

PIEDMONT CITY COUNCIL

Regular Meeting Minutes for Monday, January 20, 2015

A Regular Session of the Piedmont City Council was held January 20, 2015, in the City Hall Conference Room and 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 January 15, 2015.

CALL TO ORDER

Mayor Fujioka called the meeting to order in the Conference Room at 5:15 p.m. for the purpose of interviewing candidates for appointment to the City's Information Technology Task Force. The Mayor then adjourned the Council to Closed Session for conference with legal counsel to discuss existing litigation in the case of *City of Piedmont v. Harris & Associates, Robert Gray Associates*, held pursuant to Government Code Section 54956.9(a). Following the 7:00 p.m. Closed Session, Mayor Fujioka called the meeting to order at 7:37 p.m. with the Pledge of Allegiance.

ROLL CALL

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

Absent: Teddy Gray King (excused)

Staff: City Administrator Paul Benoit, City Attorney Michelle Marchetta Kenyon, Fire Chief Bud McLaren, Support Services Manager Lisa Douglas, and City Clerk John Tulloch

PUBLIC FORUM

There were no speakers for the public forum.

REGULAR CALENDAR

The Council considered the following items of regular business:

Continuation of Agenda Item "a"

Resolution 7-15

RESOLVED, that the City Council continues agenda item "a", *Interview of Candidates for the Information Technology Task Force to be Followed by Possible Appointment to Posted Vacancies* to be discussed following the Regular Agenda.

Moved by Rood, Seconded by McBain

Ayes: Fujioka, Wieler, McBain, Rood

Noes: None

Recused: None

Absent: King

Minutes

Resolution 8-15

RESOLVED, that the City Council approves as submitted its meeting minutes of January 5, 2015.

Moved by McBain, Seconded by Rood

Ayes: Fujioka, Wieler, McBain, Rood

Noes: None

Recused: None

Absent: King

Appointment of City Attorney & Agreement for Attorney Services

City Administrator Benoit discussed the history of the City Attorney position. He explained that following George S. Peyton's retirement as City Attorney in 2010, the Council selected Tom Curry of the firm Burke, Williams and Sorensen, LLP (Burke) as the City Attorney. Unfortunately, shortly after his appointment, Mr. Curry became ill and was temporarily unable to serve as City Attorney. The Council selected Michelle Marchetta Kenyon to serve as Acting

City Attorney, as needed, while Mr. Curry was ill, and as Acting City Attorney, on a permanent basis, since his passing in October, 2013.

City Administrator Benoit recommended that the Council appoint Ms. Kenyon as City Attorney and approve the proposed agreement with Burke. He explained that the agreement is modeled after the current agreement utilized for City Attorney services with the City. City Administrator Benoit stated that, because the document is almost five years old, he had it reviewed by Harriet Steiner, a partner with the firm of Best Best & Krieger and City Attorney for the City of Davis. It was her opinion that the agreement proposed between Piedmont and Burke is well within the standards for engagement of municipal contract city attorney services. She had no suggestions for changes to the agreement.

City Administrator Benoit explained that an important difference between this agreement and agreements for prior City Attorney services is that this one is based on a retainer basis, as opposed to being billed hourly for service. He explained that a review of billings over the last five years showed that the City has paid an average of \$235,000 per year in hourly fees for "Basic City Attorney Services". Costs that were not included in the review are those that fell outside of the defined "Basic City Attorney Services", such as litigation and personnel matters. He explained that although the proposed annual retainer fee of \$240,000 is slightly higher than the average of \$235,000 per year in hourly fees, it will allow staff the freedom to bring issues to the City Attorney early and often, which may prevent a small issue from growing into a significant and expensive legal problem. He added that Burke has agreed to hold the billing rate for personnel and labor relations services, which fall outside defined "Basic City Attorney Services", to \$227 per hour as opposed to the regular billing rate of \$290 per hour. City Administrator Benoit concluded by stating that the proposed agreement rolls year to year and is able to be cancelled by either party – the City can cancel the agreement at any time with written notice, and Burke can cancel the agreement with 60-days written notice.

Mayor Fujioka expressed support for the appointment of Ms. Kenyon as City Attorney, citing her efforts to improve the City's contracts and insurance provisions and her efforts to train City Staff, Commissioners, and elected officials on the Brown Act and parliamentary procedure. She also commended the Acting City Attorney on her negotiation skills, which have saved money for the City. When asked about her commitments to other cities, and her availability to the City of Piedmont, Acting City Attorney Kenyon expressed her pleasure in working for the City and stated that Piedmont has been, and will always be, a priority for her.

The Council expressed support for the agreement with Burke, stating that the retainer system will help to prevent unnecessary litigation or conflicts, by allowing staff the freedom to talk with legal counsel as necessary. Councilmember Rood commended Staff for the thorough research and review that went into the Agreement for City Attorney Services.

The Council asked several questions regarding the proposed agreement. Councilmember Rood asked about how responsibility would be allocated in the case of partial liability and suggested the addition of the word "solely" to Section 7 to clarify the matter. Vice Mayor Wieler asked for clarification on whether the liability insurance would be a wasting policy. Acting City Attorney Kenyon stated that she did not think it was a wasting policy, but that she would verify this detail. City Administrator Benoit stated that if the insurance policy is

determined to be a wasting policy, the agreement would be brought back to the Council for discussion. Mayor Fujioka asked for Exhibits B and C of the agreement to be better labeled. She also requested clarification on the potential of double billing, and suggested replacing the words “consultation with” in Section 1 with “notification of”. In summary, the Council made the following revisions to the Agreement for City Attorney Services:

- In Section 1, fourth sentence, the words “consultation with” shall be replaced with “notification of”.
- In Section 7, the word “solely” shall be added between the words “arising” and “out”.
- Larger labels for Exhibit B and Exhibit C shall be added to the agreement.
- It shall be determined that Burke’s Professional Liability Coverage is not a wasting policy.

