

PIEDMONT CITY COUNCIL

Regular Meeting Minutes for Monday, October 4, 2010

A Regular Session of the Piedmont City Council was held October 4, 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 September 30, 2010.

CALL TO ORDER Following a 7:00 p.m. Closed Session conference with legal counsel regarding the initiation of litigation held pursuant to Government Code Section 54956.9(c), Mayor Barbieri called the meeting to order at 7:30 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, Acting City Attorney Michelle Kenyon, Interim Police Chief John Hunt, Fire Chief Edward Tubbs, Interim Public Works Director Chester Nakahara, Recreation Director Mark Delventhal, Interim City Clerk John Tulloch and Recording Secretary Chris Harbert

CEREMONIAL MATTERS The Interim Public Works Director introduced the department's new Plans Examiner Craig Griffin, a licensed architect and certified green building professional. On behalf of the Council, the Mayor welcomed Mr. Griffin and his wife Linda.

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

Minutes Approves as submitted Council meeting minutes of September 20, 2010

Ordinance Approves the second reading of Ordinance 692 N.S. amending Chapter 17 of the City Code regarding signs

Resolution 84-10

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

Moved by Chiang, Seconded by Wieler

Ayes: Barbieri, Chiang, Fujioka, Keating, Wieler

Noes: None

Absent: None

(0705)

PUBLIC FORUM George Kersh repeated his September 20 racially insensitive remarks directed at the City of Oakland, also including the Cities of Berkeley and Richmond in his disparaging comments. He also requested that the Council disclose at a future meeting:

- the status of efforts to reimburse the City's General Fund for money spent in connection with the Piedmont Hills Utility Undergrounding Project;

- when the Council's Audit Subcommittee's final report will be released to the public;
- whether the City is still considering a proposal to either combine the fire and police chief into one position or share the chiefs' duties with another city;
- the results of the Council's performance review of the City Administrator; and
- the reasons behind the firing of former City Engineer Harris & Associates

REGULAR CALENDAR

The Council considered the following items of regular business:

Agreement

The City Administrator recommended Council approval of an agreement with the Law Firm of Meyers Nave for the waiver and reimbursement of legal fees incurred in connection with the suit of *Kurtin v. Piedmont* over the Hampton Sea View Underground Assessment District. The Administrator explained that as a result of negotiations with Meyers Nave, the firm has agreed to forgive approximately \$40,935 in outstanding bills to the City as well as provide an additional reimbursement of \$48,000 for fees already paid. Based on this agreement, the total legal fees paid to Meyers Nave in the *Kurtin* case by the City is \$299,590. The Council thanked and commended the City Administrator and Meyers Nave for negotiating a significant reduction in legal fees.

Resolution 85-10

RESOLVED, that the City Council approves an agreement with the Law Firm of Meyers Nave regarding legal fees incurred in connection with the suit of *Kurtin v. Piedmont* over the Hampton Sea View Underground Assessment District; which agreement includes the waiver of approximately \$40,935 in outstanding bills as well as a reimbursement of \$48,935 for fees already paid.

Moved by Chiang, Seconded by Fujioka

Ayes: Barbieri, Chiang, Fujioka, Keating, Wieler

Noes: None

Absent: None

(0045)

Public Safety Committee

Public Safety Committee Chairman Ray Marshall presented the Committee's first quarterly report to the Council. The Committee was established by the Council on February 1, 2010, with the following charge:

- design and implement public education and awareness programs;
- establish a formal relationship between members of both the Police and Fire Departments and designated neighborhoods;
- investigate and recommend ways to enhance communication and coordination between police, fire and city departments in the event of a disaster/emergency; and
- investigate and apply for grants that would potentially fund the activities and recommendations of the Committee.

Chairman Marshall highlighted the Committee's efforts over the first quarter, focusing in particular on the importance being given to community outreach, the tentative scheduling for next spring of a joint disaster drill with the Piedmont Unified School District, coordinating with the PUSD to expand and update the City's emergency operations plan and formulating a pilot program to provide e-mail alerts to residents advising of events such as major street closures, public safety situations and planned power outages. While the scope of the e-mail alert system is still being defined, it is the Committee's goal to have 25% to 30% of Piedmont residents enrolled in the program. The Committee is promoting program enrollment through inserts in school bulletins and flyer distributions at community events.

The Council thanked Mr. Marshall and his committee for their efforts and report. As to ways to further promote the e-mail alert program, Councilmember Keating suggested a citywide mailer and Councilmember Wieler suggested that a registration link be provided on the City's website.

