

PIEDMONT CITY COUNCIL

Regular Meeting Minutes for Monday, March 20, 2017

A Regular Session of the Piedmont City Council was held March 20, 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 March 16, 2017.

CALL TO ORDER

Mayor Wieler called the meeting to order at 7:30 p.m. with the Pledge of Allegiance.

ROLL CALL

Present: Mayor Jeff Wieler, Vice Mayor Bob McBain, and Councilmembers Jennifer Cavanaugh, Teddy Gray King and Tim Rood

Staff: City Administrator Paul Benoit, Assistant City Attorney Chad Herrington, Fire Chief Warren "Bud" McLaren, Planning Director Kevin Jackson, Senior Planner Pierce Macdonald-Powell, Assistant Planner Emily Alvarez, Public Works Director Chester Nakahara, Public Works Supervisor Dave Frankel, Senior Maintenance Worker Angelo Espinosa, Recreation Director Lillevand, Parks and Project Manager Nancy Kent, City Engineer John Wanger, 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 03/06/17 (Special and Regular Meetings)

2nd Reading of Ord. 729 N.S. Linda Beach Playfield

Approve the 2nd Reading of Ord. 729 N.S. – Revising Use Restrictions for Linda Beach Playfield (0705)

Kingstone-Linda-Rose Triangle Project

Acceptance of Improvements Regarding the Kingstone-Linda-Rose Triangle Project (0045)

United States Postal Services

Approval of a Letter to the United States Postal Service Regarding the Continuation of Retail Postal Service on or near Piedmont Avenue (0632)

Climate Action Plan Task Force

WHEREAS, the City of Piedmont and its residents are concerned about climate change and desire to develop initiatives to inspire, empower, and educate to create a community that promotes environmental sustainability; and

WHEREAS, the State of California has enacted Assembly Bill (AB) 32, the California Global Warming Solutions Act of 2006, which requires statewide greenhouse gas (GHG) emissions to be reduced to 1990 levels by 2020 and directs the California Air Resources Board (CARB) to develop and implement regulations that reduce statewide GHG emissions, institute a schedule to meet an emissions cap, and develop enforcement tools to ensure that the State achieves the required GHG emissions reductions; and

WHEREAS, in December 2008 the CARB approved the Climate Change Scoping Plan which contains the primary strategies the state will implement to achieve the GHG reductions required by AB 32, and which encourages local governments to adopt a reduction goal for municipal operations emissions and establish similar goals for community emissions that parallel the State

commitment to reduce GHGs; and

WHEREAS, Executive Order B-30-15 proclaims that California is vulnerable to the effects of climate change, including reduced snowpack in the Sierra Nevada, exacerbation of California's existing air quality problems, and sea level rise and establishes targets for reducing GHG emissions to 40% below 1990 levels by 2030; and

WHEREAS, on March 15, 2010, the Piedmont City Council adopted a Climate Action Plan, detailing Piedmont's commitment and plan of action for achieving the goals set forth in AB 32 and Executive Order S-3-05 by 2020; and

WHEREAS, Piedmont has successfully achieved many targets set forth in the current Climate Action Plan and desires to create an updated Climate Action Plan detailing a path to achieving significant GHG reductions by 2030;

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Piedmont does hereby resolve, declare, determine, and order as follows:

SECTION 1. The Climate Action Plan Task Force is hereby established as a temporary task force of the City of Piedmont.

SECTION 2. The efforts of the Climate Action Plan Task Force shall be focused on assisting staff with the development of a 2030 Climate Action Plan, specifically in the following areas:

1. Examination of other municipal and organizational Climate Action Plans;
2. Establishment of a GHG emissions reduction target for the year 2030;
3. Review and advise updated Climate Action Plan policies and measures developed by City staff; and
4. Review and advise on implementation strategies to reduce Piedmont's GHG emissions.

SECTION 3. The Climate Action Plan Task Force shall be comprised of six voting members. Five members shall be residents appointed by the City Council. One member shall be a Piedmont High School student appointed by the Board of Education.

SECTION 4. The City Council shall appoint one Task Force member to serve as Task Force Chair.

SECTION 5. The Task Force shall meet on an as needed basis.

SECTION 6. The term of the Task Force shall extend from the date of establishment to one year from this date or the receipt of a Draft 2030 Climate Action Plan by the City Council, whichever is earlier.

SECTION 7. The Task Force shall comply with the Ralph M. Brown Act (Government Code §54950 et seq.) including, but not limited to notice, agenda posting, and public participation requirements.

SECTION 8. The Task Force is an advisory body to the City Council and is not an independent decision-making body. All of its recommendations are subject to approval of the City Council.