Resolution 9-15

RESOLVED, that the Piedmont City Council appoints Michelle Marchetta Kenyon as City Attorney of the City of Piedmont and approves the attached agreement, as revised, with Burke, Williams, and Sorensen, LLP for City Attorney Services.

Moved by McBain, Seconded by Rood

Ayes: Fujioka, Wieler, McBain, Rood

Noes: None

Recused: None

Absent: King

(0085)

Mayor Fujioka announced that since she works for Alameda County, she is recusing herself from discussion and action on the next agenda item.

**Agreement with
County Regarding
Medical Priority
Dispatch Services**

City Administrator Benoit explained that in 2011 the City Council approved an agreement with Alameda County Emergency Medical Services to provide Ambulance Transportation and Advanced Life Support services to the sick and injured within the City of Piedmont. Under the terms of the agreement, the City receives financial support, in the amount of \$62,424.00 per year. However, in the past year, a penalty of approximately \$3,100 per quarter was instituted for any jurisdiction in the County that chose not to provide Medical Priority Dispatch Services. City Administrator Benoit explained that Fire Chief Bud McLaren has been working with Piedmont Police and its dispatchers, to explore options for delivery of Medical Priority Dispatch Services, so as not to forfeit a portion of the financial support that Piedmont receives. Staff has determined that the best option for Piedmont is to contract with the Alameda County Regional Emergency Communications Center, at no cost to the City of Piedmont, for Medical Priority Dispatch services. City Administrator Benoit and Chief McLaren explained that under this agreement, 9-1-1 calls within the City will continue to be answered by Piedmont Dispatch. However, after dispatching Piedmont emergency personnel, the Piedmont Dispatch will then transfer the call to Alameda County, where specially trained dispatchers can provide pre-arrival instructions to the caller.

The Council was unanimously in support of approving this proposal, which provides a value-added service for Piedmont residents and keeps the City from forfeiting a portion of its financial support.

Resolution 10-15

RESOLVED, that the City Council approves an Agreement between the City of Piedmont and Alameda County Fire Department, regarding Medical Priority Dispatch Services.

Moved by McBain, Seconded by Rood

Ayes: Wieler, McBain, Rood

Noes: None

Recused: Fujioka

Absent: King

(0045)

Mayor Fujioka reentered the Council Chambers and took her seat at the dais.

**REPORTS AND
ANNOUNCEMENTS**

Piedmont Appreciating Diversity Committee – Mayor Fujioka and Councilmember McBain reported on the Martin Luther King, Jr. Day celebration. They commended local youth organizations for their outstanding music and poetry performances and the City for hosting the event. Councilmember McBain also commended the Mayor and Police Chief Rikki Goede on their speeches during the event.

Alameda Conference of Mayors – Mayor Fujioka reported that she and City Administrator Benoit attended the Alameda Conference of Mayors in Fremont. The Executive Director of the Alameda County Transportation Commission reported at the conference that Measure BB funds will total \$1.5 billion over 5 years. Mayor Fujioka reported that Piedmont will receive \$871,000 for F/Y2015-2016, to be spent on transportation related needs. Mayor Fujioka, who sits on the Alameda County Transportation Commission, will help to draft the standards for Measure BB funds.

Holiday Book Drive – Mayor Fujioka reported that the Holiday Book Drive, co-sponsored by the City of Piedmont and Piedmont Unified School District, was a success, and that over 900 books were donated by Piedmont residents and employees. Mayor Fujioka thanked Andrea Swenson, President of the Piedmont Unified School District Board of Education, Ann Katz of the East Bay Children's Book Project, Peter Sherris of the Oakland Rotary, and Piedmont residents, employees and volunteers.

State of the City Address – Mayor Fujioka reported that the first annual State of the City Address by the Mayor will take place on March 2, 2015, at 7:30 p.m. in the Council Chambers. A reception will likely take place at 7:00 p.m., preceding the event. Mayor Fujioka expressed her belief of informing Piedmont residents on all of the things that the City is doing to move Piedmont forward.

FUTURE AGENDA ITEMS

Turkey Trot Proceeds – Councilmember Rood asked the City Administrator to report on the breakdown of the Turkey Trot proceeds and how much will contribute to Piedmont's Athletic Field Preservation Fund.

LED Streetlights – Councilmember Rood asked the City Administrator to report on the progress of the procurement of the turnkey contract for LED Streetlights. City Administrator Benoit reported that City Staff has developed a Request for Proposal package for this future agenda item, but has run into roadblocks with the City's current purchasing rules and State rules on sole-sourcing. The City continues to move forward on preparing this item for Council review.

At 8:20 p.m., the City Council moved to the Conference Room to continue its open session item regarding interviews and possible appointments for the Information Technology Task Force. No appointments were made.

ADJOURNMENT

There being no further business, Mayor Fujioka adjourned the meeting at 9:04 p.m.