

## **PIEDMONT CITY COUNCIL**

Regular Meeting Minutes for Monday, March 15, 2010

A Regular Session of the Piedmont City Council was held March 15, 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 March 11, 2010.

### **OPEN SESSION**

Mayor Barbieri convened the Council at 6:30 p.m. and requested the City Attorney to summarize his findings with regard to a possible conflict of interest relating to Councilmember Wieler's participation in tonight's Closed Session involving the review of the performance of the City Administrator, City Clerk and Public Works Director. Councilmember Wieler lives within 300 feet of the boundaries of the Piedmont Hills Underground Utility District and normally pursuant to Regulations of the Fair Political Practices Commission would be presumed to have a conflict of interest. The City Attorney reviewed in some detail with the Council the provisions of FPPC Regulations 18707.10 relating to Small Jurisdictions, 18705.2 on Materiality Standard: Economic Interests in Real Property, 18704.2 relating to Interest in Real Property, 18707 and 18707.1 on Public Generally. The City Attorney then stated that since the Closed Session matter really is a personnel evaluation and its affect on Councilmember's Wieler's economic interests in his home or the affect on the economic interests of any home within the Piedmont Hills District would be no different from the affect on the economic interests of the public generally, there appears to be no conflict under Sections 18707 and 18707.1 of the Fair Political Practices Commission Regulations because of the "public generally" exception. He added that this specific decision does not affect future possible conflicts of interest involving Councilmember Wieler relating to the Piedmont Hills District, but just to the personnel performance review in question, including future Closed Sessions or actions taken by the City Council involving the personnel evaluation in question. Councilmember Wieler disclosed his address and acknowledged that he lives within 300 feet of the Piedmont Hills Underground Utility District. He confirmed his belief that the "public generally" exception applies to his attendance at tonight's Closed Session on personnel performance review and there is no economic impact on his property. The Mayor then adjourned the Council to Closed Session at 6:40 p.m.

**CALL TO ORDER**

Following a 6:40 p.m. Closed Session which included a meeting with outside counsel to review the performance of the City Administrator, City Clerk and Public Works Director held pursuant to Government Code Section 54597 and discussion of pending litigation in the matter of 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, City Attorney George Peyton, Fire Chief John Speakman, Acting Police Chief John Hunt, Finance Director Mark Bichsel, Public Works Director Larry Rosenberg, City Clerk Ann Swift, City Planner Kate Black, Assistant Planner Kevin Jackson, Chief Building Official Chester Nakahara, Planning Technician Manira Sandhir 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 1, 2010

**Resolution 21-10**

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

Moved by Chiang, Seconded by Keating

Ayes: Barbieri, Chiang, Fujioka, Keating, Wieler

Noes: None

Absent: None

**PUBLIC FORUM**

Rick Schiller requested that all invoices submitted by Valley Utility in connection with the Piedmont Hills Utility Undergrounding Project be posted on the City's website for public review. He reiterated his anger over staff's failure to stop project construction when all available funds had been expended, its failure to research the geo-technical reports of properties within the district and its decision to delay informing the public of project cost overruns until very late in the process.

Randy Wedding referenced the proposed Moraga Canyon Sports Fields Project in inquiring why project cost estimates have not been publicly disclosed, if the City has an agreement with project proponents to guarantee that any cost overruns will be funded by said proponents, is there a contingency plan for covering legal fees in case of litigation and what is the cost estimate for the long-term maintenance of the facility should it be approved and constructed.

George Kersh urged the Council to rescind overly generous employee pension benefits in light of the City's financial distress. He also referenced last meeting's discussion regarding AT&T's request to install additional cell antennas on the Sandringham Road PG&E tower in suggesting that homeowners be allowed to contract directly with cell companies for the installation of one cell antenna per residence.

**REGULAR CALENDAR**

The Council considered the following items of regular business:

**COPS Grant**

The Acting Police Chief recommended Council acceptance of \$112,082.47 in Citizens Option for Public Safety (COPS) funding and appropriate 80% of the funding (\$89,665.98) to police overtime and the remaining 20% (\$22,416.49) to the department's equipment replacement account. He added his expectation that one more payment of COPS funding from the state will be received before the end of the fiscal year. It is estimated that this additional payment will be approximately \$30,000 to \$40,000.

