

## PIEDMONT CITY COUNCIL

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

A Regular Session of the Piedmont City Council was held November 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 October 28, 2010.

**CALL TO ORDER** Following a 7:00 p.m. Closed Session discussion regarding the lease of City property at 777 Magnolia Avenue and the appointment of John Hunt, III as Police Chief, held pursuant to Government Code Sections 54956.8 and 54957(b), respectively, 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 and Garrett Keating

Absent: Councilmember Jeff Wieler

Staff: City Administrator Geoff Grote, City Attorney Tom Curry, Finance Director Mark Bichsel, Interim Police Chief John Hunt, Interim Public Works Director Chester Nakahara, Recreation Director Mark Delventhal, City Planner Kate Black, Assistant Planner Kevin Jackson, Interim City Clerk John Tulloch and Recording Secretary Chris Harbert

**CONSENT CALENDAR** The following items were considered under one vote by the Council:

**Minutes** Approves as amended Council meeting minutes of October 18, 2010

**Street Closures** Approves the request of the Piedmont High School Cross-Country Team to close certain City streets on November 25, 2010, for the team's annual *Turkey Trot* fundraiser.

**Resolution 90-10**

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

Moved by Chiang, Seconded by Fujioka

Ayes: Barbieri, Chiang, Fujioka, Keating

Noes: None

Absent: Wieler

(1000)

**PUBLIC FORUM**

George Kersh commended City sewer crews for their quick response to emergency calls and in referencing the Council's October 4 discussion of a police stop, remarked on a recent police stop of a white, male juvenile in response to a call reporting suspicious behavior.

PHS Cross-Country Coach Chris Thayer and members of his team thanked the Council for its continuing support of the team's annual fund raising foot race through town on Thanksgiving morning, stressing the importance of this event in raising funds for the track team as well as continuing a unique Piedmont tradition.

Amy Jeffries, editor of *Piedmont Patch*, invited residents to check out her news and information website covering Piedmont.

**REGULAR CALENDAR**

The Council considered the following items of regular business:

**Street Tree Pruning**

The Interim Public Works Director recommended Council approval of a \$87,485.44 contract with Arborwell Tree Service to prune 907 trees located throughout the City. Arborwell Tree Service was the low bidder and has provided excellent service in the past when it has been awarded the City's annual street tree pruning contract.

**Resolution 91-10**

RESOLVED, that the City Council awards the 2010-11 Street Tree Pruning Contract to Arborwell Tree Service in the amount of \$87,485.44 to prune 907 trees located throughout the City of Piedmont.

Moved by Fujioka, Seconded by Chiang

Ayes: Barbieri, Chiang, Fujioka, Keating

Noes: None

Absent: Wieler

(0045)

**Moraga Canyon  
Sports Fields Project**

The City Administrator recommended Council approval of an amendment to the City's contract with LSA and Associates for the preparation of the Environmental Impact Report for the Moraga Canyon Sports Fields Project. The Administrator stated that because of the unprecedented number of comments received in response to the project's Draft EIR, LSA determined that the number of hours and funding originally allocated in the contract for the *Response to Comments* work was insufficient to cover the volume and complexity of the response. After consultation and negotiation with LSA regarding the amount of additional funding required to complete the *Response to Comments* in a timely manner so as to adhere as closely as possible to the Council's approved timetable for EIR completion and public hearings, an agreed upon price of \$25,000 was negotiated and he instructed LSA to proceed. Proponents of the Moraga Canyon Sports Fields Project were advised of the need for this additional funding in order to complete the EIR and have provided the City with a \$25,000 check to cover this cost.

**Correspondence** was received from: Rick Schiller, October 29.

**Public testimony** was received from:

Rick Schiller referenced his correspondence in inquiring if the Administrator's action in implementing this contract amendment was a violation of law -- either a violation of the City Charter if the City Administrator authorized this additional work without prior Council approval or a violation of the Brown Act if the Council authorized this work outside of the public process.

