners of 60 Sharon have no interest in this property and the strip has no public use or benefit. In fact because the steps can become slippery in wet weather, the stairway poses a potential safety hazard and liability to the City. The Rachwalds have agreed to purchase the property for \$1,600, remove the stairway, landscape the area and merge the small strip of land into their lot. Councilmember Fujioka inquired if the proposed agreement with the Rachwalds should include a waiver clause to protect the City against any possible toxins on site or past or current claims or lawsuits. The Mayor and City Administrator felt that the Rachwalds would probably refuse to accept such a waiver and countered that Section 3.i of the proposed agreement addresses these concerns and provides sufficient protections to the City. They stressed that it is in the best interest of the City to transfer property ownership to the Rachwalds in order to rid itself of the potential slip and fall liability posed by the stairway.

**Resolution 50-10**

RESOLVED, that the City Council approves the first reading of Ordinance 686 N.S. transferring City property at 56 Sharon Avenue to Mr. and Mrs. Robert Rachwald and approving an agreement with Mr. and Mrs. Rachwald for sale of property at 56 Sharon Avenue in the amount of \$1,600.

Moved by Chiang, Seconded by Keating

Ayes: Barbieri, Chiang, Fujioka, Keating, Wieler

Noes: None  
Absent: None  
(0705)

**FUTURE AGENDA ITEMS**

Sanitary Sewer System -- Councilmember Keating requested that the Council schedule for a future meeting discussion of the option of having the East Bay Municipal Utility District assume responsibility for the City's sanitary sewer system.

**ANNOUNCEMENTS**

Retirement Reception -- the Mayor invited residents to attend a June 11 *Open House* retirement celebration honoring Mr. George Peyton's 44-years of service to Piedmont as City Attorney. The cost of the event is \$25 per person.

**ADJOURNMENT**

There being no further business, Mayor Barbieri adjourned the meeting at 10:25 p.m.