**Police Incident
Discussion**

At the Council's request, the Interim Police Chief reported on the department's response to an anonymous phone call received from a resident on March 11 reporting suspicious activity being committed by two African-American male juveniles. Per department protocol, two police units responded and made contact with the subjects. After a total contact time of 5 minutes, 41 seconds, the police officers determined that the two subjects were Piedmont High School students and that no crime was committed. After completing field interview reports, the responding officers left. The Interim Chief referenced the attachments in his report, outlining police activities and follow-up actions regarding this incident from March 11 through September 20 as well as transcripts of the dispatch calls received from the anonymous caller as well as the responding officers. He also stated that while field interview cards are not mandatory when officers stop individuals, one was completed in this case as a training exercise for the officer-in-training on the scene. The Interim Chief stated that because the anonymous caller reported the incident on the department's regular phone line (not 911) no name or address could be traced to the call. Also, because the caller described activities (knocking on doors, looking into cars) that are often associated with burglary attempts, a police response was warranted in this case. The Interim Chief emphasized that police officers, for their own personal safety, are trained to project a sense of intimidation and command presence when confronting unknown suspects/situations. However, once initial contact has been made and it has been determined that there is no problem or concern, officers are instructed to de-escalate the tension quickly. The Interim Chief also reviewed the department's system for residents to register complaints regarding police conduct.

Correspondence was received from: Rick Schiller, October 4.

Public testimony was received from:

Cheryl Wade, mother of one of the teens stopped by the police, emphasized the emotional distress she and her family have experienced as a result of the March 11 incident, stressing that despite being 20-year residents of Piedmont, they were made to feel unwelcome in their own home town. She stated that she requested tonight's hearing as a way for her son to voice his side of the story, noting that her son and his friend were not engaged in any suspicious behavior and the continued reference by the police to "suspicious" behavior on the part of her son is unfair and unjustified. She emphasized that the police encounter terrified her son and his friend and while she agreed that the police were right to respond to the anonymous call, she felt that the police officers' attitude and interrogation of her son was uncalled for and inappropriate for the situation. She submitted for the record, written questions and suggestions related to police training and police/resident interactions, requesting the Council to respond to her written comments.

Essey Adhanom and Carison Wade, the two PHS students stopped by the police, stated that they were merely taking a breather from walking home from school when they stopped to sit on the curb. They stressed that they were not knocking on doors or looking into cars as stated by the anonymous caller but were aware that they were being surreptitiously watched by a woman. They stressed the fear and anger they felt when two police cars and three officers approached them. They also voiced their confusion over once they had shown the officers their PHS identification, they continued to be asked for their name, height and weight in an intimidating and interrogative manner. The boys emphasized that the whole experience has been extremely upsetting and traumatic and they have been made to feel like they are not a part of the community.

Sue Lin, a member of the City's Appreciating Diversity Committee, stated that the several residents have expressed concern to the Committee over this incident as well as others which have occurred in Piedmont. She acknowledged that many minorities find police interactions tense and unpleasant, urged the police department to be more aware of race-based calls stemming from behavior that is not criminal and to be more sensitive and respectful when encountering minorities in such situations. She also urged residents to be more thoughtful when calling the police to prevent misunderstandings like that which occurred on March 11th. She requested the Council to make the issue of unbiased, fair policing a priority and institutional commitment.

Amal Smith supported the Appreciating Diversity's request, concurred that many suspicious calls regarding the presence/behavior of minorities seem like racial profiling and urged the Council to develop policies and practices for police officers responding to such calls that would include police apologies when it is apparent that the initiating call was prompted by prejudice.

Ken Kawaichi requested the Council to remain vigilant in combating racial prejudices, noting that it is not exclusively a police problem but a community wide issue. He suggested that the Council work toward developing programs

for bringing all segments of the community together to insure liberty and justice for all.

Shawn Cooper and Mariano Roy, PHS students and friends of Essey and Carison, agreed that the police need to be more sensitive when questioning minorities, adding that many black students in Piedmont are aware that other residents are suspicious of their presence. They also agreed with Essey and Carison that it is extremely frightening to be stopped by the police when you have done nothing wrong.

Maude Pervere, the Appreciating Diversity Committee's representative to the School District, commended the two boys for coming forward, stressing that painful racial encounters in Piedmont are more common than people wish to believe and many victims of prejudice are too afraid and embarrassed to publicly recount these types of hurtful experiences. She emphasized that the issues surrounding the March 11 incident are complicated with no easy solutions but many residents, including members of the Appreciating Diversity Committee, are willing to address these problems and work for positive change so that every law-abiding resident in Piedmont can feel safe and respected.

Audrey Lyndon thanked the Council for scheduling tonight's hearing on this issue in requesting that the police department and City Council collaborate in developing a fair, respectful and impartial policy for dealing with calls reporting suspicious behavior by minorities when no crimes are being committed.

