

## PIEDMONT CITY COUNCIL

Regular Meeting Minutes for Monday, November 20, 2017

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

**CALL TO ORDER** 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, City Attorney Michelle Marchetta Kenyon, Planning Director Kevin Jackson, Fire Chief Bud McLaren, Public Works Director Chester Nakahara, Parks and Project Manager Nancy Kent, Senior Planner Pierce Macdonald-Powell 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 10/16/17

**2<sup>nd</sup> Reading of Ordinance 736 N.S.** 2<sup>nd</sup> Reading of Ordinance 736 N.S., Authorizing a Refinancing of Limited Obligation Bonds Related to Undergrounding Assessment Districts (0475, 0705, 1075)

**Mosquito Abatement District Representative** Reappointment of Robert Dickinson to a Two Year Term as the City's Representative to the Alameda County Mosquito Abatement District Effective January 1, 2018. (0085)

**Resolution No. 96-17**

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

*Note: Mayor McBain recused himself from consideration of the 2<sup>nd</sup> Reading of Ordinance 736 N.S.*

**PUBLIC FORUM** Tallulah Lloyd expressed concern about traffic safety on the crosswalk at Mesa and Moraga and suggested installation of the stop sign.

Claire Hanke expressed support for Piedmont's green initiatives.

**CEREMONIAL MATTERS**

**Toys for Tots** Fire Chief McLaren announced the Annual Toys for Tots program and encouraged contributions through December 23.

**Thanksgiving Book Drive Kick-Off** Councilmember Cavanaugh announced the annual book drive benefitting the East Bay Children's Literacy Project and encouraged residents to bring books to the Turkey Trot for donation.

Mayor McBain discussed the success of the Scouting for Food Drive.

**REGULAR AGENDA**

The Council considered the following items of regular business:

**Wireless  
Communication  
Facilities Permits and  
Variances – Across from  
314 Wildwood Ave.**

Planning Director Kevin Jackson presented the history of the application, the federal and state regulatory landscape for wireless telecommunication facilities, the Park Commission's recommendation for conditional approval of this application, as well as staff's recommendation for conditional approval of this application. He emphasized that the story pole that had been constructed in the park was not representative of the design currently before the Council, due to the applicant's revision of its application. He indicated that the proposed light fixture was similar to those installed on the Oakland Avenue bridge.

Mr. Jackson discussed how conditions of approval would be implemented, including the annual emissions assessment. He also discussed Federal regulations regarding colocation on existing facilities. He explained that the City would own the light fixture and would control it. He briefly discussed lease terms

**Public Testimony** was received from:

Sharon James and Joshua Trauner, representing applicant Crown Castle, expressed appreciation for the recommendation of approval from the Park Commission and staff. Ms. James also discussed the reliance on cellular services and necessary infrastructure in support of communications. Council was also reminded by the applicant that it could not dictate which technology the applicant chose to deploy.

Jason Melk, Shary Nunan, Peter Harvey, Anian Tunney, Stephen Kozinchik, Jeanne Alvis, Caroline Jung, Joan Jung, Inidra Balkissoon, Tom Lee, Fred Nacino, Chaya Daffner, Dick Turney, Emmy Wisner, Andrew Hansen, Laura Maysel, Alan Borris, Marty La Jeunesse, John Hiestand, Carolyn Pan, Ella Nielsen, Joyce Rickenbacker, and Jo Haishi spoke in opposition to the application. Speakers reiterated concerns expressed at earlier meetings that a significant gap in coverage had not been proven, concerns regarding the health effects of the proposed antennas, as well as concerns regarding the noise which would be generated by the proposed site. Speakers also referenced a possible negative impact on property values, possible congestion during construction and maintenance of the site, and visual blight on the neighborhood and Piedmont Park.

In response to a question from Council, Morgan Hunt, representing applicant Crown Castle, explained how the applicant had determined that a significant coverage gap existed and the data used to make the determination. He also discussed the annual preventative maintenance schedule for the proposed site.

City Attorney Michelle Marchetta Kenyon discussed the recommendations from staff and the Park Commission and stated that adverse aesthetic impact had been addressed. She explained regulations regarding property value reduction. She clarified how the claim of a significant gap in coverage was analyzed as well as the process of peer review of the emissions assessment, paid for by Crown Castle.

The Council thanked the community for the tremendous amount of interest it had shown regarding these application, the communications sent and opinions expressed, as well as the time and energy spent attending commission and Council meetings regarding these applications. Council further thanked the Park Commission, Planning Commission and staff for the significant amount of time

each had spent not only on this application, but the eight others which had been previously heard.

**Resolution No. 97-17**

WHEREAS, Crown Castle NG West LLC (“Applicant”) is requesting a permit for a wireless communication facilities (“WCF”) installation within the public right-of-way across from 314 Wildwood Avenue, Piedmont, California, a site identified in the application materials as PHS09. The proposed WCF installation includes a single canister 3-sector antenna atop a new lamppost, cables within the hollow post, and a flush-to-grade vault in the sidewalk for communication equipment, the construction of which requires a wireless communication facilities permit; and

WHEREAS, as provided in Piedmont City Code section 17.46.080.C, the City Council is hearing this application for WCF permit because it is a facility proposed in Zone B on a new City-owned lamppost located within Piedmont Park and the City-owned public right-of-way; and

WHEREAS, in accordance with Piedmont City Code section 17.46.080.B, the Planning Commission held a properly noticed public hearing on the proposed application materials and plans for a prior design for the PHS09 site (“May 2017 Plans”) on June 12, 2017, and based upon the evidence and providing findings of fact, voted to recommend that the City Council deny the application; and