**Public testimony** was received from:

George Kersh requested an accounting breakdown of the COPS fund expenditures and the Acting Chief agreed to provide this information.

**Resolution 22-10**

RESOLVED, that the City Council accepts \$112,082.47 in Citizens Option for Public Safety (COPS) funding and appropriates \$89,665.98 (80%) to the police department's overtime account and \$22,416.49 (20%) to the police department's equipment replacement account.

Moved by Fujioka, Seconded by Chiang

Ayes: Barbieri, Chiang, Fujioka, Keating, Wieler

Noes: None

Absent: None

(0088)

**2010 Census**

The Planning Technician and Eliane Lia Bolden, Senior Partnership Specialist and State Liaison with the U.S. Census Bureau, stated that the 2010 Census forms have been mailed and they urged residents to complete and return the forms by April 15. They noted that Piedmont had the highest response rate in the state for the last census and challenged Piedmonters to improve upon this outstanding record in 2010. In response to Council questions, Ms. Bolden assured the Council that: (1) even if some census form envelopes listed "Oakland" rather than "Piedmont" in the address, the collected data will be correctly attributed

to the City of Piedmont; (2) census collectors will display appropriate identification badges with verifying phone numbers if door to door data collection is necessary; (3) the police department will be advised when census takers are in town; and (4) all relevant information regarding census activity will be published in the local press, on the City's KCOM Reader Board and on the City's website.

**Resolution 23-10**

RESOLVED, that the City Council endorses the City's participation in the 2010 Census and asks Piedmont residents to accept the "Take 10" challenge and take 10 minutes to complete the 10-question Census form and mail it back, to beat their own previous record of having the highest response rate in the State of California.

Moved by Chiang, Seconded by Wieler

Ayes: Barbieri, Chiang, Fujioka, Keating, Wieler

Noes: None

Absent: None

**Sex Offender  
Legislation**

The City Attorney reported on his research of sex offender residency ordinances in response to resident concerns that a federally convicted sex offender has taken up residence in a home near Wildwood School. The City Attorney noted that while the California Penal Code prohibits registered sex offenders from residing within 2,000 feet of any school or park, there is no penalty for violations of this prohibition. As a consequence, some cities have instituted their own sex offender residency ordinances to enforce this prohibition. However, the City Attorney emphasized that based upon extensive discussions with the State Attorney General's Office and other district and city attorneys, the case law regarding such ordinances is unsettled and the State Attorney General's Office does not recommend adoption of such statutes because they may be unconstitutional and unenforceable. The City Attorney added that cities which have adopted such ordinances acknowledge the legal uncertainties involved but believe that by having such statutes on the books, that alone may be sufficient to deter sex offenders from considering moving into their communities.

The Acting Police Chief summarized the process by which the City was notified that a federally convicted sex offender may be moving into Piedmont, noted that James Donnelly has registered with the police department and is currently living with his sister on Wildwood Avenue. However, it is expected that Mr. Donnelly will be moving out and leaving Piedmont very soon. The City Attorney clarified that if the Council wishes to proceed with drafting a sex offender residency ordinance, this ordinance would not apply to the Donnelly case.

**Public testimony** was received from:

John McWeeny, a Wildwood School parent, urged the Council to adopt a local ordinance to prevent sex offenders from living near City schools.

The Council was unanimous in its support for a local sex offender residency ordinance, requesting the City Attorney to draft a proposed ordinance based upon other cities' models that would include two distance options from prohibited locations -- 500 feet and 1,000 feet. In addition, the Council requested that the prohibited locations be schools, parks, day-care centers and recreation centers and that the proposed draft be submitted to the District Attorney's Office for review and comment regarding its enforceability. Councilmember Fujioka also requested the City Attorney to research potential anti-loitering measures. The Council requested that this draft ordinance be submitted for Council review on April 5.

**Piedmont Hills  
Underground  
Project Update**

The Finance Director and Chief Building Officer highlighted the major points in their written status reports regarding the Piedmont Hills Underground District for the period March 1 through March 12. In general the project is proceeding on schedule and within the budget projected at the February 6 special meeting.

**Conditional Use  
Permit, 1235  
Grand Avenue**

The City Planner stated that Ms. Sherri McMullen is requesting a conditional use permit to operate a women's clothing and accessory store called *McMullen* in the retail space at 1235 Grand Avenue (formerly the Patu store). The Planning Commission recommended Council approval of a 10 year permit at its meeting on March 8.

