

PIEDMONT CITY COUNCIL

Regular Meeting Minutes for Monday, December 18, 2017

A Regular Session of the Piedmont City Council was held December 18, 2017, in the City Hall Council Chambers at 120 Vista Avenue. In accordance with Government Code Section 54957(b), the agenda for this meeting was posted for public inspection on December 15, 2017.

CALL TO ORDER

The City Council met at 6:30 p.m. in Closed Session for (a) Conference with Labor Negotiators (Gov. Code §54957.6)–Agency Designated Representative(s): Janae Novotny; All Represented Labor Groups: (Piedmont Firefighters Assn; Piedmont Police Officers Assn; SEIU Local (General and Public Works Units). Unrepresented Employees: City Administrator; City Clerk; Finance Director; Confidential Employees; Public Works Director; Professional, Technical & Supervisory Employees; Planning Director, Parks & Project Manager; Building Official; Police Chief; Police Captain; Police Support Services Commander; Fire Chief, Fire Captains; Recreation Director; Recreation/Childcare Employees). Following the 6:30 p.m. Closed Session, Mayor McBain called the meeting to order at 7:37 p.m. with the Pledge of Allegiance.

ROLL CALL

Present: Mayor Bob McBain, Vice Mayor Teddy Gray King, and Councilmembers Betsy Smegal Andersen, Jennifer Cavanaugh, and Tim Rood

Staff: City Administrator Paul Benoit, Assistant City Attorney Sergio Rudin, Planning Director Kevin Jackson, Recreation Director Sara Lillevand, Public Works Director Chester Nakahara, Aquatics Coordinator Victor Rivas, Sports Coordinator Steven Chavarria, and City Clerk John Tulloch

CONSENT CALENDAR

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

Minutes

Approval of Council Meeting Minutes for 11/20/17 and 11/27/17 (Special Meeting)

2nd Reading of Ordinance 738 N.S.

2nd Reading of Ordinance 738 N.S., Amending Division 17.48 of the City Code Regulate Private Cannabis Cultivation and Commercial Cannabis Facilities in Response to Changes in State Law (0705)

Minor Modification to Conditional Use Permit

WHEREAS, the applicant, Rob Bloemker at 370 Highland Way, Suite 200, is requesting a minor modification to a conditional use permit to change the name of an Investment Company that has been operating on the second floor of the multi-tenant office and commercial building; 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 minor modification to a Conditional Use Permit for a change of name for an investment company located on the second floor of the multi-tenant office and commercial building at 370 Highland Avenue, Suite 200 (Application #17-0377), is exempt under the California Environmental Quality Act (“CEQA”) Guidelines Section 15301.

BE IT FURTHER RESOLVED, that the Piedmont City Council determines that

the granting of a minor modification to a Conditional Use Permit, conforms with the criteria and standards of Section 17.68.040 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 use will not change from the previously approved CUP and the use complies with the standards for Zone D listed in Section 17.26.
2. The use is primarily intended to serve Piedmont residents in that the office will continue to provide financial expertise to Piedmont residents and neighboring businesses.
3. Under all the circumstances and conditions of the particular case, the use will not have a material adverse effect on the health or safety 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 pedestrian and vehicular safety will not be affected because the modification is only a name change.

BE IT FURTHER RESOLVED, that in consideration of the findings and facts set forth above, the Piedmont City Council approves the application by Rob Bloemker at 370 Highland Way, Suite 200, Piedmont, California, subject to the following conditions:

1. Terms of Approval. A review of the Conditional Use Permit shall occur in December of 2019 upon the end of the term of the lease of the building and the Conditional Use Permit shall have the following operational characteristics:

Office Hours: Monday-Friday, 7am-6pm

2. Types of Staff/Personnel: Two owners and four business professionals perform general office work.
3. Signage. Any new or modified exterior signage may require a design review permit as provided in Division 17.36 of the City Code.
4. Defense of Legal Challenges. If there is a third party administrative, legal or equitable action challenging the project approvals, including CEQA issues, the Applicant 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 Applicant and city shall then enter into an agreement regarding selection of counsel and other provisions related to the defense. For this purpose, "City" include the City and its elected and appointed officials, agents, officers and employees.

(0085)

Resolution No. 112-17

RESOLVED, that the City Council approves the Consent Calendar Items 1 through 3.