WHEREAS, on June 23, 2017, the Applicant and City mutually agreed to an extension to October 31, 2017 of the applicable shot clock timelines set forth by the Federal Communications Commission (Petition for Declaratory Ruling (“Shot Clock Rule”), 24 F.C.C. Rcd. 13994 (2009) and any applicable State of California-required shot clock(s) for application processing time lines (“Shot Clock”). The purpose of the shot clock extension was to provide the Applicant with additional time to investigate and propose alternate designs intended to address the various concerns expressed by the Planning Commission regarding the May 2017 Plans during its meeting of June 12, 2017; and

WHEREAS, the Applicant subsequently withdrew the proposed May 2017 Plans and submitted revised application materials and plans (“September 2017 Plans”), including revised plans and materials for site PHS09 across from 314 Wildwood Avenue. The September 2017 Plans, which show a new lamppost with luminaires on two arms with antenna atop the center post located on City-owned property and flush-to-grade vault located in the sidewalk in the public right-of-way, are a revised version of the May 2017 Plans and are the plans and materials currently being considered by the Piedmont City Council; and

WHEREAS, on October 2, 2017, the Applicant and City mutually agreed to an extension to December 5, 2017 of the applicable shot clock timelines set forth by the Federal Communications Commission (Petition for Declaratory Ruling (“Shot Clock Rule”), 24 F.C.C. Rcd. 13994 (2009) and any applicable State of California-required shot clock(s) for application processing time lines (“Shot Clock”) for the facility site identified in the application as PHS09. The purpose of the shot clock extension was to provide the Piedmont Park Commission the opportunity to review and make a recommendation regarding the design and placement of the proposed facilities within Piedmont Park, and for the Applicant the opportunity to propose refinements to the design of the new lamppost and luminaires; and

WHEREAS, the Piedmont Park Commission held a duly noticed public hearing

on November 1, 2017 for the proposed installation across from 314 Wildwood Avenue identified in the application materials as PHS09, and based upon the evidence and after reviewing the application, plans, and any and all testimony and documentation submitted in connection with such application, unanimously voted to recommend City Council approval of the designs shown in the iteration of the plans filed by the applicant on September 14, 2017 (henceforth referred to as “September 2017 Plans”), subject to 29 conditions of approval; and

WHEREAS, the applicant, in having proposed 24-inch-tall canister antennas at five of the nine proposed sites included in the overall scope of this application number, has demonstrated that the use of a 24-inch-tall canister antenna is a feasible solution to solve significant gaps in service coverage or capacity, and therefore the 48-inch-tall canister antenna proposed for this site is not the least intrusive means to close said gaps or to mitigate adverse visual impacts as required by City Code section 17.46.070.A.3. The solution is to require the canister antenna to have a maximum vertical length of 24 inches, which is a feasible solution to close significant gaps in coverage and/or capacity, and to adequately mitigate adverse visual impacts; and

WHEREAS, the applicant stated in a November 9, 2017 email that they would be willing to comply with the Park Commission’s recommendation and enclose the radio units and other support equipment within a well-screened above-ground cabinet located on City-owned land near the entrance to Piedmont Park rather than within a flush-to-grade vault located in the sidewalk in the right-of-way, and also attached to that email manufacturer specifications for a proposed above-ground equipment cabinet and site plan showing a proposed location for the cabinet within Piedmont Park; and

WHEREAS, the equipment proposed to be installed, including the machinery in the cabinet, is considered to be an exterior installation and thereby subject to Building Code requirements related to mechanically-generated noise sources provided in City Code Section 5.4.11; and

WHEREAS, based upon the evidence and after reviewing the application, plans, and any and all testimony and documentation submitted in connection with such application, the Piedmont City Council finds that the project is categorically exempt from the California Environmental Quality Act (CEQA), pursuant to Section 15303 of the CEQA Guidelines, New Construction or Conversion of Small Structures, subsection (d) (water main, sewage, electrical, gas, and other utility extensions, including street improvements, of reasonable length to serve such construction) because the proposed wireless communication facilities are small utility structures located in a developed setting. No exceptions to the exemptions have been identified that would make the proposals ineligible for the categorical exemptions because the projects’ settings are not environmentally sensitive and existing utilities are located at or near each of the proposed installations; and

WHEREAS, based upon the evidence and after reviewing the application, plans, and any and all testimony and documentation submitted in connection with such application, the Piedmont City Council finds that the project, as conditioned, conforms to the criteria and standards of Piedmont City Code section 17.46.080.D.1, as follows:

- a. As evidenced in the materials submitted by the applicant, the facility is necessary to close a significant gap in the operator's service coverage or capacity; and
- b. The applicant has evaluated and met the priority for location standards of Piedmont City Code section 17.46.040.A.1 in that the proposed site is in Zone B with facilities located on City-owned property;
- c. As conditioned, the proposal satisfies each of the applicable development standards in Piedmont City Code section 17.46.070 as follows:

A. Development Standards:

1. Collocation. The new wireless communication facility is located on a new City-owned lamppost and within an above-ground equipment cabinet at the entrance to Piedmont Park and is designed to accommodate future collocation(s) of other wireless communication facilities unless the city determines that collocation would be infeasible because of physical or design issues specific to the site; and
2. Height limits; Screening. As conditioned, the new antenna will be a maximum 24 inches tall and the maximum height of the facility will be less than 35 feet in height, measured from the ground to the highest point of the wireless communication facility. Other proposed equipment not located on the lamppost will be located within an above-ground cabinet that will be painted a dark color and screened by vegetation; and
3. Visual impact. As conditioned, the proposed wireless communication facility is designed to minimize visual impacts in that the cables are proposed to be within the hollow lamppost or otherwise concealed; the above-grade equipment cabinet and surrounding landscaping provides the concealment for the communication equipment; the antenna shall be no taller than 24 inches; the perimeter of the antenna canister provides the concealment for the antenna; and the facility will have a non-reflective finish and be painted or otherwise treated to minimize visibility and the obstruction of views; and