**Public testimony** was received from:

Sherri McMullen described her proposed upscale women's boutique, noting that in addition to women's clothing and accessories, personal shopping and closet consultation services will also be provided. She added that a percentage of her proceeds will be contributed to local charities and that internships will be offered to Piedmont students interested in the retail, buying and merchandising aspects of the business. The Council welcomed Ms. McMullen to the community, acknowledging the support of many Piedmont residents who are customers at her other business location on Piedmont Avenue.

**Resolution 24-10**

WHEREAS, Ms. Sherri McMullen on behalf of McMullen is requesting a Conditional Use Permit to operate a new, up-scale women's boutique clothing store at 1235 Grand Avenue, Piedmont, California, and;

WHEREAS, the Piedmont Planning Commission recommended Council approval of this CUP application at its meeting on March 8, 2010; 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 application is categorically exempt under the California Environmental Quality Act, pursuant to Section 15301, Class 1 (1)(3);
2. The use is of benefit to Piedmont residents in that it provides needed service in an area which has been established for retail. Based upon the letters received from Piedmonters, this new use has a great deal of support already.
3. The use will be properly related to other land uses and transportation and service facilities in the vicinity in that the building is currently a retail establishment in a commercial area and they are continuing the retail use.
4. 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 in that it is a continuation of a retail outlet, with no change or adverse effects.
5. The use will not be contrary to the standards established for the zone in which it is to be located because it is proposed in a commercial zone.
6. The use will not contribute to a substantial increase in the amount of noise or traffic in the surrounding area in that the use will replace an existing retail use that has only street parking.
7. 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 consistent with the General Plan and if anything, will improve the neighborhood.
8. 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. There will be on-street parking, which is the same as the existing use.

9. The plans conform to all other laws and regulations of the City, provided, however, that the Council shall have the right to require front, rear and side yard setbacks greater than those otherwise provided in the laws and regulations of the City if the Council finds that such larger front, rear and side yard areas are necessary to provide for the health, safety and general welfare of the residents of Piedmont in accordance with its zoning laws. There is no change in the building or physical conditions proposed except for the sign.

RESOLVED, that in consideration of the findings and facts set forth above, the Piedmont City Council approves the application for a conditional use permit by Ms. McMullen on behalf of *McMullen* for property located at 1235 Grand Avenue, Piedmont, subject to the following conditions:

1. A 10-year term of the CUP, commensurate with the term of the lease, starting April 15, 2010; and
2. Days and Hours of Operation as follows:  
Monday-Saturday: 11:00 a.m. - 6:00 p.m.  
Sunday: 12:00 noon- 5:00 p.m.

Moved by Fujioka, Seconded by Chiang

Ayes: Barbieri, Chiang, Fujioka, Keating, Wieler

Noes: None

Absent: None

(0340)

**Moraga Canyon  
Sports Fields Project**

The City Administrator stated that LSA & Associates, the City's environmental consultant for the Coaches Playfield Improvement and Moraga Canyon Sports Fields Projects has requested an amendment to its contract in the amount of \$26,200 to cover the cost of additional services for the preparation of an EIR for these two projects. In response to a December 8, 2009, scoping meeting on the two projects, LSA has determined that additional work/analysis is needed in the areas of: Visual Resources; Hazardous Materials; Noise; Air Quality; Global Climate Change (new state law requirements) and Additional Meetings in order to complete the EIR. The Piedmont Recreational Facilities Organization (PRFO) proponents of the Moraga Canyon Sports Fields Project, have pledged to fund the cost of his additional work.

**Correspondence** was received from: Malcolm Sproul, March 15; Jeff Blaney, Mallory Hill; Rick Schiler; Chuck Oraftik; Lynn Dee; Alain Knechtli; Elliott Abrams; Wei Huey; Bob Blagden; Mike & Kathy Roman; Lawrence Gabie; Theresa Franklin; Bill Childs; Maria Faer