The City Administrator responded that no City Council discussions, actions or authorizations regarding this contract amendment have occurred -- there has been no violation of the Brown Act. He emphasized that his actions in negotiating the proposed contract amendment were taken in response to the Council's clear directive that the EIR be prepared in a timely fashion and the agreed upon schedule of public hearings proceed as previously approved. He instructed LSA to proceed with completing the *Response to Comments* in order

to meet this Council directive and because the funding required for the proposed contract amendment would be provided by project proponents. The City Attorney stated that under the City Charter, the City Administrator has the authority to negotiate contract amendments but the ultimate authority to either approve or deny these negotiated changes rest with the City Council. LSA assumed the risk of performing the extra work without a City Council approved contract amendment.

The Vice Mayor corrected a typo on page 3 of the contract.

**Resolution 92-10**

RESOLVED, that the City Council approves the *Second Amendment to Contract* between the City and LSA and Associates in the amount of \$25,000 for additional services for the preparation of response to comments on the Draft EIR for the Moraga Canyon Sports Fields Project.

Moved by Chiang, Seconded by Keating

Ayes: Barbieri, Chiang, Fujioka, Keating

Noes: None

Absent: Wieler

(0045)

**Police Chief  
Appointment**

Based upon Council Closed Session discussions, the City Administrator recommended Council approval of the appointment of John Hunt, III as Police Chief effective November 1, 2010, and the approval of three goals and objectives for the new chief. Chief Hunt has served as Interim Police Chief since the retirement of former Chief Lisa Ravazza on December 29, 2008.

**Public testimony** was received from:

George Kersh supported Chief Hunt's appointment and urged the City to continue to explore the possibility of sharing police and fire chief responsibilities with another city. He also requested that the details of the Council's numerous closed session discussions of this appointment be disclosed, stating that because of the length of the deliberation, there is a perception that perhaps the Council was not totally supportive of Chief Hunt's appointment.

Rick Schiller also supported Chief Hunt's appointment, agreeing that he is an excellent choice to head Piedmont's Police Department. He also encouraged the Council to re-examine its methodology for selecting the cities upon which salary/benefit comparisons are based, suggesting that only cities with comparable population levels be considered.

The Council reviewed and discussed the following three proposed "goals and objectives" for Chief Hunt, agreeing to a slight change in language in Goal 2 (language change in italics):

1. Training for a Diverse Community

The Chief is requested to define training goals for the department which addresses best practices for police departments operating in diverse communities. The Chief shall secure training for police personnel that addresses, to the maximum extent possible, best practices pertaining to calls for service that, upon investigation, prove to be without foundation.

2. Community Involvement

The Chief will be proactively and fully involved in community activities, programs, and discussions which may impact the Police Department including dialogue with various community groups *and individuals* who seek to address issues arising in regard to police response in a diverse community. In addition, the Chief will fully implement any recommendations of the Public Safety Committee which are adopted by the City Council.

3. Management and Organizational Review

The Chief shall conduct a management review into the long term effects of operating with a single police captain and to prepare a plan by April 30, 2011, assigning tasks and duties to management and supervisorial staff which allows the police department to function at a maximum capacity. This report shall also detail, if necessary, the tasks and responsibilities that have been or will be re-assigned to different personnel as the result of the management review.

The Chief shall effectively manage, develop and lead his team to be proactively engaged with the community, and foster and develop a cohesive team, while balancing his role as a member of the City's senior management team and what's in the best interest of the City and the community.

**Resolution 93-10**

RESOLVED, that the City Council approves the salary and benefit resolution on file in the City Clerk's Office and appoints John M. Hunt, III as Police Chief of the City of Piedmont at a salary of \$172,692, effective November 1, 2010; and

RESOLVED FURTHER, adopts the goals and objectives, as set forth herein, for Chief of Police John M. Hunt, III upon his appointment.

Moved by Chiang, Seconded by Keating

Ayes: Barbieri, Chiang, Fujioka, Keating

Noes: None

Absent: Wieler

(0085)

The Council requested that the follow-up staff reports requested at the Council's October 4 meeting in response to its discussion of a March 11 police stop, be scheduled on a future agenda wherein the matter can receive the Council's and public's full attention. Because the next few Council meetings will be focused on the EIR for Moraga Canyon Sports Fields Project, it was agreed that Council consideration of these staff reports be tentatively scheduled on a January 2011 meeting agenda.