Moved by Cavanaugh, Seconded by King

Ayes: Andersen, Cavanaugh, King, McBain, Rood

Noes: None

Amendment to

Approval of an Amendment to the Agreement with R3 Consulting Group for

**Agreement with R3
Consulting Group**

Development of a Request for Proposals for Waste Collection Services and Appropriation of Funds for this expense.

Vice Mayor Teddy Gray King questioned the increase in the contract fee. City Administrator Paul Benoit explained the initial 2003 contract with R3 Consulting and recent contract negotiations. He discussed increased tasks associated with one solid waste bidder and requested Council approve the \$18,500 increase.

There were no public speakers on this item.

Resolution No. 113-17

RESOLVED, that the City Council approves the amendment to the consulting agreement between the City of Piedmont and R3 Consulting Group, Inc. in an amount not to exceed \$18,500 and appropriates funds in the same amount from the unappropriated General Fund for the expense.

Moved by King, Seconded by Rood

Ayes: Andersen, Cavanaugh, King, Rood, McBain

Noes: None

(0045, 0490-0700)

**408 Linda Ave.
Improvement
Agreement**

Approval of an Amendment to Subdivision Improvement Agreement with Piedmont Station, LLC Regarding the 408 Linda Ave, Development

In response to a question from Councilmember Tim Rood, City Administrator Paul Benoit explained that the developer was asking for the Public Works Director to issue seven certificates of occupancy due to PG&E delays based on the recent fires. Public Works Director Nakahara explained the Piedmont Station agreement with PG&E and the City's independent inspection.

There were no public speakers on this item.

Resolution No. 114-17

RESOLVED, that the City Council authorizes the City Administrator to sign the First Amendment to the Subdivision Improvement Agreement associated with the Piedmont Station Condominium Project at 408 Linda Avenue.

Moved by Rood, Seconded by King

Ayes: Andersen, Cavanaugh, King, Rood, McBain

Noes: None

(0045, 1010)

PUBLIC FORUM

There were no speakers for Public Forum.

CEREMONIAL MATTERS

**Introduction of New
Employee**

Recreation Director Sara Lillevand introduced Facilities and Events Coordinator John Wilk, Aquatics Coordinator Victor Rivas and Sports Coordinator Steven Chavarria. Mayor McBain welcomed the new employees.

Vice Mayor King welcomed John Bauters, Mayor of Emeryville.

REGULAR AGENDA

The Council considered the following items of regular business:

**Aquatics Center
Survey and Possible**

City Administrator Paul Benoit introduced David Metz of FM3, a firm selected to develop a survey to evaluate community interest and support for a new

Next Steps

aquatics facility.

Mr. Metz presented the results of the survey of Piedmont voter support for a Recreation Facilities Improvement Bond, indicating voters were optimistic about the direction of the City, concerned with crime, and did not see the condition of the pool as a serious problem. He discussed voters' views of Police, Fire, Recreation Department, and City government and summarized the responses regarding taking care of needs of residents, financial management and City services. Mr. Metz reviewed the responses to specific questions related to the pool and result that a slim majority of voters were willing to support a bond measure.

The Council reiterated the poor condition of the pool and the need to inform the community of its condition before proceeding with a bond measure. It acknowledged the effort required to proceed with a bond measure.

Public Testimony was received from:

Wendy Willrich stated concerns with the possible renovation of the aquatics center, noting that it would most likely displace the marking room for Dress Best for Less, which donates almost \$100,000 annually to the Piedmont Unified School District.

Mayor McBain suggested initiating a public outreach campaign and reconfiguring the ad hoc Aquatics Committee to have Councilmember Andersen take Vice Mayor King's position, a suggestion with which Vice Mayor King concurred.

The Council thanked FM3 and poll participants and suggested cautiously informing the public that the pool was at risk of closure while avoiding dissuading pool customers.

The Council provided direction to staff and adjusted membership in the Ad Hoc Aquatics Committee to be Mayor McBain and Councilmember Andersen. (0262-1022)

**Acceptance of
Improvements for
Hampton Park**

City Administrator Paul Benoit explained the two-part presentation: 1) review of financial considerations related to the construction contract for Hampton Field improvements and budget and approval of the project; and 2) outcome and success of public/private partnership.

Public Works Director Chester Nakahara provided an overview of the project award, schedule, and construction contract. He requested Council accept the improvements, release the Performance and Labor and Material bonds and direct filing of the notice of completion.