Joyce Hicks concurred that police interactions with juveniles are very sensitive and that the two boys involved have been traumatized by the event. She suggested that the Council: (1) amend the charge of the Public Safety Committee so that this committee becomes the forum for hearing issues related to police/resident interactions; (2) allow members of the Appreciating Diversity Committee to attend police training sessions focused on fair and impartial tactics for handling incidents resulting from calls reporting suspicious behavior by minorities so that the community can better understand the procedures and issues involved; and (3) direct that when police department general orders, bulletins and traffic stop data prohibiting biased policing are rescinded or revised, this information be forwarded to the Public Safety Committee and City Council.

George Kersh blamed the Council, especially Councilmember Wieler, for succumbing to constituent pressure in scheduling tonight's hearing.

Lois Corrin concurred with Ms. Pervere that racial prejudice is a reality in Piedmont and she suggested that the Council involve community volunteers in addressing this issue and formulating solutions.

Kate Michell voiced her shock and sadness over the incident, urged the police and Council to acknowledge the harm inflicted on the two boys as a result of the encounter, agreed that the community needs to build greater trust between the

ances and suggested that police protocols for responding to anonymous callers reporting suspicious behavior by minorities be reviewed and revised. She suggested that workshops and public forums be held and Council directives be issued addressing this problem.

Kobi Eshun described two unpleasant incidents he has experienced at the hands of Piedmont police responding to anonymous calls concerning his presence in Piedmont, including one in front of his own home. He stated that Piedmont officers were rude and unapologetic even after determining that the stop was unwarranted. He suggested that the standard police response of "just doing my job" be redefined to include apologies when stops are unfounded.

Carison Wade Sr., summarized his efforts to assure his son that while unfounded police stops may be an unfortunate reality for blacks in America, it is imperative that efforts be made to follow-up on why these encounters occurred. He felt that tonight's public hearing was an appropriate follow-up, a proper redress and an important teachable moment for his son and his friend.

Angela Hom, Co-President of the Piedmont Asian-American Club, cited experiences of racial intolerance she suffered as a child and emphasized the efforts of the Piedmont Asian-American Club to embrace equality for all residents of Piedmont. She joined other speakers in suggesting that the Council organize forums to help improve communication and relations between ethnic groups within the community.

Richard Meyers, a Millennium High School teacher, concurred that many minority students attending school in Piedmont feel that they are unwelcomed and treated as outsiders.

The Council thanked the speakers for their comments, agreed that while the issues raised by the March 11 incident are complex and difficult, they cannot be ignored, commended Essey Adhanom and Carison Wade for their courage in publicly disclosing their painful experiences and acknowledged the difficulties and dangers police officers face in doing their job. The Council discussed at length the best recourse for addressing the issues raised tonight.

Councilmember Fujioka supported amending the charge of the Public Safety Committee to empower the committee to review and address citizen complaints stemming from police interactions and to appoint additional members to the committee if supplementary expertise is required. Councilmember Keating requested that the Public Safety Committee's public education charge be expanded to specifically address how police should handle incidents based upon anonymous calls reporting suspicious behavior that turn out to be false and unwarranted, assemble statistics of the number of such calls that are received and suggest ways to educate the community regarding this issue. He also suggested that the police department reconsider its policy for completing field interview cards when it is apparent that a stop was unwarranted, especially if minors are involved. The remaining Councilmembers preferred to receive more background information before taking any specific actions, noting that tonight's

agenda listed this topic as a discussion item. In this regard, staff was requested to provide information and recommendations concerning: (1) the options and costs for additional or different diversity training programs for police officers; (2) the policy and procedures other municipalities employ to deal with situations wherein police respond to calls that turn out to be inaccurate or racially biased; and (3) to evaluate the suggestions raised tonight from Councilmembers as well as speakers, both verbally and in writing. In addition, it was requested that Interim Chief Hunt prepare a series of articles outlining police policies and procedures related to situations like which occurred on March 11th. The Mayor voiced his belief that ultimately the City Council is the best forum to consider complaints from citizens regarding misconduct, mistreatment or lack of service from City personnel, regardless of the specific department. In light of tonight's discussion, the Interim Police Chief stated that as a member of the Public Safety Committee, he would discuss with the Committee Chair placing the following issues on a future Committee agenda:

- update on staff's on-going examination of how community policing programs of other cities handle anonymous calls routinely identifying minorities as suspicious persons;
- discuss community outreach methods;
- discuss police diversity training options and costs; and
- discuss police procedures in cases where it is obvious that a police stop in response to an anonymous call has inconvenienced an innocent person.

The City Administrator agreed to submit his follow-up report and recommendations to the Council either in early December or January.

ANNOUNCEMENTS

Harvest Festival -- The Mayor and Council thanked organizers, staff and volunteers for another outstanding *Harvest Festival*.

Public Safety Committee -- next meeting is Thursday, October 28 at 5:30 p.m.

ADJOURNMENT

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