As conditioned, the facility will not bear signs, other than required FCC certifications, warnings, emergency contacts, or other signage required by law or expressly required by the city; and

4. Public health, peace and safety. As conditioned, the wireless communication facility will not adversely affect the public health, peace and safety. The City is aware of its duty and limits of authority under federal law. The applicant has submitted a report prepared by Hammett & Edison LLC, Consulting Engineers stating that the project as proposed will be in full compliance with the Federal Communications Commission guidelines limiting human exposure to radio frequency electromagnetic fields. Said report has been entered into the public record and relied upon by the City; and
5. Public right-of-way. As conditioned, the proposed wireless communication facility is not located in the public right-of-way. Its design and location, and the placement of equipment does not cause:

(i) physical or visual obstruction, or safety hazard, to pedestrians, cyclists, or motorists; or (ii) inconvenience to the public's use of the right-of-way; and

6. Compliance with laws. The proposed wireless communication facility complies with federal and state statutes governing local agencies' land use authority regarding the siting of wireless communication facilities, including without limitation 47 USC §253, 332(c)(7), 1455(a); California Government Code §§ 50030, 65850.6 and 65964; and California Public Utilities Code sections 7901 and 7901.1. Each reference to a federal and state statute is to the statute as it may be as amended from time-to-time and to the extent the statute remains in effect; and
  - B. Operation and Maintenance Standards. As conditioned, the proposed wireless communication facility will comply with the operation and maintenance standards provided in Piedmont City Code section 17.460070.B; and
  - C. Term of permit. As conditioned, the approved permit for wireless communication facilities is valid for an initial period of ten years commencing on the approval date of this Resolution; and
  - d. The proposed design is consistent with the Piedmont Design Guidelines in that the scale and mass of the communication equipment is appropriate for the lamppost and or is otherwise concealed from view within the lamppost or above-ground equipment cabinet; and
  - e. Although future collocation at this site may not be feasible, the proposed facility has been located and designed for future collocation to the greatest extent reasonable feasible, and the applicant has submitted a statement of its willingness to allow other wireless service providers to collocate on the proposed facility, recognizing that such collocation may be subject to review by the City.

**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 above recitals are correct and are material to this Resolution and are incorporated into this Resolution as findings of the City Council.

**SECTION 2.** Based on the findings and facts set forth heretofore, the staff reports and evidence presented at the public hearings, the Piedmont City Council approves the application for wireless communication facilities permit for a proposed facility PHS09 sited across from 314 Wildwood Avenue, in accordance with the plans and specification on file with the City, subject to the following conditions:

1. **Conditions in construction documents.** These conditions of approval shall be included as a sheet in the plan set submitted for any building permit or encroachment permit for the work approved herein.
2. **Contract engineer.** At the discretion of the Director of Public Works and prior to issuance of an encroachment permit for proposed work in the public right-of-way, the applicant shall file a deposit of \$15,000 for each installation site to be used by the City to cover the costs associated with contract engineer to monitor construction and excavation within the right-of-way. The applicant is responsible for the full cost of the contract engineer, and any

unexpended funds after the completion of the monitoring process will be promptly returned to the applicant.

3. **Patch and repair.** The applicant shall patch and repair City sidewalks and other improvements in the public right-of-way and on City-owned land affected by applicant's project construction, such as curbs or walls, to match the color, texture, materials, and scoring pattern of the existing improvements, including custom integral concrete color in accordance with City of Piedmont standard plans and as directed by the Director of Public Works. Directional bore shall be utilized over trenching at the reasonable discretion of the Public Works Director.
4. **Cabinet Equipment Enclosure.** The radio units and other support equipment shall be enclosed within an above-ground cabinet, not within a flush-to-grade vault. The cabinet shall be located on City-owned property near the entrance to Piedmont Park at Wildwood Avenue, and positioned and painted a color so that it is adequately screened from view. Prior to issuance of an encroachment or building permit, the applicant or contractor shall provide fully dimensioned plans and specifications drawn to scale set by the City Engineer for the equipment cabinet, including manufacturer's specifications, and the material and color of the cabinet. Said plans and specifications are subject to review and approval of the City Engineer.
5. **Contractor's general liability insurance.** To ensure that the contractor doing work in the City will be responsible for damages caused by the work to City property or to neighboring property, the applicant shall require all contractors performing work on the Project to maintain General Liability Insurance for protection from claims for damages because of bodily injury, including death, and claims for damages, other than to the contractor's work itself, to property which may arise out of or result from the contractor's operations. Such insurance shall be written for not less than \$1,000,000 per occurrence. The insurance shall include an endorsement requiring 10 days prior notice to the City if the insurance is to be cancelled or changed, and the applicant shall immediately arrange for substitute insurance coverage. If the contractor's insurance carrier states in writing that it is unable to provide the required endorsement, then the applicant shall be responsible for providing the City with the required notice if the insurance is to be cancelled or changed. The applicant's failure to provide such notice shall constitute grounds for revocation of the City's wireless communication facilities permit. If the applicant does not have a general contractor, the applicant shall maintain property insurance and coverage for contractors, which is substantially equivalent to the contractor's requirement of this section.
6. **Defense of Legal Challenges.** If there is a third party administrative, legal or equitable action challenging the project approvals, including without limitation to CEQA issues, the applicant, Crown Castle NG West LLC, shall defend, indemnify, and hold harmless the City against any and all liability, fees and costs arising out of the defense, including without limitation the costs of City's own selected legal counsel(s). If such an action is filed, the applicant, Crown Castle NG West LLC, 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, employees, consultants, and volunteers.
7. **Noise study and field testing of equipment noise.** At the discretion of the Director of Public Works, the applicant, Crown Castle NG West LLC, shall submit a study prepared by a licensed acoustical engineer for the specific equipment to be installed including manufacturers' specifications and field