Recreation Director Sara Lillevand discussed the success of the public/private partnership including the generosity of the Witter Family's land donation and private donations from the Piedmont Soccer Club, Piedmont Baseball/Softball Foundation, Piedmont Recreational Facilities Organization (PRFO), and PRFO led campaign.

Mark Menke, past President of PRFO, and Steve Collins, current President, presented a check in the amount of \$385,000. Mr. Menke commended the City

on the professional management of the project and thanked the community for its generosity.

Ms. Lillevand commended the Piedmont Beautification Foundation (PBF) on its fundraising contributions. She announced the establishment of the Witter-Bates Family Endowment Fund to offset recreational facilities maintenance costs.

Nancy McHugh, President of PBF, discussed the reinstallation of the original ceramic baseball and establishment of the Bates Family sports field maintenance endowment fund. She commended City staff on its work.

Ms. Lillevand commended the contributions from Jeanine and Guy Saperstein and for the John Raymond Hege Memorial backstop.

Steve Mills, President of the Piedmont Soccer Club, expressed appreciation to the City Council and staff.

Chris Hart, Former President of Piedmont Baseball and Softball Foundation, thanked the Council for completion of the project.

Public Testimony was received from:

Owen Blanford thanked the Council for renovating Hampton Park.

Rick Schiller thanked staff for successful completion of the project.

Mayor McBain expressed appreciation for all involved in completing the successful project.

Mr. Benoit acknowledged Mr. Nakahara and Ms. Lillevand. He stated the final accounting and fund allocations would be presented in January 2018.

Vice Mayor King thanked the youth sports community for driving the project.

Resolution No. 115-17

WHEREAS, at the April 18, 2016 City Council meeting, the City Council approved an overall budget for the Hampton Park Improvement Project (Project) and authorized the award of the construction project to Suarez & Munoz Construction, Inc.; and

WHEREAS, the Project has been inspected and determined to have been completed in accordance with the contract requirements; and

WHEREAS, based upon the foregoing, staff recommends acceptance of the Project on behalf of the City.

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

1. The City hereby accepts the improvements associated with the Hampton Park Improvement Project.
2. Authorizes the Public Works Director to release the Performance and Labor & Material surety posted with this project; and to hold the Maintenance Bond until March 13, 2018, at which time the Public Works Director is authorized to release said bond if the improvements remain in good

condition and there are no issues to be resolved.

3. Authorizes and directs the Public Works Director to file a Notice of Completion concerning the Project with the Alameda County Clerk's Office within ten (10) days of the date of this Resolution.

Moved by Andersen, Seconded by Cavanaugh

Ayes: Andersen, Cavanaugh, King, Rood, McBain

Noes: None

(0045, 0088, 0745-0535)

**Coaches Field Master
Plan Design Concepts**

City Administrator Paul Benoit discussed the history and use of Coaches Field and the discussions of possible upgrades to the field.

Recreation Director Sara Lillevand summarized the use and programming at Coaches Field. She explained issues with drainage and the need to close the field annually for turf replenishment. She suggested the possibility of reconfiguration, installation of artificial turf, and extended hours of operation.

Public Works Director Chester Nakahara discussed the goal to create an Under 14 soccer field and discussed field size, artificial turf, lighting parking and the environmental review by consulting firm LSA.

In response to Council questions, Mr. Nakahara discussed the lifetime of artificial turf as well as the costs for natural grass versus turf. Ms. Lillevand anticipated multi-use field space including softball and rugby. Mr. Benoit discussed the community outreach which would be undertaken.

Public Testimony was received from:

Thomas Blanford discussed his involvement in youth sports. He agreed with installation of artificial turf and lighting. He commended Ms. Lillevand.

Steve Mills indicated support for the proposal and discussed the benefits of participating in youth sports.

William Blackwell indicated support for installation of artificial turf and discussed the proposed plans.

Garrett Keating encouraged the Council to consider previous plans. He suggested enforcement of field use regulations and permits.

Mr. Benoit requested staff continue working with a landscape architect on field design, ingress and egress and improving Coaches Field and surrounding areas.

In response to a Council question, Mr. Nakahara explained stormwater management at Coaches Field.

Council commended Mr. Blackwell for his original plan for Coaches Field and encouraged staff to consider all options when coming back with a proposal.
(0459, 0745-0535)

**Conditional Use Permit
for the Piedmont Center
for the Arts
801 Magnolia Ave.**

City Administrator Paul Benoit explained that the Piedmont Center for the Arts, the City's master tenant at 801 Magnolia Ave., had requested a Conditional Use Permit which would allow a sub tenant, the Piedmont Post, to operate out of a portion of the facility. He detailed the City's ten-year lease with the Piedmont Center for the Arts (PCA) and building improvements completed by PCA in lieu

of rent. He indicated that the application was heard by the Planning Commission, which recommended approval. He explained the City's mutually convenient relationship with PCA and indicated that few complaints had been received.

