

PIEDMONT CITY COUNCIL

Regular Meeting Minutes for Monday, August 3, 2015

A Regular Session of the Piedmont City Council was held August 3, 2015, 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 July 30, 2015.

CALL TO ORDER

Following a 7:00 p.m. Closed Session for conference with legal counsel to discuss significant exposure to litigation in one potential case, held pursuant to Government Code Section 54956.9(d)(2), Mayor Fujioka called the meeting to order at 7:33 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 Kenyon, Planning Director Kate Black, Recreation Director Sara Lillevand, Public Works Director Chester Nakahara, Senior Planner Kevin Jackson, and City Clerk John Tulloch

CONSENT CALENDAR

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

2nd Reading of Ordinance 717 N.S.

Second reading of Ordinance 717 N.S. amending Sections 9.2, 9.9, 9.10 and 9.11 of the Piedmont City Code to comply with Piedmont and State law governing Construction and Demolition recycling and reporting requirements.

CUP Modification 5201 Park Boulevard

Approval of a modification to the Conditional Use Permit for Zion Lutheran Church and School at 5201 Park Boulevard:

WHEREAS, Zion Lutheran Church is requesting to modify the church's Conditional Use Permit to permit a new private school providing education from pre-kindergarten through 9th grades to operate on the premises with regular school hours from 7:30 a.m. through 6:00 p.m., Monday through Friday. Serving a maximum of 120 students at the site, the Renaissance International School provides a tri-lingual immersion Montessori program in English, French and Spanish with Kodaly choral and fine arts education, located at 5201 Park Boulevard, Piedmont, California; and

WHEREAS, the Piedmont City Council reviewed the application, the staff report, Planning Commission deliberation and any and all other documentation submitted in connection with the application;

NOW, THEREFORE, BE IT RESOLVED, that the Piedmont City Council determines that the granting of a Conditional Use Permit Modification to Zion Lutheran Church at 5201 Park Boulevard, Piedmont, California, is categorically exempt under the California Environmental Quality Act ("CEQA"), pursuant to CEQA Guidelines Section 15301, Class 1(e).

BE IT FURTHER RESOLVED, that the Piedmont City Council determines that the granting of a Conditional Use Permit Modification to Zion Lutheran Church at 5201 Park Boulevard, Piedmont, California, conforms with the criteria and standards of Section 17.24.7 of the Piedmont City Code, adopting the following findings:

1. The proposed use is compatible with the General Plan and conforms to the zoning code, in that the church and school have been in operation for years and

have been compatible with the General Plan and have conformed with the Municipal Code.

2. The use is primarily intended to serve Piedmont residents, in that the school provides priority registration to Piedmont residents, and Piedmont residents have indicated their support for the school.

3. The use will not have a material adverse effect on the health, safety or welfare of persons residing or working in the vicinity. Considerations for this finding include no substantial increase in traffic, parking needs or noise; no adverse effect on the character of the neighborhood; no tendency to adversely affect surrounding property values, in that the property is isolated at the base of a cliff and is independent from the surrounding neighborhood. Additionally, the application proposes no changes to the parking or circulation patterns.

BE IT FURTHER RESOLVED, that in consideration of the findings and facts set forth above, the Piedmont City Council approves the application by Zion Lutheran Church for a Conditional Use Permit Modification for property located at 5201 Park Boulevard, Piedmont, California, subject to the following conditions:

1. **Terms of the Approval.** A review of the conditional use permit shall occur in May of 2027 and the conditional use permit shall have the following operational characteristics:

- a. Church Hours:
 - i. Office Hours: 8:00 a.m. to 6:00 p.m., Monday through Friday
 - ii. Church and Organization Meeting Hours as needed: 7:00 a.m. to 9:30 p.m., Monday through Friday, and 5:30 p.m. to 9:00 p.m., 4th Saturday of the month
 - iii. Sanctuary Hours: Sundays 8:00 a.m. to 1:00 p.m., Seasonally 6:00 p.m. to 8:00 p.m.
- b. School Hours:
 - i. Regular School Hours: 7:30 a.m. to 6:00 p.m., Monday through Friday
 - ii. Gym Hours: 4:00 p.m. to 8:30 p.m., Monday through Thursday, and 4:00 p.m. to 9:00 p.m. Fridays.
 - iii. Evening Events as needed: to 10:00 p.m.
- c. Types of Church and School Staff/Personnel:
 - i. Church: 1 full time pastor, 1 full-time youth director, 1 full-time parish administrator, 1 part-time organist.
 - ii. School: 10 full-time teachers, 4 part-time teachers and accompanists, 2 full-time administrators, and up to 120 students.

