

PIEDMONT CITY COUNCIL

Regular Meeting Minutes for Monday, September 21, 2015

A Regular session of the Piedmont City Council was held September 21, 2015, in 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 17, 2015.

CALL TO ORDER

Following a 6:30 p.m. Closed Session regarding a Conference with Legal Council regarding Existing Litigation (Government Code § 54956.9(a)): City of Piedmont v. Harris & Associates; and Conference with Real Property Negotiators (Government Code § 54956.8): Corporation Yard, 898 Red Rock Road; Negotiating Parties: City and Verizon Wireless Negotiators: City Administrator and City Attorney; Under Negotiation: Potential Lease Terms, Mayor Fujioka called the meeting to order at 7:39 p.m. with the Pledge of Allegiance.

ROLL CALL

Present: Mayor Margaret Fujioka, Vice Mayor Jeff Wieler, and Councilmembers Teddy Gray King, Robert McBain, and Tim Rood

Staff: City Administrator Paul Benoit, City Attorney Michelle Marchetta Kenyon, Planning Director Kate Black, Public Works Director Chester Nakahara, Fire Chief Bud McLaren, Recreation Director Sara Lillevand, Senior Planner Kevin Jackson, and City Clerk John Tulloch

CONSENT CALENDAR

Minutes

The Council requested the following revisions to the September 8, 2015 meeting minutes:

- Page 2, Paragraph 6, which starts with Appellant Steve Silver...'testified that the parking issues are severe' add 'impossible.'
- Page 2, add a period after the word "exceptions" in the second to last line.
- Page 3, top of page, should read, "due deference should be given to their unanimous decision."
- Page 4, Paragraph 2, move the paragraph regarding the Mayor's recusal next to the related item, 'Alameda County Emergency Alert System' rather than above it and add 'Mayor Fujioka announced at the beginning of this item...'
- Page 5 add, "Chief Goede stated the ALPRs continue to be a key technological component to the Department's patrol and investigation efforts in the second quarter of 2015. This technology contributed directly to 6 arrests as well as providing key information for investigators including 2 auto theft suspects and a vehicle wanted for several car jackings in neighboring jurisdictions."
- Page 5, move the paragraph regarding the recusal of Councilmember King to the related item, 'Sun Shares Program', rather than above it and reword to match the changes on page 4.
- Page 6, last paragraph, remove McBain from Ayes.
- Page 7, correct the spelling of Vice Mayor Wieler's name.
- Page 7, change "Councilmember McBain wished Mayor Fujioka Happy Birthday" to "Vice Mayor Wieler wished..." or add both names.
- Page 7, under reports from Councilmembers change "meetings which are held in this room" to "meetings which are held in the Council Chambers."

Resolution 90-15

RESOLVED that the City Council approves as amended its meeting minutes for the Regular Session on September 8, 2015

Moved by King, Seconded by Rood

Ayes: Fujioka, King, McBain, Rood, Wieler

Noes: None

Absent: None

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

**Fire Utility
Pump**

Approval of the Purchase of a Pump for the Fire Utility Vehicle
(0045)

**Street Closure
For Triathlon**

Approval of a Street Closure Request for the Recreation Department's 1st Annual Family Triathlon on October 17, 2015
(1000)

Resolution 91-15

RESOLVED, that the City Council approves consent calendar items 2 and 3 as noted.

Moved by Wieler, Seconded by Rood

Ayes: Fujioka, Wieler, King, McBain, Rood

Noes: None

Absent: None

(0045, 1000)

PUBLIC FORUM

Zack Luna and Harrison Miller, 1047 Ranleigh Way, spoke representing Piedmont Middle School Green Team regarding the Conservation Quick Start event on October 6th at 6:30 p.m. which will include information on how to plan and finance projects such as solar panels and reusing water. Speakers will include PG&E, Domino Green Pro Network, and Tony Madrone. City of Piedmont, Piedmont Connect, Piedmont Middle School Green Team, and the League of Women Voters are making information available to all interested residents. Lake Augusta low water levels were discussed.

Rick Schiller, 43 Fairview Avenue, discussed a meeting held by the City Council and Planning Commission two months ago regarding mixed use development guidelines. He suggested a robust discussion focusing on the neighborhood, not the development team, should be held soon to work out issues before the developer submits an application.