**Public testimony** was received from:

George Childs, Lynn Dee, Tom Brightbill, Al & Barbara Peters, Marjorie Blackwell, Joannie Semiteköl and Chuck Oraftik all voiced opposition to the expenditure of any more money in connection with the Moraga Canyon Sports Fields Project, citing the following reasons: (1) the proposed project is inappropriate for the site and financially unaffordable; (2) the proposed project is very controversial, with the likelihood of potential litigation if it proceeds; (3) there has been an absence of public discussion over other possible alternative uses of the site; (4) there is a perception within the community that a private interest group is essentially buying City property; (5) continued expenditure of funds for this project is not the best use of community resources; (6) the Council has failed to publicly disclose where this project ranks in terms of other City priorities; (7) there has been no community or neighborhood input with regard to the proposed design; (8) fears that continued acceptance of donor funds in order for this project to proceed may obligate the Council to ultimately approve the project; (9) the Council has failed to identify the City funding sources to be used toward project construction, cost overruns and/or long-term maintenance; (10) concerns over whether the City has received guarantees from project proponents that they are willing to accept and fund the project if the EIR and/or Council recommends a scaled-down version of their plan; and (11) the requested additional work should have been included within the original scope and price of the EIR -- all the issues, with the exception of climate change, are not new -- these concerns were expressed early in the process.

The Council repeatedly emphasized that acceptance of private funding to proceed with EIR completion in no way obligates or commits the Council to approve the project. The Council stressed that expanding the scope/analysis of the EIR study will provide the City with the best information available upon which to make a decision as to whether the project should go forward and if the proposed development is the best use of the site. Councilmember Fujioka recommended the following revisions to the proposed contract amendment with LSA, noting that these suggestions should also be incorporated into all City contracts:



- Section 14 TIME: reword as follows: "Time is of the essence in the performance of this Amendment to Contract."
- Include a "Not to Exceed" clause;
- Require that the contractor have a Piedmont Business License and list the Business License Number on the signatory page;
- Require that the City be named as an "additional insured."

During discussion of the possibility that additional EIR work may be required, the City Administrator stated his belief that no additional funding for EIR work can be expected in the future from PRFO. However, he recommended against insisting that no additional work/analysis be authorized for this combined EIR. He argued that because the Coaches Playfield Improvement, which is a City initiated project, is included in the EIR study, the Council should not limit its own flexibility to request additional information or examination related to this project. He emphasized that no additional money would ever be expended in connection with the EIR without Council discussion and express authorization. At the Council's request, the Finance Director submitted a spreadsheet listing all the expenditures and funding sources to-date for the Moraga Canyon Sports Fields Project and Coaches Playfield Improvement Project.

**Resolution 25-10**

RESOLVED, that the City Council approves a "not to exceed" contract amendment with LSA & Associates in the amount of \$26,200 for additional services for the preparation of the EIR for the Moraga Canyon Sports Fields Project, as amended to include Councilmember Fujioka's suggestions relating to the time essence clause, business license provisions and listing the City as an "additional insured" if staff deems such addition is reasonable and appropriate for this contract; and

RESOLVED FURTHER, that contract amendment approval is contingent upon City receipt of \$26,200 from the Piedmont Recreational Facilities Organization.

Moved by Wieler, Seconded by Chiang

Ayes: Barbieri, Chiang, Fujioka, Keating, Wieler

Noes: None

Absent: None

(0045)

**Climate Action Plan** Jeff Henderson of AECOM (formerly EDAW) the City's Climate Action Plan Consultant highlighted the revisions made to the draft plan in

response to Council and public comments at the January 4, 2010, meeting. The Assistant Planner recommended Council approval of the revised plan.

**Correspondence** was received from: Elizabeth Schultz; Heather Clapp; Margaret Ovenden; Rick Schiller; John Nady; Abe Friedman

On a motion by the Vice Mayor, seconded by Councilmember Wieler and unanimously carried, the Council agreed to extend tonight's meeting to 11:30 p.m. in order to complete agenda consideration.

**Public testimony** was received from:

Judy Kelly, Heather Clapp, Bob Marshak, Teddy King, David Robinson, Steve Berl, Anita Block, Ezra Rapport and Margaret Ovenden all voiced support for plan adoption. Several of the proponents urged that the plan's greenhouse gas emission reduction target be increased to 20% or 30% from its existing 15% level. They also recommended that the plan be re-evaluated in two years to assess the community's level of compliance with energy efficiency/conservation goals and to consider including more incentives to encourage greater greenhouse gas emission reductions. Messrs. Robinson, Beryl and Rapport also voiced support for the reinstatement of point of sale requirements to mandate energy efficiency upgrades whenever a home is sold.