2. **Six-Month Geotechnical Reports.** As previously required by CUP #12-0054, over the course of the term of this conditional use permit modification, at intervals no longer than six months and at times coincident with significant slide activity, Zion Lutheran Church and School shall submit geological reports to the Public Works Department for review by the City Engineer addressing issues of slope stability, site safety and the ability of existing school buildings to withstand a major slope failure. In the event any of

these geological reports indicate safety issue problems/concerns, the City Council has the authority to reconsider the Conditional Use Permit;

3. Defense of Legal Challenges. If there is a third party administrative, legal or equitable action challenging the project approvals, including CEQA issues, the Property Owner shall defend and indemnify the City against any liability, fees and costs arising out of the defense, including the costs of City's own counsel. If such an action is filed, the Property Owner and City shall then enter into an agreement regarding selection of counsel and other provisions related to the defense. For this purpose, "City" includes the City and its elected and appointed officials, agents, officers and employees.

Resolution 78-15

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

Moved by McBain, Seconded by Rood

Ayes: Fujioka, Wieler, King, McBain, Rood

Noes: None

Absent: None

(0705, 0340)

PUBLIC FORUM

There were no speakers for the public forum.

REGULAR CALENDAR

The Council considered the following items of regular business:

Minutes

In response to a request from Ms. Alice Creason and verification from the City Clerk, the Council requested a correction be made to the July 20, 2015, meeting minutes. On page 2, paragraph 4, sentence 4, the sentence shall read: "They argued that the applicants' attorney had ceded rights to the disputed property in a letter to the Planning Commission."

Resolution 79-15

RESOLVED, that the City Council approves as amended herein its meeting minutes of July 20, 2015.

Moved by Rood, Seconded by King

Ayes: Wieler, King, McBain, Rood

Noes: None

Absent: None

Abstain: Fujioka

**Street Closure Request
For FallFest 5K**

City Administrator Benoit explained that the FallFest 5K, benefitting the Piedmont High School Wellness Center, is scheduled to be held on September 26, 2015. He stated that the proposed route is the same as in previous years and that Staff recommends approval of the street closure request.

Jody Beasley, FallFest 5K Chair, spoke about the importance of the race in raising funds and awareness for the Wellness Center. Karen Snow Hawkins, Course Coordinator, explained the significant coordination that occurs with City Staff to assure the safety of the course.

The Council was in full support of the proposed temporary street closures for the FallFest 5K and emphasized the importance of the Wellness Center.

Resolution 80-15

RESOLVED, that the City Council approves a request to close city streets on Saturday September 26, 2015, for the “FallFest 5K” fundraiser sponsored by the Piedmont High School Wellness Center.

Moved by McBain, Seconded by King

Ayes: Fujioka, Wieler, King, McBain, Rood

Noes: None

Absent: None

(1000)

**Parking Restrictions
for Community Hall
Parking Lot**

City Administrator Benoit asked Council to approve a one-year trial of new parking restrictions at the Piedmont Community Hall parking lot. He touched on the parking lot’s history, outlined the restrictions proposed by Staff, and noted that the proposal has been reviewed with the Superintendent of the Piedmont Unified School District.

Recreation Director Sara Lillevand outlined the challenges of unrestricted parking in the Community Hall parking lot. She explained that high school students and staff often park all day in the lot, which makes it difficult to ensure adequate parking for Community Hall renters, preschool pick-up and drop-off, and other Community Hall users. She detailed the proposed parking restrictions, which include designating three parking spaces for Recreation Department vans, designating five parking spaces for Permit A parking (school district staff), and limiting parking to two hours on weekdays in the remaining 25 parking spaces. She also explained that five of these 25 parking spaces are proposed to have additional limitations to allow for preschool pick-up and drop-off, and that the current disabled parking space will remain. She added that the entire parking lot would be closed an estimated 35 times during the school year to accommodate significant meetings and events. Recreation Director Lillevand explained that the new parking restrictions would be enforced by the Police Department, with limited impact on Police resources, and that Staff will return to the Council at the end of the one-year trial period to assess its success and suggest any necessary modifications.