Mr. Benoit discussed the July 2016 amendment to the Arts Center lease to allow the facility to be managed with a greater degree of independence. He stated sublets were handled by the City Administrator and the tenant simply notified the landlord as to who was occupying the building.

Planning Director Kevin Jackson explained that a Conditional Use Permit was required because the proposed sub tenant was a for profit entity, and the regulations for Zone B (Public Facilities) allow for profit entities in a City building as a conditional use. Mr. Jackson explained the proposed use by the Piedmont Post. He also presented the required findings to approve the CUP. He discussed Planning Commission's approval and conditions and staff's recommendation to approve the CUP application. He noted that the hours of operation requested in this permit were somewhat out of the norm.

For the sake of clarity and to define the issued being considered by the Council, Assistant City Attorney Sergio Rudin stated that it was the Conditional Use Permit application before the Council at this meeting. He stated that other issues were not germane to the Council's discussion this evening. He also confirmed there was no legal conflict with renting the space to a media outlet.

Mayor McBain clarified that the Council was not discussing the underlying lease nor editorial content from the Post, rather it should focus on the CUP.

Councilmember Rood questioned the requirements for parking. Mr. Benoit referenced Exhibit A to the lease, which outlines the portions of the property leased to the PCA. Mr. Rudin confirmed that the whole of the property depicted in Exhibit A was leased to the tenant.

Public Testimony was received from:

Nancy Lehrkind, PCA Vice President, indicated her support for the application. She explained the terms of the lease between the City and the PCA, indicating that the City's compensation for the use of the building were the improvements to the building completed by the PCA. She discussed previous sub tenants and explained the use by the proposed tenant. Ms. Lehrkind discussed theater use and acceptance by the Post. She discussed advertisement of the lease and stated the proposed rent to be paid by the Piedmont Post to the PCA would be \$1,300 per month.

Wendy Willrich, past president of PCA, indicated her support for the application and discussed the community benefits of the PCA.

Sue Malick, President of PCA, indicated her support for the application. She said that the mission of the PCA was to provide a space for the arts. Mrs. Malick indicated that the business networking group, which was not an arts organization was accommodated due to PCA's need for additional revenue.

Rick Schiller opposed the application. He stated the one of the requirements of a CUP is that the use serve Piedmont residents. He questioned whether the Post

fulfilled this requirement and whether it truly provided an open forum for exchange of ideas and public engagement.

Bill Hosler indicated support for the Piedmont Post.

Garrett Keating opposed the application, stating that the Council should have say over occupancy of this public space. He suggested future discussion of the lease between the City and the PCA. He stated the Council should determine if a newspaper should be allowed to occupy the space.

Tom Ramsey, Planning Commission Chair, discussed the Planning Commission's deliberations and unanimous recommendation for Council approval. He explained discussion of hours of operation.

The Council acknowledged the complexity of the issues surrounding the application, discussing them at length. Questions were raised regarding parking, hours of operation, how the uses proposed were different from the previous tenant, and CUP review and revocation.

Councilmember Cavanaugh suggested approving the CUP with a condition that the Council would discuss consent to the lease at a later meeting. She expressed concern with the City providing a subsidy to the PCA.

Councilmember Rood raised questions about whether the Piedmont Post is an impartial news source, especially in its coverage for the 2012 Council election. He thanked residents that were willing to share their concerns with the Council.

Vice Mayor King acknowledged the comments made regarding the editorial content of the Post but it should not interfere with City Council decision, staff recommendations, and PCA's application.

Resolution No. 116-17

WHEREAS, the Piedmont Center for the Arts is requesting a Conditional Use Permit to permit a new office at the existing building located at 801 Magnolia Avenue; 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 to the Piedmont Center for the Arts for an office for the Piedmont Post at 801 Magnolia Avenue, is exempt under the California Environmental Quality Act ("CEQA") Guidelines Section 15301, because it involved the permitting, leasing, and/or licensing of existing public or private structures.