CEREMONIAL MATTERS

Mayor Fujioka presented a Proclamation honoring Planning Consultant Barry Miller noting his many years of outstanding work on a wide range of projects in Piedmont for over 25 years.

REGULAR CALENDAR

The Council considered the following items of regular business:

Short Term Rentals

City Administrator Paul Benoit brought to the Council the issue of possible regulation of Short Term Rentals. He stated that the Planning Commission had previously taken this item up at a hearing in September and that this discussion had been continued from the Council's March 16, 2015 meeting. Based upon Council direction, staff has returned with findings and recommendations.

Planning Director Kate Black noted that the regulatory environment regarding short term rentals has changed significantly since March and many cities are struggling with the issue. She reviewed regulations that have been passed or are being considered by other cities, noting all cities are facing the same issues: how to ensure short term rentals cause the least amount of disruption to nearby neighborhoods; ensuring that taxes are collected from each legal short term rental; how to address safety, indemnification, and notification; and how to enforce compliance. Ms. Black discussed hosting platforms and described the difference between home share rentals and vacation rentals.

Ms. Black advised the Council of Senate Bill 593, which would allow jurisdictions to adopt ordinances to require quarterly disclosures from hosting platforms, the ability to fine hosting platforms that don't comply, and to require hosting platforms to collect transient occupancy taxes, and require hosting platforms to disclose information. She indicated that this bill didn't receive enough votes to pass in the 2015 legislative session, but would be re-introduced in 2016.

She discussed recommendations in relation to the Housing Element compliance.

Public testimony was received from:

Rick Schiller, 43 Fairview Avenue expressed the opinion that the State's housing mandates are unrealistic and stated that there are concerns about how short term rentals effect neighborhoods; however, they are needed in some cases. With the proper requirements and restrictions, home share rentals can be of benefit.

Alice and Jordie B, Oakland, expressed their support for the ability of homeowners to conduct short term rentals, citing the financial, cultural and general benefit to the community of this activity. They expressed the opinion that short term rentals do not affect neighborhoods any more than long-term residents, and that allowing them will not create a great increase in their numbers.

Dottie Hutch, 833 Kingston Avenue, stated her belief that it would be almost impossible to regulate all the variations of rentals noting fewer laws are preferable.

Jane Klein, 9 Lake Avenue, supported short term rentals and suggested that the City use procedures similar to getting a home business permit which includes contacting neighbors. With regard to possible regulations, she expressed concern with some of the restrictions, such as the 30 day maximum.

Mayor Fujioka closed the Public Hearing.

The Council discussed the following issues - clarifying the landlord/tenant relationship with regard to subleasing; not turning rooms into commercial enterprises; that the City is not a destination location; neighborhoods being informed of rentals; and addressing this emerging economy. In addition, a Councilmember discussed prohibiting whole house rentals for more than 30 days as they could have deleterious effects on neighborhood's quality of life.

The Council agreed on the following aspects of regulating Short Term Rentals:
1) No Second Units or apartments should be allowed as short term rentals so as

to not jeopardize the existing low income housing stock and 2) Home swaps should not be regulated.

The Council referred the following items to the Planning Commission for a recommendation:

- 1) Whether home shares and/or vacation rentals should be permitted and if so, how they should be regulated;
- 2) How any enforcement of said regulations would be accomplished, including:
 - i) Whether permits for short term rentals would be ministerial or discretionary (with neighbor notice).
 - ii) How inspections of units should be addressed.
 - iii) How any regulations should be enforced, including the amount of staff time devoted to enforcement as well as the cost.
 - iv) Whether short term rentals should be limited to a certain number of days per year.
 - v) Whether tenants should be allowed to sublet.
 - vi) How taxes and fees should be addressed.

(0075)

Bike Route Signage

City Administrator Paul Benoit introduced the Bike Route Signage Project, and explained the process by which staff came to the proposed agreement with Bayside Stripe and Seal. He indicated that, prior to tonight's meeting, Councilmember Rood had raised questions regarding this project. He went on to state that these questions were discussed by the Director of Public Works, the City Engineer, and Planning staff. Based upon these discussions, staff is recommending that this item be withdrawn to allow for possible modification of the scope and approach of the project.