SECTION 9. Resolution 4-17 is hereby rescinded and this resolution shall be effective immediately.

(0320)

**Climate Action Plan
Task Force**

Appointment of Brett Hondorp, Margaret Ovenden, Steven Schiller, Bruce Wolfe, and Tracey Woodruff to the Climate Action Plan Task Force
(0085, 0320)

**Climate Action Plan
Task Force**

Appointment of Tracey Woodruff as Chair of the Climate Action Plan Task Force
(0085, 0320)

Resolution No. 14-17

RESOLVED, that the City Council approves Consent Calendar Items 1-5.

Moved by King, Seconded by Cavanaugh

Ayes: Cavanaugh, King, McBain, Rood, Wieler

Noes: None

Absent: None

PUBLIC FORUM

Lea Rygg suggested installing solar lights in the park to increase safety.

Megan Bryan discouraged installation of a fence around Piedmont High School.

CEREMONIAL MATTERS

Mayor Wieler presented a proclamation declaring the month of March as American Red Cross Month in the City of Piedmont to volunteers with the American Red Cross.

Sheri Aylesworth, Alameda County Red Cross Leadership Council, thanked the Council for the proclamation and provided an overview of Red Cross services.

REGULAR AGENDA

The Council considered the following items of regular business:

**Public Hearing
Regarding Compliance
Order Issued for
954 Rose Avenue**

City Administrator Benoit detailed the dangerous conditions at 954 Rose Avenue and the resulting code violations, as determined by the Director of Public Works. He detailed the City's attempts to motivate the property owner to take corrective action. He discussed issuance of the formal compliance order, which set a deadline for the property owner to repair the dangerous condition. The owner responded to the initial order, indicating progress was being made and requested additional time to correct the condition. The City extended the deadline for complying with the order, but the owner made no progress toward repairing the condition. As such, staff is seeking an administrative order to compel the property owner to repair the dangerous condition or face administrative costs and penalties

Mr. Benoit indicated that staff was seeking this order from the Council because, while there are other homes in Piedmont in minor states of disrepair, the danger to life and public safety posed by this home was extremely significant and it posed an attractive nuisance for children in the neighborhood.

Assistant City Attorney Herrington explained the administrative penalties and proposed fine of \$100 per day. He indicated that, should the Council approve the administrative order, it would be served on the property owner indicating the fine and steps required to stop accrual of fines.

Public Testimony was received from:

Bonnie Burt, next door neighbor, expressed concern regarding the state of the property and impact on her home.

Dawn Margolin expressed disappointment that the City had taken so long to get to this point. She questioned why a lien wasn't put on the house for the City removing the tree. She discussed other properties owned by the same owner which were also in poor condition. She asked if penalties would result in a lien.

Mark Liss, 958 Rose Avenue, thanked the City for pursuing the matter. Everyone agreed that the condition was an eye sore and safety hazard. He stated the homeowner was unable to correct the problems on his own and the situation would not change unless the City intervened. He expressed concern that financial penalties would not be a sufficient inducement to make the needed repairs and suggested the City abate the nuisance.

Eileen Clavere, 950 Rose, discussed the dangers of the property at 954 Rose and encouraged the City to abate the issues. She discussed impacts to her home.

The Council discussed the steps leading to the proposed order and the steps that might be necessary if the property owner chooses not to comply with this order. In that case, Assistant City Attorney Chad Herrington, indicated that the Council could direct the City Attorney's Office to seek an abatement warrant in Court, or the Council could amend the order to increase penalties, or take other actions.

City Administrator Benoit suggested the Council amend the proposed order to allow penalties to be suspended if the owner showed due diligence during the permit process. He suggested allowing the property owner three months then revisiting the matter to consider next steps. He recommended establishing a deadline of July 1, 2017.

The Council thanked the neighbors, expressing empathy for the safety risk in their neighborhood. They reiterated that safety issues, such as the one presented here, should be the focus of enforcement efforts.

Resolution No. 15-17

RESOLVED, that the City Council issues the proposed Administrative Order, as amended by Council, determining the existence of a violation of the City Code at 954 Rose and failure of the responsible party to take corrective action, and imposing administrative costs and penalties on Steve Eigenberg and the Yvonne L. Eigenberg Trust.

Moved by McBain, Seconded by Rood

Ayes: Cavanaugh, King, McBain, Rood, Wieler

Noes: None

Absent: None

(0015-0687)

**2nd Reading of
Ord. 728 N.S. -
Zoning and Planning
Code & Policy Updates**

City Administrator Benoit presented the second reading of Ord. 728 N.S., which updates the City Code with regard to planning and land use. He explained the history of the proposed changes, which culminated in the Council's approval of the first reading of this ordinance at its March 6, 2017 meeting, ordering that regulations regarding Short Term Rentals as well as the Grand Avenue Sub Area of Zone D revert to the status quo.