George Childs and George Kersh felt that Piedmont is too small to make a difference in climate change and that the proposed plan will impose financial hardships on residents and taxpayers. They felt that the plan was a waste of time and resources and the effort should be abandoned.

The Council voiced support for Plan adoption and re-evaluating compliance progress in two years. The Council also requested staff to develop methodology to track resident compliance levels and to accurately document City energy credits. The Council was confident that given Piedmont residents' proven track record with regard to voluntary participation in green waste and recycling programs, the community will fully embrace the goals and objectives of the Climate Action Plan.

**Resolution 26-10**

WHEREAS, the City of Piedmont has completed a Climate Action Plan (CAP); and

WHEREAS, the Climate Action Plan is defined as a “project” under the California Environmental Quality Act (CEQA) and is thus subject to environmental review; and

WHEREAS, the proposed CAP includes numerous policies, strategies and measures for the protection of the environment including the reduction of greenhouse gas emissions; and

WHEREAS, the City completed an Initial Study of the proposed Climate Action Plan and determined that the CAP will not have a significant effect on the environment; and

WHEREAS, CEQA does not require a detailed evaluation of all projects that could conceivably be developed consistent with Climate Action Plan policies but rather requires the City to conduct project-level environmental review for subsequent projects, as appropriate; and

WHEREAS, the City prepared a Negative Declaration for the Climate Action Plan and delivered copies of the Initial Study-Negative Declaration (IS-ND) to the State Clearinghouse, the Alameda County Clerk-Recorder’s Office and other interested parties and agencies on November 6, 2009; and

WHEREAS, the City provided public notice of the availability of the IS-ND for public review and posted copies of the document on the City of Piedmont website for over 30 days; and

WHEREAS, the City received no comments on the IS-ND during the 30-day public review period; and

WHEREAS, the Piedmont City Council held two duly noticed public hearings on the Climate Action Plan and the Draft CEQA documents; and

NOW THEREFORE BE IT RESOLVED that the Piedmont City Council adopts the Negative Declaration for the City of Piedmont Climate Action Plan.

Moved by Chiang, Seconded by Keating

Ayes: Barbieri, Chiang, Fujioka, Keating, Wieler

Noes: None

Absent: None

(0459)

**Resolution 27-10**

WHEREAS, the 2007 Stanford University, Texas Tech University and Union of Concerned Scientists study finds that in order to avoid the most

severe effects of climate change, the United States must cut its emissions by at least 80 percent below 2000 levels by 2050; and

WHEREAS, the State of California has enacted Assembly Bill (AB) 32, the California Global Warming Solutions Act of 2006, which requires California to reduce statewide GHG emissions to 1990 levels by 2020 and directs the California Air Resources Board (ARB) to develop and implement regulations that reduce statewide GHG emissions, institute a schedule to meet an emissions cap, and develop enforcement tools to ensure that the State achieves the required GHG emissions reductions; and

WHEREAS, in December 2008 the California ARB approved the *Climate Change Scoping Plan* which contains the primary strategies California will implement to achieve the GHG reductions required in AB 32, and which encourages local governments to adopt a reduction goal for municipal operations emissions and establish similar goals for community emissions that parallel the State commitment to reduce GHGs; and

WHEREAS, Executive Order S-3-05 proclaims that California is vulnerable to the effects of climate change, including reduced snowpack in the Sierra Nevada, exacerbation of California's existing air quality problems, and sea level rise; and establishes targets for reducing GHG emissions to 2000 levels by 2010, to 1990 levels by 2020, and to 80% below 1990 levels by 2050; and

WHEREAS, in June 2006 the City of Piedmont, along with 10 other local governments in Alameda County, committed to becoming a member of ICLEI – Local Governments for Sustainability and participating in the Alameda County Climate Protection Project that was launched by ICLEI in partnership with StopWaste.Org and the Alameda County Conference of Mayors, and embarked the City on an ongoing, coordinated effort to reduce the emissions that cause global warming, improve air quality, reduce waste, cut energy use and save money; and

WHEREAS, the City of Piedmont, with assistance from ICLEI and StopWaste.Org, completed a Baseline Greenhouse Gas Emissions Inventory Report that determined that the City of Piedmont generated approximately 47,750 metric tons of carbon dioxide equivalent in 2005; and