tested noise levels prior to issuance of an encroachment or building permit for the approved scope of work. Said study shall demonstrate that the equipment shall meet the limits provided in City Code Section 5.4.11 for mechanically-generated noise sources when the facility is under maximum operational capacity. Furthermore, prior to the scheduling of final inspection and the commencement of facility operation, the applicant shall provide an acoustical report by a licensed acoustical engineer which demonstrates that tested noise levels are 50 dBA or less at the nearest property line while the facility is at maximum operational capacity, including, but not limited to the fans, radio units and sump pumps. The facility may not begin operating until such time that the requisite analysis demonstrates that the mechanically-generated noise meets the requirements of Section 5.4.11. These requirements shall also apply to this facility at future times when machinery in the cabinet is added or replaced.

- a. **Peer Review.** At the Applicant's sole expense, the City shall have the option to retain an independent acoustical consultant to perform a peer-review of the Applicant's acoustical report(s) and advise the City in connection with the facility's mechanically-generated noise. The City Engineer shall select this independent acoustical consultant, whose services shall be provided for the sole benefit of the City and whose reports and recommendations can be relied upon only by the City. The independent acoustical consultant shall also review the construction plans during the permit approval process, and may provide periodic on-site observations during installation of the cabinet and the equipment within it as deemed necessary by the City Engineer. The Applicant shall provide payment for this service at the time of the Building or Encroachment Permit submittal.
8. **Radio frequency emissions testing.** Prior to issuance of an encroachment permit, the applicant shall provide a revised radio frequency emissions exposure report which demonstrates the project's compliance with applicable FCC health safety standards. Prior to completion of the project and the release of any bond or deposit, the applicant shall provide to the Planning Department the results of radio frequency and electromagnetic emissions testing conducted at each of the sites and prepared by a qualified electrical engineer following the methodology established by the FCC in Office of Engineering and Technology Bulletin 65 or any successor thereto. Should results of the testing reveal inconsistencies with the application and the provided radio frequency emissions exposure report, then the applicant shall alter the design of the antenna and communication equipment to bring the project's radio frequency and electromagnetic emissions levels to those specified in the application and reports, with the altered design receiving verification of compliance through further field tests. Should the applicant, Crown Castle NG West LLC, or owner of the WCF equipment be unable to comply with this condition of approval, the facility must be disconnected from all electrical power sources until the applicant is able to demonstrate to the City its compliance with the applicable FCC rules. The radio frequency and electromagnetic field emissions exposure report shall be peer reviewed by the City's selected and qualified reviewer at the expense of the applicant, Crown Castle NG West LLC, or owner of the WCF equipment. The radio frequency emissions exposure report shall be conducted on an annual basis within 30 days of each anniversary of the approval of this Resolution, and each study shall be coordinated in advance with the Director of Planning.
9. **Future modifications.** Future modifications of the approved installation that extend beyond the approved project site, increase excavation beyond the approved project site, or that remove or subvert the concealment design of



the approved antennas and equipment, including the above ground cabinet, the body of the lamppost, and the perimeter of the canister concealing the antenna(s), shall constitute a new application and shall require new application forms and fees. Applications that extend beyond the approved project site, increase excavation beyond the approved project site, or that remove or subvert the concealment design of the approved antennas, cabinet and equipment, or any other request to modify the installation that does not qualify for treatment as an eligible facilities request under Section 6409(a) shall not be eligible for Planning Director review under 47 U.S.C. §1455(a) processing.

10. **Construction Management Plan.** The applicant or contractor shall develop a comprehensive Construction Management Plan. The Construction Management Plan shall address noise, vibrations, traffic control, parking, debris removal, dust control, sanitary facilities, site safety security and other potential construction impacts, as well as other details involving the means and methods of completing the Project, including the construction route and the days and hours permitted for heavy excavation. Outside construction involving high levels of noise, including excavation, hammering, and pile driving, shall be limited to Monday through Saturday, from 8:30 a.m. to 4:30 p.m. Construction personnel shall be instructed not to park in front of driveways to private residences. The plan shall specify the sequencing of pruning, demolition, and construction activities. The City Building Official may require modifications and amendments to the Construction Management Plan throughout the course of the Project and until the Final Inspection is approved by the City.
  - a. **Construction Site Control of Stormwater.** The California Regional Water Quality Control Board requires all projects that disturb the site to comply with Provision C.6 of the San Francisco Bay Regional Stormwater NPDES Permit in order to prevent construction site discharges of pollutants and other regulated materials during construction. Prior to the issuance of a building permit, the Applicant shall submit a construction stormwater management plan prepared by a licensed Civil Engineer to achieve timely and effective compliance with Provision C.6. Permit Provision C.6.c.ii provides sources for site specific, and seasonally- and phase-appropriate, effective Best Management Practices (BMPs) that must be incorporated into the stormwater management plan. Copies of the Municipal Regional Stormwater Permit are available from the Piedmont Public Works Department and on-line at [cleanwaterprogram.org](http://cleanwaterprogram.org).
  - b. **Continual Street Access for Emergency Vehicles.** The Construction Management Plan shall specifically address methods of providing continual street access for emergency vehicles at all times by means of a traffic control permit application submitted by the applicant and reviewed and approved by the Public Works Director.
  - c. **Haul routes.** All equipment and vehicle haul routes shall be provided to the City for review and approval. To the extent possible, haul routes shall attempt to minimize or eliminate use of minor residential roadways. Street and pavement conditions shall be observed and documented by the City on all haul routes prior to commencement of construction. Damage or observable and unusual wear and tear to haul routes on city roadways as specified by the City shall be repaired at the Property Owner's expense after Final Inspection.
11. **Maintenance of Facilities.** Maintenance of the communication equipment