**Ordinance**

The City Planner recommended Council first reading approval of Ordinance 695 N.S. to amend Section 17F.1 of the City Code to codify the City's long-standing practice of requiring Housing Records Searches to be provided with Real Property Disclosure Statements. Providing realtors and prospective home buyers with information concerning whether home improvements have been legally constructed is important for public safety reasons. The proposed ordinance will also update the City's current Disclosure Statement which hasn't been revised or updated since the 1990's. In addition to making the Disclosure Statement more user-friendly and to correct outdated information, the revised version will also include clarifications regarding the two types of parcel mergers approved by the Alameda County Assessor's Office.

**Public testimony** was received from:

George Childs inquired if there were fees or penalties associated with including the housing records search. The City Planner stated that the current \$50 fee for the Disclosure Statement will remain unchanged.

The Council requested that the word "advise" in the first sentence of Section 17F.1 of the Ordinance be changed to *notify*. The Council also requested that several typos in the City's Disclosure Statement be corrected and that staff work with the City Attorney to insure that the City's letter transmitting the Housing Search and Disclosure Statement information to realtors/buyers, etc. protects the City from any potential liability related to the information contained or omitted in the documentation.

**Resolution 94-10**

RESOLVED, that the City Council approves the first reading of Ordinance 695 N.S., as amended herein, relating to real property disclosure statements as well as the proposed update/revision of the City's Disclosure Statement, including the correction of typographical errors.

Moved by Fujioka, Seconded by Chiang

Ayes: Barbieri, Chiang, Fujioka, Keating

Noes: None

Absent: Wieler

(0705)

**HVAC  
Replacement**

The Recreation Director requested authorization to solicit bids for the replacement of the City Hall and Fire Department heating, ventilation and air conditioning system (HVAC). The City Council allocated \$210,000 in funding for this replacement project several years ago but the project has been deferred for budgetary reasons. However, pursuant to the City's participation in the Small Cities Climate Action Partnership Program (SCCAP), \$25,000 in Environmental Protection Agency grant funding is now available for this project. Therefore, the Director recommended that since grant funding is available to help offset some of the replacement cost and the current construction bidding climate is very favorable, it would now appear timely to proceed with replacing the 25-year old HVAC system which fails to provide adequate heating or cooling and is energy inefficient.

**Resolution 95-10**

RESOLVED, that the City Council authorizes staff to complete the preparation of bidding documents and to formally solicit bids for the replacement of the City Hall/Fire Department HVAC system, including use of SCCAP EPA Grant Funds in the amount of \$25,000.

Moved by Chiang, Seconded by Fujioka

Ayes: Barbieri, Chiang, Fujioka, Keating

Noes: None

Absent: Wieler

(0270)

**ANNOUNCEMENTS**

Tea House Renovation -- Phase I of the renovation of the Japanese Tea House in Piedmont Park has been completed. The public is invited to join the Park Commission in touring the renovated facility on November 3 at 4:45 p.m.

Moraga Canyon Sports Fields Project -- The Park Commission was requested to correct an error on its November 3 agenda to correctly identify and title its

discussion of the EIR process related to proposed sports improvements in Blair Park as the "Moraga Canyon Sports Fields Project EIR."

Paratransit Advisory Committee -- The Alameda County Transportation Commission is seeking a Piedmont volunteer to serve on the Paratransit Advisory Planning Committee. Information regarding this position and appointment is available on the City's website.

Election Day -- Piedmont voters were encouraged to vote in tomorrow's California General Election.

Public Safety Committee -- is encouraging residents to enroll in the Police Department's E-Mail Alert Program. Information regarding this program is available on the City's website.

Get Well Soon -- The Mayor wished Councilmember Wieler a speedy and complete recovery.

**ADJOURNMENT**

There being no further business, Mayor Barbieri adjourned the meeting at 9:25 p.m.