WHEREAS, in partnership with the City of Albany, the City of Piedmont was awarded in December 2007 a grant in the amount of \$55,000 from the Bay Area Air Quality Management District (BAAQMD) for the purpose of employing a climate consultant to

develop a Climate Action Plan for each city to reduce greenhouse gas emissions; and

WHEREAS, the City, with the assistance of a climate consultant, has completed an almost two-year process of collecting and analyzing data about Piedmont and preparing a Climate Action Plan with the goal of reducing the City's GHG emissions 15 percent below 2005 baseline emissions levels by 2020, in accordance with current ARB guidance for local governments; and

WHEREAS, the public has participated in the Climate Action Plan development process through two web-based surveys, three publicly noticed Environmental Task Force meetings, a May 27, 2009 community workshop, and multiple publicly noticed City Council hearings; and

WHEREAS, the City has completed state-mandated environmental review procedures for the project and has prepared a separate resolution for a Negative Declaration; and

NOW THEREFORE BE IT RESOLVED that the Piedmont City Council adopts the City of Piedmont Climate Action Plan; and

RESOLVED FURTHER, that the City Council shall re-evaluate compliance levels relative to the 15% greenhouse gas emission reduction target at the end of 2012 and consider possible options if progress is lagging in terms of achieving said target.

Moved by Chiang, Seconded by Keating

Ayes: Barbieri, Chiang, Fujioka, Keating, Wieler

Noes: None

Absent: None

(0459)

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

**FY 09-10 Budget  
Status Update**

The Finance Director submitted a written status report covering the first 8 months of FY 09-10. The Council reviewed the report and suggested the following revisions to the Capital Improvement Projects spreadsheet:

- the community pool allocation not be included under the "public safety" category;
- Delineate the amount of City and private contribution funding set aside for specific CIP projects, especially for those projects proving to be controversial.

In addition, Councilmember Keating requested that during the upcoming budget session, the Council discuss placing a higher priority on the Ronada/Ramona intersection project than the Grand/Rose Median project given the safety issues involved with the Ronada/Ramona intersection.

**2008-09 City Audit**

The Finance Director recommended Council acceptance of the FY 2008-09 audited financial statements and the auditor's report on compliance and internal control over financial accounting based on an audit of financial statements performed in accordance with *Government Auditing Standards*. The audit was performed by Maze and Associates and has been reviewed and accepted by the Council's Audit Committee. Mr. Mark Wong of Maze and Associates briefly explained the audit's findings with regard to one issue concerning the Police and Fire Pension Board's compliance with the Pension Plan's *Statement of Investment Objectives and Policy Guidelines*. It was noted that the Pension Board has discussed this finding and will review and update the *Statement of Investment Objectives and Policy Guidelines* at its next meeting on May 4, 2010.

On a motion by the Vice Mayor, seconded by Councilmember Fujioka and unanimously carried, the Council agreed to extend tonight's meeting to 12:10 a.m. in order to complete agenda consideration.

In addition, the Finance Director explained the ramifications of recent changes relating to government reporting requirements for post employee PERS medical benefits. As a consequence of this new legislation, the Director requested Council authorization to set up a medical trust fund for actuarial and financial reporting purposes. The Council agreed, requesting staff to examine the options of having this trust fund with either CalPERS or Osterweis Capital Management. The City Administrator stated that proposed resolutions to implement the PERS medical trust account will be submitted for Council review and approval at a future meeting.

On a motion by the Vice Mayor, seconded by Councilmember Wieler and unanimously carried, the Council agreed to extend tonight's meeting to 12:15 a.m. in order to complete agenda consideration.

**Resolution 28-10**

RESOLVED, that the City Council accepts the FY 2008-09 audited financial statements and the auditor's report on compliance and internal control over financial accounting based on an audit of financial statements performed in accordance with *Government Auditing*

*Standards*, and in addition directs staff to establish a trust account for Other Post Employment Benefits with either CalPERS or Osterweis Capital Management.

Moved by Chiang, Seconded by Wieler

Ayes: Barbieri, Chiang, Fujioka, Keating, Wieler

Noes: None

Absent: None

(0100)

**ANNOUNCEMENTS**

Public Safety Committee -- Councilmember Fujioka announced that there has been a significant increase in the number of neighborhood watch meetings being held to train residents in disaster preparedness.

**ADJOURNMENT**

There being no further business, Mayor Barbieri adjourned the meeting at 12:15 a.m.