shall be conducted pursuant to an encroachment permit, the term of which is the same as that for the facility's lease term. The encroachment permit is subject to the review and approval of the Public Works Director. Except for emergency maintenance needs, the maintenance of the wireless communication facilities shall not occur from 7:30 a.m. to 9:30 a.m. or from 2:30 p.m. to 4:00 p.m. during regular school days of any public schools located in any direction within one-quarter mile of the wireless facility. The prohibited hours for regular maintenance may be adjusted by the Director of Planning upon at least 30 days written notice to the applicant to accommodate changes in the hours of instruction at the nearby public schools.

12. **Site Safety Security.** The City and the public have an interest in not having an unfinished project blighting the neighborhood, restricting access, and undermining property values. These public interests are primarily safety and aesthetics, and diminishment of property values. Prior to the issuance of an encroachment permit for the approved project, Crown Castle NG West LLC shall provide to the City a specific cash deposit, letter of credit, bank guarantee, or other similar financial vehicle ("Site Safety Security") in the amount of \$100,000 for each site to ensure the Project site is not left in a dangerous or unfinished state, and if any funds are remaining, to complete repairs in the public right-of-way. City shall release such security to Crown Castle NG West LLC at the time it completes the final inspection and certification of compliance with all conditions of approval.
  - a. The Site Safety Security shall be in an amount to include three components:
    - i. safety, which means the cost to make the site and structure safe and accessible if construction should cease mid-way through the Project;
    - ii. aesthetics, which means an amount to install and maintain hardscape paving and landscaping all around the Project; and
    - iii. staff and consultant time to evaluate and implement this condition.
  - b. If, as the Project proceeds, the expected cost of these components increases beyond the original estimate in the opinion of the Director of Public Works, the City may require Crown Castle NG West LLC to increase the amount of the Site Safety Security by the additional amount. Crown Castle NG West LLC shall provide City with written evidence of compliance within 15 working days after receiving written notice of the additional required amount. The City shall retain, at Crown Castle NG West LLC's expense, an independent estimator selected by the City after consulting with Crown Castle to verify the total expected costs to complete the Project and any subsequent revisions.
  - c. The form and amount of the Site Safety Security is subject to the reasonable approval of the Director of Public Works. Payment to City under the Site Safety Security shall be made payable upon demand by the City and prior to the issuance of the Building Permit, conditioned solely on the Director of Public Works' certification on information and belief that all or any specified part of such Performance Security is due to the City.
  - d. The Site Safety Security shall not be released until the Project has an approved Final Inspection by the Building Official. However, if sufficient work has been completed according to the benchmarks and construction values as established under the Construction Completion Schedule, the Site Safety Security may be reduced to the extent the

Director of Public Works in his reasonable discretion determines is appropriate.

13. **City Facilities Security.** The applicant (“Crown Castle NG West LLC) shall provide a specific cash deposit, letter of credit, bank guarantee, or other similar financial vehicle (“City Facilities Security”) in the amount of \$100,000 per site as established by the Director of Public Works. This financial vehicle serves as an initial sum to cover the cost of any potential damage to City property or facilities in any way caused by Crown Castle NG West LLC’s contractors or subcontractors, or any of their agents, employees or assigns, and related in any way to the Project. The Crown Castle NG West LLC is responsible for the full cost of repair as determined by the City Engineer prior to final inspections. The form and terms of such City Facilities Security shall be determined by the Director of Public Works after consultation with the Property Owner. The Director may take into account any of the following factors: the cost of construction; past experience and costs; the amount of excavation; the number of truck trips; the physical size of the proposed project; the logistics of construction; the geotechnical circumstances at the site; and City right-of-way and repaving costs.
  - a. To provide clear baseline information to assist in determining whether damage to the City’s facilities has been caused by Crown Castle NG West LLC or others working for or on behalf of Crown Castle NG West LLC, the City will document such facilities including, without limitation, streets and facilities along the approved construction route as specified in the Construction Management Plan, to establish the baseline condition of the streets and facilities. The City shall further re-document the streets as deemed appropriate after the Project commences until the Director of Public Works determines that further documentation is no longer warranted. As part of the documentation, the City may water down the streets to better emphasize any cracks or damage in the street surface. Crown Castle NG West LLC is responsible for the full cost of the documentation and repair work as determined by the City Engineer, and shall reimburse the City for those costs prior to the scheduling of final inspection.
  - b. When the City Facilities Security is in a form other than cash deposit with the City, the proceeds from the City Facilities Security shall be made payable to the City upon demand, conditioned solely on the Director of Public Works’ certification on information and belief that all or any specified part of the proceeds are due to the City.
14. **Neighboring Property Damage Security.** The Applicant shall provide adequate and appropriate Insurance or bonds, as approved by the Director of Public Works and City Attorney against damage to neighboring properties by any construction, excavation, and related work in any way involving the project, such insurance or bonds to be in the amount of \$1,000,000.00 for each installation site and with any standard and/or special conditions established by the Director of Public Works after consultation with the Applicant (Crown Castle NG West LLC). If the Director of Public Works determines that obtaining any particular insurance would be extremely difficult for Applicant due to its lack of availability even at an increased cost, the Director of Public Works may authorize an alternative method of providing equal protection to neighboring properties, including but not limited to partial coverage by Umbrella Insurance if that appears appropriate. Such insurance or any alternative method shall allow for claims to be made for up to one year after the final inspection of the Applicant’s project. Any

and all such insurance or any alternative method shall specifically indicate that it covers damages to neighboring private properties, and if such insurance is meant to also cover other potential damages, such as personal injuries or damages to other than the above named properties, any such further coverage shall be in addition to the \$1,000,000 earmarked for neighboring properties.