BE IT FURTHER RESOLVED, that the Piedmont City Council determines that the granting of Conditional Use Permit to the Piedmont Center for the Arts at 801 Magnolia Avenue, Piedmont, California, conforms with the criteria and standards of Section 17.68.040 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 City Buildings may be used by a for profit commercial entity

as provided in section 17.22.030.

2. The use is primarily intended to serve Piedmont residents in that residents benefit from the weekly issuance of the Piedmont Post for news, notices, and community events. It provides a forum for the exchange of ideas and public engagement. The use will allow for the continued benefit for Piedmont residents for the Piedmont Center for the Arts because they require rental income to provide affordable programming for residents as part of their business plan.

3. Under all the circumstances and conditions of the particular case, the use will not have a material adverse effect on the health or safety 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 two off-street parking spaces are provided and business hours are not in direct conflict with Piedmont Unified School District or City business hours.

BE IT FURTHER RESOLVED, that in consideration of the findings and facts set forth above, the Piedmont City Council approves the application by the Piedmont Center for the Arts for a Conditional Use Permit for property located at 801 Magnolia Avenue, Piedmont, California, subject to the following conditions:

1. Terms of Approval. A review of the Conditional Use Permit shall occur in May of 2021 upon the end of the term of the lease of the building and the Conditional Use Permit shall have the following operational characteristics:

Office Hours: Sundays, 4:00pm-12:00am; Monday, 11:00am-11:00pm; Tuesday, 12:00pm-12:00am; Thursday, 9:00am-11:00am; and normal business hours not listed above Monday through Friday from 8:00am to 5:00 pm. No visitors are allowed after 11:00pm.

2. Types of Staff/Personnel: One Owner/Manager, one office manager, and two part-time reporters.

3. Signage. Any new or modified exterior signage may require a design review permit as provided in Division 17.36 of the City Code.

4. Defense of Legal Challenges. If there is a third party administrative, legal or equitable action challenging the project approvals, including CEQA issues, the Piedmont Center for the Arts (Applicant) 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 Applicant and city shall then enter into an agreement regarding selection of counsel and other provisions related to the defense. For this purpose, "City" include the City and its elected and appointed officials, agents, officers and employees.

Moved by King, Seconded by Andersen
Ayes: Andersen, King, McBain
Noes: Cavanaugh, Rood
(0340)

Agreement with NCE City Administrator Paul Benoit explained the requirement to construct a Green

for Green Infrastructure Infrastructure Plan and Trash Load Reduction Plan. He recommended that Council approve a two-year contract for development of an infrastructure plan and one year contract to develop a trash load reduction plan.

Public Works Director Chester Nakahara discussed the second phase of Total Maximum Daily Load (MRP) requirements. He explained the proposed agreement with NCE and required expertise.

Resolution No. 117-17

RESOLVED, that the City Council extends the meeting to 11:45 p.m.

Moved by Rood, Seconded by Andersen

Ayes: Andersen, Cavanaugh, King, Rood, McBain

Noes: None

Marcy Kamerath of NCE addressed questions submitted by a resident. She explained the schedule of charges and application of prevailing wage. She discussed reductions in other cities with the bulk of reduction coming from private development. Ms. Kamerath explained requirements for green development.

There were no public speakers on this item.

Resolution No. 118-17

RESOLVED, that the City Council authorizes the Mayor to execute a contract with Nichols Consulting Engineers to Develop the Green Infrastructure Plan and the Trash Local Reduction Plan to Comply with the Municipal Regional Permit.

Moved by Rood, Seconded by King

Ayes: Andersen, Cavanaugh, King, Rood, McBain

Noes: None

(0045)

**REPORTS AND
ANNOUNCEMENTS**

Mayor McBain announced that Council would not be meeting on January 2, 2018 due to a lack of quorum. He commended the Piedmont Beautification Foundation and Public Works staff for another wonderful Tree Lighting Ceremony.

Councilmember Cavanaugh reminded residents regarding childcare and camp options during the upcoming winter recess. She announced the next Linda Beach Master Plan community meeting on January 18th at 5:30 p.m. in the Community Hall. She announced Healthy Relationships parent meeting on January 18th at 7:15 p.m., at 801 Magnolia Ave. She thanked residents for their participation in the Piedmont Thanksgiving Book Drive. She announced the 21st Annual Martin Luther King Celebration on January 15, 2018 at the Piedmont's Veterans Hall.

Mayor McBain commended the Council for its hard work during 2017.

ADJOURNMENT

There being no further business, Mayor McBain adjourned the meeting at 11:42 p.m.