Mr. Benoit, referred the Council to pages 223-236 of the staff report which show the revisions that were made to the proposed ordinance to accomplish this change. He requested the Council consider conducting second reading on the ordinance and adopting a resolution related to the interim guidelines.

Public Testimony was received from:

Dimitri Magganas discussed the lengthy process undertaken by staff, the Planning Commission, and the Council to get to today's second reading of the ordinance.

City Administrator Benoit explained staff's intent to return to the Council in April for consideration of regulations of short term rentals and to engage a third party land use consultant to hold workshops with the Lower Grand residents. Planning Director Jackson anticipated the community workshops would occur at the end of April or May.

The Council thanked staff and the community for its input and discussed the importance of consideration of changes in conjunction with the Housing Element and Pedestrian and Bicycle Master Plan. The Council expressed its desire to attend the workshops. Assistant City Attorney Herrington explained that more than a majority could attend but not discuss items of business.

Resolution No. 16-17

WHEREAS, the City Staff has undertaken a reorganization and updating of the City's zoning regulations, at City Code Chapter 17, which is also being considered by the City Council; and

WHEREAS, as part of this update, the City Staff has created Interim Design Guidelines, which include the following components: General Plan references to design; Residential Design Guidelines adopted May 16, 1988; Other Guidelines, Protocols and Measurements; Design Review Permit, Director's lists; and

WHEREAS, the City intends to update and expand its design guidelines in 2017; in the interim, the proposed Interim Design Guidelines will serve as the Design Guidelines for the City. Having these Guidelines is an essential part of implementing Chapter 17, Planning and Land Use; and

WHEREAS, the Planning Commission held a public hearing on the Interim Design Guidelines on November 10, 2016, and voted to recommend that the City Council adopt the Interim Design Guidelines; and

WHEREAS, the adoption of Interim Design Guidelines is not subject to the California Environmental Quality Act (CEQA) because it is not a project within the meaning of CEQA and it can be seen with certainty that there is no possibility that the adoption of Interim Design Guidelines may have a significant effect on the environment. (Public Resources Code section 21065; CEQA Guidelines, 14 Cal. Code of Regs. Sections 15061(b)(3), 15378.); and

WHEREAS, over thirty-five years, the City Council has adopted various policies related to land use. These policies are now out-of-date, or incorporated into the proposed new Chapter 17 or the Interim Design Guidelines; and

WHEREAS, the City Council held a public hearing to consider adoption of the Interim Design Guidelines, and the repeal of certain land use policies, on

January 17, 2017.

NOW, THEREFORE, the City Council of the City of Piedmont resolves that:

SECTION 1. The above recitals are correct and are incorporated into this Resolution as findings of the City Council.

SECTION 2. The Interim Design Guidelines, dated January 17, 2017 and attached as Exhibit A, are adopted. The Residential Design Review Guidelines, adopted on May 16, 1988 and being subsumed into the Interim Design Guidelines, are repealed.

SECTION 3. The following previously-adopted Council policies are repealed:

Policy	Approval date
Notification procedure - Design Review and Variance	1979
Proposed Exterior Changes to Previously-Approved Planning Permits	1985
Window Replacement	July 7, 2003
Site Visits	March 7, 2005
Residential Parking and Driveways	December 5, 2005
Tankless Water Heater	January 17, 2006

SECTION 4. All portions of this resolution are severable. If an individual component of this Resolution is adjudged by a court to be invalid and unenforceable, then the remaining portions will continue in effect.

SECTION 5. The City Council hereby approves the second reading of Ordinance 728 N.S.

SECTION 6. Sections 2-3 of this resolution take effect on the date Ordinance 728 N.S. (Adopting Chapter 17, Planning and Land Use) takes effect. Sections 1, 4, & 5 of this resolution take effect immediately.

Moved by McBain, Seconded by Cavanaugh
Ayes: Cavanaugh, King, McBain, Rood, Wieler
Noes: None
Absent: None
(0705, 0795)

2016-2017 Winter Storms

City Administrator Benoit discussed the extreme winter weather and requested staff report on the City's preparation for and response to this extremely wet season.

Public Works Director Nakahara thanked the Public Works crews. Public Works Supervisor Dave Frankel summarized the 2016-17 storm response including pre-storm cleanup, sand bag distribution, street sweeping and creek maintenance. He responded to Council questions regarding pot hole repairs. He

discussed the standby team on duty from October through March.

Mr. Frankel explained that most creeks are on private property but that, in several cases, the City's sanitary sewer main lines run parallel to these creeks and that it is in the City's best interest to keep the creeks flowing to prevent damage to sewer lines.