15. **Height Verification.** Prior to completion of the project and release of any bonds or security deposits, the applicant shall provide the Building Official written verification by a licensed land surveyor stating that the height of the new wireless communication equipment mounted on the new lamppost is less than or equal to 35 feet in height measured from grade adjacent to the lamppost. If the height exceeds 35-foot height limit, then the applicant or contractor shall immediately reduce the height of the equipment until it is in compliance with the maximum height requirement.
16. **Antenna Design, Project Site, and Concealment Design.** As shown in the proposed plans for PHS09 submitted by the applicant on September 14, 2017, the antenna shall be located atop a new lamppost located on City-owned property at the entrance to Piedmont Park. The antenna and canister used at this facility shall have a maximum length of 24 inches. The lamppost and luminaire type shall be similar to that on the Oakland Avenue Bridge with a single arm. The location of the antenna and luminaire shall be generally near the existing proposed location and the black picket fence with a backdrop of trees. The luminaire shall be designed to illuminate the path and circle with the following design considerations: i) the light shall have a warm tone such as a low Kelvin 2700-3000 rating; ii) the luminaire shall mitigate light pollution; iii) the light from the luminaire shall have a sharp cut-off angle; and iv) the light from the luminaire shall have no visible source of light to residences. The above ground equipment cabinet shall be located behind the black picket fence and screened by vegetation. The pole, antenna and cabinet shall have a dark color. The final design, placement and color of the lamppost, lamp, luminaire, and decorative arm or bracket for the lamp shall be subject to City staff review and approval. The antenna canister and equipment cabinet shall be identified as the “concealment design” for the installation and shall be labeled as such on the plans. The outer edge of the equipment as shown in elevation and in ‘plan view’ shall be identified as the “project site” and shall be labeled as such on the plans.
17. **Decommissioning Plan.** The approval of the wireless communication facilities permit is valid for a term of 10 years, except as otherwise required by state or federal law or due to public safety or substantial land use reasons provided under California Government Code section 65964(b). Obsolete, decommissioned, and unleased equipment or accessories shall be removed with each modification of the installation or annually whichever comes first. All modifications shall incorporate the highest industry standards for compact designs that minimize visibility and that comply with the concealment strategies provided in Condition of Approval #16.
18. **Cables and Cabling.** To the best extent possible, the cables to the antenna(s) atop the lamppost shall be enclosed within the lamppost post and shroud. No more than 5 inches of exposed cables, cabling or wire(s) shall be evident on plans filed for building permit or evident on the wireless installation after completion of construction. If required by the Building Official, the applicant at its sole cost and expense shall install a full-scale mock-up of the installation at the City’s corporation yard prior to issuance of a building permit and remove the same upon ten-day written notice from the City Engineer.
19. **Lease Requirement.** This installation in Piedmont Park shall be subject to

the terms and conditions of a lease approved by the City Council prior to issuance of a building permit or encroachment permit for the approved scope of work. The lease terms include, but are not limited to: a) rent equal to \$1,500 per year per pole subject to annual increases; b) two strands of dark fiber provided to the City for its use; c) a term length of 10 years with three additional 5-year renewals; d) an upfront per pole fee of \$1000 per pole to cover other city administrative costs; e) the new light pole would be a city light pole built by Crown Castle and dedicated to the City; and f) no changes to the facilities or installations would be permitted without the express permission of the City.

20. **City Monitoring of City Trees.** The applicant and its contractors are prohibited from performing any tree pruning related to construction, pre-construction clearance, or on-going maintenance and operation after construction. Tree trimming is restricted and may only occur with the approval of the Director of Public Works. No tree trimming will be permitted if it is to maintain or enhance the wireless transmissions from the facility. The pruning of trees in the public right-of-way or on City-owned property is the exclusive responsibility of the Piedmont Department of Public Works, or its designee.
21. **Operation and Maintenance Standards.** The facility shall comply with the provisions of City Code Section 17.46.070.B, as follows:
  - a. Contact and site information. The owner or operator of a wireless communication facility must submit basic contact and site information to the city, and notify the city within 30 days of any changes to this information, including the transfer of ownership. The contact and site information must include: (i) the name, address, email address, telephone number, and legal status of the owner of the facility, including official identification number and FCC certification, and, if different from the owner, the identity and legal status of the person or entity responsible for operating and maintaining the facility; and (ii) the name, address, email address, and telephone number of a local contact person for emergencies.
  - b. Signage. The owner and/or operator must post an identification sign at each facility, including owner/operator emergency telephone numbers. The design, materials, colors, and location of the identification signs shall be subject to review and approval by the Director. If at any time a new owner or operator provider takes over operation of an existing personal wireless service facility, the new personal wireless service provider shall notify the Director of the change in operation within 30 days and the required and approved signs shall be updated within 30 days to reflect the name and phone number of the new wireless service provider. The colors, materials and design of the updated signs shall match those of the required and approved signs. No sign shall be greater than two square feet in size unless required by law. The facility shall not bear signs other than certification, warning, emergency contacts, or other signage required by law or expressly required by the City.
  - c. Non-Interference. Each wireless communication facility must at all times comply with laws, codes, and regulations, and avoid interfering with any city property, facilities, operations, utilities, or equipment.
  - d. Facility maintenance. Each wireless communication facility must at all times be maintained in good repair, free from trash, debris, litter, graffiti, and other forms of vandalism. The operator must repair any damage as

soon as reasonably possible, but no later than the earlier of 10 days from the time of itself becoming aware of the non-compliance or the receipt of written notification from the City.