Staff answered numerous questions from the Council regarding the proposed restrictions. Recreation Director Lillevand confirmed that Staff spoke with various user groups in drafting the restrictions, and she confirmed that they plan to reach out to residents through signage, the City website, weekly emails to preschool families, school district communications, and/or mass texts. When Councilmember King expressed concern for the lack of designated parking for the preschool, Recreation Director Lillevand explained that the preschool start times will be staggered to spread out the pick-up and drop-off traffic. She also explained the timeline for the trial period. The City Administrator stated that the five Permit A parking spaces were designated in response to a meeting with the PUSD Superintendent. The Public Works Director explained that the City plans to improve the delineation and/or signage of the existing disabled parking space and provide better information to Community Hall vendors who have blocked the space in the past. The Recreation Director, City Attorney and City Clerk all commented on questions regarding enforcement of the new restrictions.

During a lengthy discussion, the Council expressed full support of the proposed parking restrictions, commenting that the lot should support City services instead of providing unrestricted parking. Mayor Fujioka and other members of the Council emphasized the importance of proper signage and communication, especially with regard to enforcement and parking lot closures.

Resolution 81-15

RESOLVED, that the City Council approves a one-year trial of two-hour parking between the hours of 7:00 a.m. and 4:00 p.m. weekdays in Piedmont Community Hall parking lot, including designation of five parking spaces as 15 minute loading and unloading zones for the hours of 8:45 a.m. and 9:30 a.m. and noon and 1:00 p.m., designation of three parking spaces for the Recreation Department vans, and designation of five Permit A spaces between 7:00 a.m. and 2:30 p.m.

Moved by Rood, Seconded by King

Ayes: Fujioka, Wieler, King, McBain, Rood

Noes: None

Absent: None

(0270-0370, 0735)

**Resolution Urging
the State to Fund
Street Maintenance**

City Administrator Benoit reported that Councilmember King, who serves on the East Bay Division Executive Committee of the League of California Cities, brought this issue to the attention of the City. He explained that the Governor is advocating for increased state funding for transportation infrastructure, and the League is asking local governments to consider adopting resolutions in support of the Governor's initiative. City Administrator Benoit stated that passage of a state transportation funding measure could significantly boost the City's street maintenance budget. In response to a question from Mayor Fujioka, Councilmember King identified some of the members of the Fix Our Roads Coalition and explained the role that Piedmont has within the League of California Cities.

The Council was unanimous in its support of the resolution and thanked Councilmember King for bringing the issue to the City's attention. The Council made two minor grammatical corrections to the resolution.

Resolution 82-15

WHEREAS, Governor Edmund G. Brown, Jr. has called an extraordinary session to address the immense underfunding of California's transportation infrastructure; and

WHEREAS, cities and counties own and operate more than 81 percent of streets and roads in California, and from the moment we open our front door to drive to work, bike to school, or walk to the bus station, people are dependent upon a safe, reliable local transportation network; and

WHEREAS, the City of Piedmont has participated in efforts with the California State Association of Counties, League of California Cities, and California's Regional Transportation Planning Agencies to study unmet funding needs for local roads and bridges, including sidewalks and other essential components; and

WHEREAS, the resulting 2014 California Statewide Local Streets and Roads Needs Assessment, which provides critical analysis and information on the local transportation network's condition and funding needs, indicates that the condition of the local transportation network is deteriorating as predicted in the initial 2008 study; and

WHEREAS, the results show that California's local streets and roads are on a path of significant decline. On a scale of zero (failed) to 100 (excellent), the

statewide average pavement condition index (PCI) is 66. Without adequate funding to maintain and improve the PCI road conditions will deteriorate and require rehabilitation or rebuilding rather than more cost-effective preventative maintenance if funding is not increased; and

WHEREAS, the results show that the City of Piedmont's local streets have an average pavement index of 63; with an index lower than the statewide average, the City of Piedmont's transportation infrastructure would benefit significantly with added funding; and

WHEREAS, if funding remains at the current levels, in 10 years, 25 percent of local streets and roads in California will be in "failed" condition; and

WHEREAS, cities and counties need an additional \$1.7 billion just to maintain a status quo pavement condition of 66, and much more revenue to operate the system with Best Management Practices, which would reduce the total amount of funding needed for maintenance in the future; and