Councilmember Rood reported that he and staff had learned today that the City's application for a \$1.5 million Active Transportation Grant was not chosen for funding. He indicated that Piedmont's application was one point under the threshold for receiving funds. He further stated that a second round of funding would be available through the Metropolitan Transportation Commission.

Councilmember Rood stated that the signage proposed in this project was to fill in the gaps of signage that were not going to be covered in the Active Transportation Grant. The grant would have covered high priority items and this project was intended to handle lower priority items. Given that fact and the fact that the improvements in this project are a disconnected series of fragments that don't connect to each other or key destinations, he stated that this item should be tabled.

Mr. Nakahara suggested that looking at the through routes connecting Piedmont to Oakland's bicycle system would make more sense with the more limited funding available. Staff could then return to Council with estimates and design. In response to Councilmember King, he reiterated the criteria for the project as presented including funding, and simplicity, with these being the most quickly implementable.

Ordinance 718 N.S. Small Residential Rooftop Solar Systems

City Administrator Paul Benoit presented Ordinance 718 N.S. which will bring the City into compliance with new State law requiring an expedited streamlined permit process for small residential rooftop solar systems.

Public Works Director Chester Nakahara highlighted the changes required by the state law, including: allowing electronic submission of permit applications; the requirement that the building official act on applications that have been deemed complete within three days; and inspections being required within two days of a request, in a specified two hour window. He noted that with the exception of the electronic submittal of applications, the City already complied with these requirements. He further noted his belief that these new requirements will not cause any stresses in regard to the existing permit process.

Mr. Nakahara noted that, due to the City's current financial systems, electronic payment would not be allowed at this time, but that the processing of a permit will start when an application is received and contractors would be asked to either mail or bring a check to City Hall to pay their permit fees. Mayor Fujioka noted that electronic payments are being considered as a part of the Information Technology Strategic plan, which will come before the council next month.

Public testimony was received from:

Mr. Fennell commented that the Public Works Department handles these permits expeditiously already, but he is in support of electronic transfers.

The council discussed the item with Councilmember King noting that this item is consistent with the Environmental Task Force work and is consistent with the Climate Action Plan. Vice Mayor Wieler praised the Public Works Department staff, indicating that the contractor who installed his solar panels was amazed at the ease of the building permit process in Piedmont.

Resolution 92-15

Resolved, that the City Council conducts the first reading of Ordinance 718 N.S. Adding Article II to Chapter Five of the City Code to provide an expedited, streamlined permitting process for small residential rooftop solar systems as mandated by AB 2188.

Moved by King, Seconded by Rood

Ayes: Fujioka, McBain, Rood, McBain, Wieler

Noes: None

Absent: None

(0705)

2015 Pavement Project

City Administrator Paul Benoit recommended that the Council approve the resolution in the staff report which awards the 2015 Pavement Project to Granite Rock Company in the amount of \$479,753.90 and takes other actions regarding the project. The Council received a report on the selection of streets for this project in April, 2015.

Mr. Nakahara indicated that the majority of funding for this project comes from Measures B and BB. He also stated that he would be bringing another paving project forward for consideration in several months which would cover additional streets.

In response to a question from Council, City Engineer John Wanger indicated that the price of this project was comparable to paving projects in previous years. He further stated that a good portion of the cost of this project will be going towards special design features and are not comparable to the last year's projects or cost estimates.

There were no public speakers on this item.

Resolution 93-15

WHEREAS, in accordance with the requirements of Chapter 2, Article XV of the Piedmont City Code (“Purchasing Ordinance”) and in accordance with California Public Contract Code Section 20162 and other applicable law, the City of Piedmont solicited bids for the 2015 Pavement Project (“Project”); and

WHEREAS, bids for the Project were opened on September 10, 2015 in accordance with Purchasing Ordinance, California Public Contract Code Section 4104.5 and other applicable laws; and

WHEREAS, two bids were received of \$479,753.90 and \$486,064.00, with the low bid being from Granite Rock Company; and

WHEREAS, staff has determined that the Granite Rock Company bid satisfies the bidding requirements for the Project; and

WHEREAS, staff has verified that Granite Rock Company possesses valid California Contractor’s Licenses under the requested Class A, number 22 (expires 4/30/17) as required to qualify to perform the Project; and

WHEREAS, the Project is exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15301(c) of Title 14 of the California Code of Regulations as it consists of the repair and maintenance of existing streets and involves negligible or no expansion of existing use; and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PIEDMONT AS FOLLOWS:

1. The above recitals are true and correct and are hereby incorporated into this Resolution as findings of the City Council of the City of Piedmont.
2. The Project is categorically exempt under the California Environmental Quality Act (CEQA) in accordance with Section 15301(c) of Title 14 of the California Code of Regulations.
3. In accordance with the Purchasing Ordinance and California Public Contract Code Section 20160 et seq. and other applicable laws, the City Council of the City of Piedmont hereby finds the bid of Granite Rock Company for the 2015 Pavement Project to be the lowest, responsive bid and waives any irregularities in such bid in accordance with applicable law.
4. The contract for the 2015 Pavement Project is hereby awarded to Granite Rock Company in the amount of \$479,753.90, conditioned on Granite Rock Company timely executing the Project contract and submitting all required documents, including, but not limited to, executed bonds/surety, certificates of insurance, and endorsements, in accordance with the Project bid documents.
5. The City Administrator is hereby authorized and directed to execute upon submission by Granite Rock Company all documents required pursuant to the Project bid documents for performance of the Project.

6. The overall budget for the Project be established at \$587,424.
7. The Public Works Director is hereby authorized to execute any contract change orders in accordance with the Project contract documents so long as the total Project cost does not exceed the total funding for this Project in the adopted budget.
8. City staff is hereby directed to issue a Notice of Award to Granite Rock Company.
9. This Resolution shall become effective immediately.
10. All portions of this resolution are severable. Should any individual component of this Resolution be adjudged to be invalid and unenforceable by a body of competent jurisdiction, then the remaining resolution portions shall be and continue in full force and effect, except as to those resolution portions that have been adjudged invalid. The City Council of the City of Piedmont hereby declares that it would have adopted this Resolution and each section, subsection, clause, sentence, phrase and other portion thereof, irrespective of the fact that one or more section subsection, clause sentence, phrase or other portion may be held invalid or unconstitutional.

Moved by Rood, Seconded by McBain

Ayes: Fujioka, McBain, Rood, McBain, Wieler

Noes: None

Absent: None

(0045)

**City Hall Fence
and Gate Project**

City Administrator Paul Benoit stated the stucco wall along the westerly courtyard of City Hall is in a severe state of deterioration and its replacement has been under discussion for approximately 10 years. In 2011, the City solicited bids for this project, but the only bid received was unresponsive. The project was put out to bid again this year and Pacific General Engineering was the lowest bidder with a price of \$89,500. Mr. Benoit noted that the project would be paid for out of the Facilities Maintenance Fund. Public Works Director Nakahara responded to Mayor Fujioka noting the project honors the historical design and discussed ingress/egress as well as scheduling with regard to El Nino.

There were no public speakers on this item.

Resolution 94-15

WHEREAS, in accordance with the requirements of Chapter 2, Article XV of the Piedmont City Code ("Purchasing Ordinance") and other applicable law, the City of Piedmont solicited bids for the City Hall Fence and Gate Replacement Project("Project"); and

WHEREAS, bids for the Project were opened on August 4, 2015 in accordance with Purchasing Ordinance, California Public Contract Code Section 20160, *et seq.* and other applicable laws; and

WHEREAS, two bids were received of \$89,500 and \$94,691 with the low bid being from Pacific General Engineering; and

WHEREAS, staff has determined that the Pacific General Engineering bid satisfies the bidding requirements for the Project; and

WHEREAS, staff has verified that Pacific General Engineering possesses valid California Contractor's Licenses under the requested Class A, number 708637 (expires 06-30-2017) as required to qualify to perform the Project; and

WHEREAS, the Project is exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15301(d) and 15302(c) of Title 14 of the California Code of Regulations as it consists of the rehabilitation of facilities and equipment to meet current standards of public health and safety and the reconstruction of existing utility systems and/or facilities involving negligible or no expansion of capacity; and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PIEDMONT AS FOLLOWS:

1. The above recitals are true and correct and are hereby incorporated into this Resolution as findings of the City Council of the City of Piedmont.
2. The Project work is categorically exempt under the California Environmental Quality Act (CEQA) in accordance with Section 15301(d) and 15302(c) of Title 14 of the California Code of Regulations.
3. In accordance with the Purchasing Ordinance and California Public Contract Code Section 20160 et seq. and other applicable laws, the City Council of the City of Piedmont hereby finds the bid of Pacific General Engineering for the City Hall Fence and Gate Replacement Project to be the lowest, responsive bid and waives any irregularities in such bid in accordance with applicable law.
4. The contract for the City Hall Fence and Gate Replacement Project is hereby awarded to Pacific General Engineering in the amount of \$89,500, conditioned on Pacific General Engineering timely executing the Project contract and submitting all required documents, including, but not limited to, executed bonds/surety, certificates of insurance, and endorsements, in accordance with the Project bid documents.
5. The City Administrator is hereby authorized and directed to execute upon submission by Pacific General Engineering all documents required pursuant to the Project bid documents for performance of the Project.
6. The overall Project Construction Budget be established at \$98,450.
7. The Public Works Director is hereby authorized to execute any contract change orders in accordance with the Project contract documents so long as the total Project cost does not exceed the total funding for this Project in the adopted budget.
8. City staff is hereby directed to issue a Notice of Award to Pacific General Engineering
9. This Resolution shall become effective immediately.

10. All portions of this resolution are severable. Should any individual component of this Resolution be adjudged to be invalid and unenforceable by a body of competent jurisdiction, then the remaining resolution portions shall be and continue in full force and effect, except as to those resolution portions that have been judged invalid. The City Council of the City of Piedmont hereby declares that it would have adopted this Resolution and each section, subsection, clause, sentence, phrase and other portion thereof, irrespective of the fact that one or more section subsection, clause sentence, phrase or other portion may be held invalid or unconstitutional.

Moved by King, Seconded by Rood

Ayes: Fujioka, McBain, Rood, Wieler

Noes: None

Absent: None

(0045)

REPORTS FROM COUNCILMEMBERS

Councilmember Rood reported a resignation on the Planning Commission by Planning Commissioner Louise Simpson. He commended her leadership in that capacity for the past several years. This and another possible vacancy on another Committee should be announced next week on the City's website.

Councilmember King stated this is a busy month for the Recreation Department. She noted that the school year had started off right with great attendance in after school programs. She also noted that the Harvest Festival would take place on Sunday, September 27th. She reminded her fellow Council members of the first annual Kid's Triathlon on October 17th for ages 6-14 as well as the Haunted House on October 28th, 29th, and 30th.

Councilmember Rood also noted the Alameda County Community Choice Aggregation Steering Committee's RFP for a Feasibility Study for a Community Choice Aggregation District has received a lot of interest. He noted his appointment to the subcommittee that will review the proposals in October.

Mayor Fujioka stated there was a very well-received Legislative Town Hall Meeting on September 16th hosted by the City and School District with guests State Senator Loni Hancock and Assemblymember Tony Thurmond. Topics of discussion included education funding, public safety, climate change, state finances, and many other issues. She thanked staff for putting the event together and department heads for attending.

ANNOUNCEMENTS

Home and Energy Conservation Event -- Mayor Fujioka announced this event, sponsored by Piedmont Connect, will take place October 6th at the Middle School at 6:30 p.m. She stated that she has the honor of introducing Piedmont resident and keynote speaker, Cisco DeVries, who is a leader in environmental issues and financing.

2nd Annual City/Schools Holiday Book Drive -- Mayor Fujioka announced that the City and School District will be holding the second annual holiday book drive to benefit the East Bay Children's Book Project and the Rotary Club's Kinder Prep Program. Residents who wish to donate will be able to at the Turkey Trot, City Hall, and the three elementary schools in Piedmont.

Map Your Neighborhood -- Mayor Fujioka encouraged citizens to follow the Public Safety Committee's recommendation to "map your neighborhood."

National Preparedness Month -- Mayor Fujioka reminded citizens that September is National Preparedness Month themed, 'Don't Wait, Communicate.'

FUTURE AGENDA ITEMS

Councilmember Wieler requested that the possibility of reduced permit fees for emergency preparedness home improvements be agendaized at a future meeting.

Mayor Fujioka requested that staff brief the Council on how it is preparing to handle issues related to the possibility of a strong El Nino winter. The City Administrator noted it will be on the next agenda.

ADJOURNMENT

There being no further business, Mayor Fujioka adjourned the meeting at 10:08 p.m.