- e. **Landscaping.** Landscaping elements at a wireless communication facility site must be maintained in good condition, and in compliance with the approved landscape plan. The owner or operator is responsible for replacing any damaged, dead, or decayed landscape materials and making necessary irrigation and equipment repairs as soon as reasonably possible.
  - f. **Noise.** A wireless communication facility must be operated to comply with Chapter 5 of the City Code. Should the noise emanating from the facility be found to exceed the limits provided in City Code Chapter 5, operation of the facility shall cease immediately and shall not resume until a noise verification study prepared by a licensed acoustical engineer shows the facility's compliance with City Code Chapter 5 noise limits. The acoustical engineer shall be selected by the City and the cost of the engineer's services shall be paid by the applicant or wireless communications service provider.
  - g. **Removal.** All wireless communication facility equipment must be removed within 30 days of the discontinuation of the use, and the site and other property restored to its original, preconstruction condition. In addition, the service provider must provide the city with a notice of intent to vacate a site a minimum of 30 days before the vacation. For a wireless communication facility to be located on public property, this removal requirement will be included within the lease. For a facility to be located on private property, the property owner will jointly and severally be responsible for removal and restoration.
22. **Modifications to Public Facilities.** Should the public facilities in the area of this facility be removed, replaced or modified, the wireless communication facility equipment shall be removed or relocated at the applicant's expense subject to review and approval of the Director of Public Works.
23. **Expiration of Wireless Communication Facilities Permit.** An encroachment permit and building permit must be issued within one year of the approval of the City Council, and construction completed within two years of the approval of the City Council, or this approval shall be null and void.
24. **Tree Protection Measures.** Prior to issuance of Building Permit or Encroachment Permit, the applicant shall provide tree protection measures prepared by a licensed and certified arborist for all work within the dripline of City owned trees. The arborist report shall be subject to the review and approval of the City of Piedmont Parks and Project Manager.
25. **Photometric Analysis.** Prior to issuance of a Building Permit or Encroachment Permit, the applicant shall provide a photometric analysis showing that light does not extend beyond the boundaries of City-owned land in Piedmont Park. The photometric analysis shall be subject to the review and approval of the City of Piedmont Parks and Project Manager.
26. **Construction Completion Schedule.** Work on the Project, once begun, shall be promptly executed with continuous good faith and reasonable progress. Since timely completion of this Project is of the essence, the Applicant shall submit for approval a Construction Completion Schedule, which will specify, in detail, the duration and percentage complete of each phase.

- a. The Construction Completion Schedule with associated construction values for each benchmark shall set forth completion dates for the following benchmarks as needed: i) Completion of Excavation; ii) Completion of Electrical; iii) Completion of Plumbing; iv) Completion of Mechanical; v) Completion of Facilities; vi) Completion of Hardscaping and Landscaping; and any further construction benchmarks and conditions of occupancy as may be determined by the Director of Public Works.
- b. Before the Project begins, the Director of Public Works shall make a determination as to the reasonableness of the proposed completion dates applicable to the Project, and that determination shall constitute the “Approved Schedule” and be binding on the Applicant. The City may, at the Applicant’s sole cost, engage the services of a consultant to review the Applicant’s proposed Construction Completion Schedule and, to the extent the period allocated for any work appears unjustifiable, recommend to the Director of Public Works a reasonable completion date for any benchmark.
- c. If the work for any specific benchmark has not been completed within 90 days after the completion date set forth in the Approved Schedule, and the delay in completion has not been caused by force majeure, the Director of Public Works has the option at any time thereafter to make a claim against the Applicant’s Site Security, if one is required, in order to complete the benchmark. The Director of Public Works has the option to refer the application to the City Council for public review.

**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.

Moved by Rood, Seconded by Cavanaugh  
Ayes: Andersen, Cavanaugh, King, Rood, McBain  
Noes: None  
(1127)

**Information Technology Strategic Plan Update** City Administrator Benoit introduced Tom Jakobsen of ClientFirst IT Consulting Group and Adam Schwartz of Computer Courage, the City’s IT support services provider and indicated that they would give a presentation on the status of the implementation of the City’s Information Technology Strategic Plan.

Mr. Jakobsen provided an update on implementation of the strategic plan which had been previously approved by Council. He stated the implementation of the plan was on track and discussed ongoing modernization of the City’s IT infrastructure. He indicated that the IT Strategic Plan is being constantly updated to reflect the situation at hand and that this involved moving some projects up and delaying others. He also provided estimated completion dates for pending projects.

Adam Schwartz, Computer Courage, provided an overview of the projects which have been completed since Computer Courage begun its contract in January of 2017. He also highlighted projects which are currently under way, including the provision of wifi access in all City buildings, among others. He introduced technician Alex Yang, who is the Computer Courage employee assigned to work in City Hall.

There were no public speakers on this item.

In response to questions from Council, City Clerk/IT Manager John Tulloch explained how IT budgeting was spread between the operating and equipment replacement budgets. He discussed how the investment made to the back end of the City's IT systems would allow for forward facing projects which will benefit the public in its interactions with City Hall, including records management and the implementation of a new telephone system.