WHEREAS, models show that an additional \$3 billion annual investment in the local streets and roads system is expected to improve pavement conditions statewide from an average "at risk" condition to an average "good" condition; and

WHEREAS, if additional funding isn't secured now, it will cost taxpayers twice as much to fix the local system in the future, as failure to act this year will increase unmet funding needs for local transportation facilities by \$11 billion in five years and \$21 billion in ten years; and

WHEREAS, modernizing the local street and road system provides well-paying construction jobs and boosts local economies; and

WHEREAS, the local street and road system is also critical for farm to market needs, interconnectivity, multimodal needs, and commerce; and

WHEREAS, police, fire, and emergency medical services all need safe reliable roads to react quickly to emergency calls and a few minutes of delay can be a matter of life and death; and

WHEREAS, maintaining and preserving the local street and road system in good condition will reduce drive times and traffic congestion, improve bicycle safety, and make the pedestrian experience safer and more appealing, which leads to reduced vehicle emissions, helping the State achieve its air quality and greenhouse gas emissions reductions goals; and

WHEREAS, restoring roads before they fail also reduces construction time which results in less air pollution from heavy equipment and less water pollution from site run-off; and

WHEREAS, in addition to the local transportation system, the state highway system needs an additional \$5.7 billion annually to address the state's deferred maintenance; and

WHEREAS, in order to bring the local system back into a cost-effective condition, an investment of at least \$7.3 billion annually in new money, going directly to cities and counties, is needed;

NOW, THEREFORE, BE IT RESOLVED THAT THE CITY COUNCIL OF THE CITY OF PIEDMONT strongly urges the Governor and Legislature to identify a sufficient and stable funding source for local street and road and state highway maintenance and rehabilitation to ensure the safe and efficient mobility of the traveling public and the economic vitality of California.

RESOLVED FURTHER, that the CITY OF PIEDMONT strongly urges the Governor and Legislature to adopt the following priorities for funding California's streets and roads.

1. Make a significant investment in transportation infrastructure.

Any package should seek to raise at least \$6 billion annually and should remain in place for at least 10 years or until an alternative method of funding our transportation system is agreed upon.

2. Focus on maintaining and rehabilitating the current system.

Repairing California's streets and highways involves much more than fixing potholes. It requires major road pavement overlays, fixing unsafe bridges, providing safe access for bicyclists and pedestrians, replacing storm water culverts, as well as operational improvements that necessitate the construction of auxiliary lanes to relieve traffic congestion choke points and fixing design deficiencies that have created unsafe merging and other traffic hazards. Efforts to supply funding for transit in addition to funding for roads should also focus on fixing the system first.

3. Equal split between state and local projects. We support sharing revenue for roadway maintenance equally (50/50) between the state and cities and counties, given the equally-pressing funding needs of both systems, as well as the longstanding historical precedent for collecting transportation user fees through a centralized system and sharing the revenues across the entire network through direct subventions. Ensuring that funding to local governments is provided directly, without intermediaries, will accelerate project delivery and ensure maximum accountability.

4. Raise revenues across a broad range of options. Research by the California Alliance for Jobs and Transportation California shows that voters strongly support increased funding for transportation improvements. They are much more open to a package that spreads potential tax or fee increases across a broad range of options, including fuel taxes, license fees, and registration fees, rather than just one source. Additionally, any package should move California toward an all-users pay structure, in which everyone who benefits from the system contributes to maintaining it – from traditional gasoline-fueled vehicles, to new hybrids or electric vehicles, to commercial vehicles.

5. Invest a portion of diesel tax and/or cap & trade revenue to high-priority goods movement projects. While the focus of a transportation funding package should be on maintaining and rehabilitating the existing system, California has a critical need to upgrade the goods movement infrastructure that is essential to our economic well-being. Establishing a framework to make appropriate investments in major goods movement arteries can lay the groundwork for greater investments in the future that will also improve air quality and reduce greenhouse gas emissions.

6. Strong accountability requirements to protect the taxpayers' investment. Voters and taxpayers must be assured that all transportation revenues are spent responsibly. Local governments are accustomed to employing transparent processes for selecting road maintenance projects aided by pavement management systems, as well as reporting on the expenditure of transportation funds through the State Controller's Local Streets and Roads Annual Report.