There was no public testimony on this matter.
(0825)

2017 Paving Project

City Administrator Paul Benoit explained that staff has selected streets for the 2017 paving project. He further discussed the use of Measure B, Measure BB and Vehicle Registration funds for the pavement management program but it may be necessary to utilize the General Fund for infrastructure improvements, such as paving.

City Engineer John Wanger explained the Pavement Condition Index (PCI), with a City-wide average of 63. He discussed the pavement management program and the Metropolitan Transportation Commission's recommendation for a pavement condition report for the entire city every five-years, with arterial streets being reviewed every three-years. He stated that the City's overall Pavement Condition Index (PCI) was in a slow degradation, which is consistent with other Bay Area cities. Mr. Wanger discussed the various methods used to repair streets, their costs, and why some roads were selected for one method over others.

Public Works Director Nakahara explained the natural effect of slow degradation and stated Piedmont's PCI was still rated in the upper section of Alameda County.

The Council requested staff return with information on the cost to prevent further deterioration, an exhibit showing the proposed paving project and to integrate street saver system with GIS system.

There was no public testimony on this matter.
(1000)

**Feasibility Study
For Solar at Corporate
Yard**

City Administrator Benoit introduced the item indicating that Optony, Inc. was retained to analyze the potential of a municipal photovoltaic system at the Corporation Yard (898 Red Rock Road) and would present its findings.

Jonathan Whelan of Optony, Inc., presented a PowerPoint providing an of the project and potential locations for solar installation, solar utility interconnection programs, financing options, financial analysis, necessary operations and maintenance, and recommendations.

In response to Council questions, Mr. Whelan discussed useful life and degradation of solar systems, installation versus roof life, net energy metering schedule, time of use periods, power purchase agreements, way around lack of tax equity,

There was no public testimony on this matter.

The Council discussed potential savings with installation of a solar system.

Resolution No. 17-17

RESOLVED, that the City Council proceed with further assessment of the option for a 10.3 kW roof top solar photovoltaic array at the Corporation Yard and approve the second amendment to the contract with Optony, Inc. (Exhibit B, pages 27-28) to allocate an additional \$3,500 to prepare a structural engineering review of the buildings at the Corporation Yard and to extend the contract expiration date to June 30, 2017.

Moved by King, Seconded by McBain

Ayes: Cavanaugh, King, McBain, Rood, Wieler

Noes: None

Absent: None

(0045, 0270-0365)

Damage to Cavendish Lane

City Administrator Paul Benoit provided background on the undermining of Cavendish Lane and the impact on four Piedmont residents. Due to the closure of this portion of Cavendish Lane, four Piedmont residents were not able to drive to their homes, rather they have been forced to park over 1/3rd mile away on Park Boulevard and walk over hilly terrain to their homes. He indicated that the roadway and right of way are owned and maintained by the City of Oakland. In staff's conversations with Oakland to try and solve this issue for our residents, the City of Oakland indicated that it did not have funds nor staff to repair the roadway due to the high volume of repairs necessitated by the winter storms.

Mr. Benoit indicated that, as a result of Oakland's lack of funds, Piedmont staff had designed a temporary repair and was prepared to complete the work at our own cost and presented it to Oakland. During these conversations, the City of Oakland raised concerns regarding liability regarding the temporary fix. To attempt to solve this issue, staff is in the process of negotiating an indemnification agreement in order to allow the temporary fix to be completed.

Mr. Benoit indicated that Piedmont had funds to implement the temporary repair and didn't expect reimbursement from Oakland for completing it, but that the two cities would continue to discuss the design and funding of the permanent repair.

There was no public testimony on this matter.

The Council supported the efforts of staff to help these residents regain access to their homes.

Resolution No. 18-17

Resolved, that the City Council authorize the City Administrator and City Attorney to negotiate and execute an indemnification agreement with the City of Oakland to implement a temporary repair to Cavendish Lane to allow resident access.

Moved by McBain, Seconded by Cavanaugh

Ayes: Cavanaugh, King, McBain, Rood, Wieler

Noes: None

Absent: None

(0045, 0270-0365)

**REPORTS AND
ANNOUNCEMENTS**

Councilmember King announced that the Hampton Park Rededication would be held on Saturday, March 25th from 3:00 to 4:30 p.m.

Mayor Wieler suggested the possibility of shortening the length of allowed parking of commercial vehicles.

FUTURE AGENDA ITEMS

Councilmember King requested an update on parking restrictions on Kingston Avenue. She also requested an update on the implementation of the Information Technology Strategic plan.

ADJOURNMENT

There being no further business, Mayor Wieler adjourned the meeting at 10:48 p.m.