Council thanked Messers. Jakobsen and Schwartz for their work and urged them to keep the momentum going.  
(0385)

**Web Site Redesign and  
Web Hosting Services**

City Administrator Benoit discussed the efforts to develop and host a new City website.

City Clerk John Tulloch provided an overview of the history of the City's web site since its inception in 2007. He detailed the static nature of the City's current web site and how it was developed before most users began adopting mobile technology. He explained the planning and issuance of request for proposals for website redesign and hosting services. He indicated that the City had received six proposals and interviewed two finalists. From this process, CivicLive was the consensus pick to recommend to Council.

Gordon Duff, CivicLive, provided an overview of CivicLive as well as the process used for citizen communication and engagement. He described the creative process of creating the new web site and how the CivicLive content management system would allow a broad spectrum of employees to update information on the web site. He described how CivicLive will work with staff and gather feedback from the community on the new site. Mr. Duff explained the inclusive package, ongoing maintenance, support, annual fee and content migration.

Mr. Jakobsen stated the fees were comparable to other companies and that the review committee was particularly impressed with the 24/7 support. He explained the approval process to control the "voice" of the website.

There were no public speakers on this item.

The Council discussed the need for a coordinated look and feel for the new web site, consistent with the image of Piedmont which the community wishes to give to the world. Mr. Jakobsen and Ms. Kenyon described the branding processes they had gone through with other communities, but indicated that most have a specific issue, such as tourism or economic development which their web site was used to highlight. Mr. Benoit indicated that there was not necessarily a similar issue which Piedmont needed to highlight.

The Council expressed enthusiasm for the development of the new web site, which will better suit the needs of residents to communicate and do business with the City. The Council indicated it would be interested in a simplified discussion of branding for the City that did not slow down the process of implementing the new site.

**Resolution No. 98-17**

RESOLVED, that the City Council approves an agreement with CivicLive for development and hosting of a new website for the City of Piedmont.

Moved by Rood, Seconded by King

Ayes: Andersen, Cavanaugh, King, Rood, McBain



Noes: None  
(0045, 0820-0118)

**Ambulance Purchase**

City Administrator Benoit explained the proposed purchase of an ambulance, bid process, and recommendation to award a contract to Leader Emergency Vehicles.

Chief McLaren discussed the specific of the requirements put forth in the Request for Proposals. He indicated that though three proposals were received, only one of them was responsive to the RFP. He detailed the age of the current front line and reserve ambulances as well as why it is necessary to purchase a new ambulance at this time.

There were no public speakers on this item.

The Council thanked Chief McLaren and the Fire Department for their work for on this project.

**Resolution No. 99-17**

RESOLVED, that the City Council accepts the bid and awards a contract to purchase a 2017 Type III Ambulance from Leader Emergency Vehicles in the amount of \$215,095.42, based on the submitted bid dated October 16, 2017

Moved by Cavanaugh, Seconded by King

Ayes: Andersen, Cavanaugh, King, Rood, McBain

Noes: None

(0045)

**Memoranda of Understanding with Piedmont Firefighters Assn. & Piedmont Police Officers Assn.**

City Administrator Benoit discussed the process by which the proposed three year labor agreements with the Piedmont Firefighters Association and Piedmont Police Officers Association had been reached. He explained the Council goals related to medical and retiree cost sharing, which are achieved with these proposed agreements.

He indicated that the proposed agreements protected the interests of the City while also ensuring that employees were fairly compensated. The proposed agreements, which are three years in length, brought employee salaries to within -3% of median and provided an annual 3% cost of living increase. He highlighted specifics in the agreements.

There were no public speakers on this item.

The Council commended staff and the employees for successful negotiations, which help ensure the long term financial future of the City as well as fair compensation for employees.

**Resolution No. 100-17**

RESOLVED, that the City Council approves a Memorandum of Understanding between the City of Piedmont and the Piedmont Firefighters Association effective July 1, 2017 through June 30, 2020.

Moved by Cavanaugh, Seconded by King

Ayes: Andersen, Cavanaugh, King, Rood, McBain

Noes: None

**Resolution No. 101-17**

RESOLVED, that the City Council approves a Memorandum of Understanding between the City of Piedmont and the Piedmont Police Officers Association

effective July 1, 2017 through June 30, 2020.  
Moved by King, Seconded by Rood  
Ayes: Andersen, Cavanaugh, King, Rood, McBain  
Noes: None  
(0045)

**REPORTS AND  
ANNOUNCEMENTS**

Vice Mayor King announced the opportunity to sign up for Winter Recreation programs and holiday camps.

Councilmember Cavanaugh commended Schoolmates on its excellent after school programming during conference week. She also discussed the successful community meeting to solicit input on Linda Beach Master Plan and welcomed residents to attend the next meeting on January 11. She also discussed the high school diversity assembly and announced the same for parents on December 6.

Councilmember Andersen discussed the Planning Commission's recommendation to amend Chapter 17 in response to Prop 64 and SB 94 regarding regulations for cannabis for adult use. She reminded the public that Chief Bowers would be addressing Piedmont High School Parents Club regarding marijuana use in teens. She stated she attended the Climate Action meeting and Linda Beach Playfield meeting and was impressed by community involvement.

Councilmember Rood discussed the Climate Action Plan Task Force workshop and thanked the community for its participation and input in the process.

Mayor McBain invited residents to participate in the annual Turkey Trot on Thanksgiving morning, November 23, 2017. He also thanked staff for its efforts on the wireless facility applications.

**ADJOURNMENT**

There being no further business, Mayor McBain adjourned the meeting at 11:14 p.m.