7. Provide Consistent Annual Funding Levels. Under current statute, the annual gas tax adjustment by the Board of Equalization is creating extreme fluctuations in funding levels, as evidenced by a \$900 million decrease in this budget year alone. A transportation funding package should contain legislation that will create more consistent revenue projections and allow Caltrans, local governments, and transportation agencies the certainty they need for longer term planning.

Moved by Wieler, Seconded by King
Ayes: Fujioka, Wieler, King, McBain, Rood
Noes: None
Absent: None
(0890, 1000)

**City Hall Sump Pump
Discharge Re-routing
Project**

City Administrator Benoit reviewed the history of City Hall's issues with drainage and explained that a drainage system and sump pump were installed years ago to pump excess water to Vista Avenue where it could enter the storm drains. He reported that periodic water quality testing has indicated that low levels of contamination exist in the water. The minor contamination is believed to be from an old underground storage tank, which has long been removed and remediated. Alameda County Environmental Health (ACEH) has requested that the City redirect the sump pump discharge to the sanitary system, which will provide the City with final closure on the underground storage tank.

In response to questions from the Council, Public Works Director Nakahara explained that the contamination levels are very low, and although the levels exceed those allowed in stormwater, the City can redirect the water to the sanitary system without a special permit. He reported that the recommended contractor, Engineered Soil Repairs, Inc., is both the lowest bidder and the original installer of the drainage system. He also clarified that ACEH requires a formal resolution, despite the low value of the contract.

The Council was unanimous in its support of the resolution and thanked Public Works Director Nakahara for his work on the issue. The Council made a minor modification to the resolution.

Resolution 83-15

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 Sump Pump Discharge Re-Routing Project ("Project"); and

WHEREAS, bids for the Project were opened on July 22, 2015 in accordance with Purchasing Ordinance, California Public Contract Code Section 20160, *et seq.* and other applicable laws; and

WHEREAS, two bids were received in the amount of \$13,943.00 and \$16,470.00, with the low bid being from Engineered Soil Repairs, Inc.; and

WHEREAS, staff has determined that the Engineered Soil Repairs, Inc. bid satisfies the bidding requirements for the Project; and

WHEREAS, staff has verified that Engineered Soil Repairs, Inc. possesses valid California Contractor's Licenses under the requested Class A, number 668184 (expires 03/21/2017) 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 Engineered Soil Repairs, Inc. for the City Hall Sump Pump Discharge Re-Routing 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 Sump Pump Discharge Re-Routing Project is hereby awarded to Engineered Soil Repairs, Inc. in the amount of \$13,943.00, conditioned on Engineered Soil Repairs, Inc. 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 Engineered Soil Repairs, Inc. all documents required pursuant to the Project bid documents for performance of the Project.

6. The overall Project Construction Budget be established at \$19,000.

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 Engineered Soil Repairs, Inc.

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 McBain, Seconded by King

Ayes: Fujioka, Wieler, King, McBain, Rood

Noes: None

Absent: None

(0045)

REPORTS AND ANNOUNCEMENTS

Town Hall Meeting – Mayor Fujioka announced that the City and the Piedmont Unified School District will be hosting a question and answer session with California State Senator Loni Hancock and Assemblymember Tony Thurmond on September 16, 2015, at 7:30 p.m. at the Piedmont Community Hall.

City Council Meetings – Mayor Fujioka announced that the City Council will not be meeting on August 17. The next meeting will be on September 8, 2015.

Recreation Department – Councilmember King congratulated Recreation Director Sara Lillevand and her staff for the success of their summer recreation programming. She also announced that the fall recreation catalogs have been distributed and include new programs for middle school children, adults and seniors.

FUTURE AGENDA ITEMS

Moraga Canyon – Councilmember McBain asked Staff to comment on the status of fire prevention work that CAL FIRE and the Piedmont Fire Department had discussed for Moraga Canyon. City Administrator Benoit explained that CAL FIRE is still interested in partnering with Piedmont, and stated that with the support of the Council, he will schedule the work to be done. Mayor Fujioka asked that information regarding the fire prevention work be posted on the website.

Public Safety Committee – Mayor Fujioka suggested that the Public Safety Committee focus on public education efforts regarding fire prevention.

ADJOURNMENT

There being no further business, Mayor Fujioka adjourned the meeting at 8:43 p.m.