

PIEDMONT CITY COUNCIL

Regular Meeting Minutes for Monday, December 17, 2018

A Regular Session of the Piedmont City Council was held December 17, 2018, 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 13, 2018.

CALL TO ORDER The Council met in Closed Session for (a) Conference with Legal Counsel – Existing Litigation (Govt. Code 54956.9) – Name of Case: Crown Castle NG West, LLC v. City of Piedmont. Following the 7:00 p.m. Closed Session, Mayor McBain called the meeting to order at 7:35 p.m. with the Pledge of Allegiance.

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

Staff: City Administrator Paul Benoit, City Attorney Michelle Marchetta Kenyon, Fire Chief Bret Black, Police Chief Jeremy Bowers, Planning Director Kevin Jackson, Public Works Director Chester Nakahara, City Engineer John Wanger, Senior Planner Pierce Macdonald Powell, and Assistant City Administrator/City Clerk John Tulloch

CONSENT CALENDAR The Consent Calendar consisted of the following items:

Council Meeting Approval of Council Meeting Minutes for 10/15/18 and 11/05/18

Council Liaison Assignments Approval of Council Liaison Assignments for the period of 01/01/19 through 12/31/19 (0085)

2017 Pavement Project **WHEREAS**, at the October 16, 2017 City Council meeting, the City Council approved an overall budget for the 2017 Pavement Project (Project) and authorized the award of the construction project to Interstate Grading & Paving, 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 2017 Pavement 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 for a period of one year from the date of this resolution, at which time the Public Works Director is authorized to release said bond if the improvements remain in good condition and there is 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

(0045)

Oakland Avenue Bulb Out Project Consideration of a Project Specific Supplemental Agreement with Coastland Civil Engineers for the Design of the Oakland Avenue Bulb Out Project

(0045, 1000)

Crossing Guard Services Approval of a Renewed Agreement with All-City Management Services for Crossing Guard Services
(0045)

Resolution No. 87-18

RESOLVED, that the City Council approves Consent Calendar as submitted.
Moved by Rood, Seconded by King

Ayes: Andersen, Cavanaugh, King, McBain, Rood

Noes: None

PUBLIC FORUM

There were no speakers for Public Forum.

CEREMONIAL MATTERS

Fire Chief Bret Black introduced Fire Lt. Zach Heliker and his wife, Misty, pinned him with his Lieutenant badge.

Police Chief Jeremy Bowers introduced Police Officer Michelle Guichard and her girlfriend, Torrie, pinned her with her badge.

REGULAR AGENDA

The Council considered the following items of regular business:

**Consideration of
Settlement Agreement
Crown Castle**

Vice Mayor King disclosed that, due to living within 500 feet of 237 El Cerrito Avenue, she had a conflict of interest for that facility.

Councilmember Andersen disclosed that she lived within 500 feet of three proposed facilities at 355 Jerome Avenue, 338 Magnolia Avenue, and 116 McKinnon Place, therefore, she had a conflict and could not take action on those three facilities.

Vice Mayor King and Councilmember Andersen left the Chambers due to conflicts of interest.

City Administrator Paul Benoit summarized the prior actions with Crown Castle filing nine applications in November 2016 and the Council denying five and approving four of the nine applications in November 2017. Mr. Benoit indicated that, subsequent to the Council's action, the applicant challenged the Council's action on eight of the nine applications in Federal Court. He indicated that the City and the applicant had been in court ordered mediation since the suit was filed and that the settlement before the Council this evening was the product of those negotiations.

Planning Director Kevin Jackson provided an overview of the basic terms of the proposed settlement agreement, including that the City will consider the eight sites which were challenged in the suit as well as ten additional sites. He indicated that should the Council approve the settlement agreement, the applicant would be required to make applications for the sites as described in the agreement. The applications would then be considered by the Planning Commission and then the Council. He also provided minor corrections to the agreement. Mr. Jackson indicated that staff and the City Attorney recommended approval of the settlement agreement.

In response to Council inquiries, Mr. Jackson explained that additional sites were contemplated in the agreement because of the lower transmission power of the proposed sites contemplated in the proposed agreement as well as the

smaller radios; improved aesthetics; and opportunities for community input. Special Counsel Harriet Steiner explained the timeframe for implementation of the settlement agreement.

Planning Director Jackson provided an overview of the four sites designated PHS 07, PHS 11, PHS 13, and PHS 15. He confirmed that trees would not be damaged in the process.

City Attorney Michelle Marchetta Kenyon and Special Counsel Harriet Steiner discussed the actions, including moratoria on new wireless sites, that other cities have implemented. They discussed the federal and state laws and regulations which govern the City's consideration of wireless applications. They indicated that the designs contemplated in the settlement agreement would set precedent for future applications. They also discussed the need to address the pending litigation.

Public Testimony was received from:

Liz Behrens, on behalf of the McKinnon Place neighbors, requested coordination with their proposed utility undergrounding plan.

Tom Lee and Anian Tunney urged the Council to reject the settlement agreement. Speakers expressed concern about the effects of electromagnetic radiation as well as the added disclosure requirements which would be placed on property owners near wireless sites.

The Council discussed the settlement agreement with regard to sites PHS-07, PHS-11, PHS-13, and PHS-15.

Resolution No. 88-18

RESOLVED, that the City Council approves the inclusion of proposed sites PHS-07, PHS-11, PHS-13, and PHS-15 in the Settlement Agreement between City and Crown Castle NG West LLC.

Moved by Rood, Seconded by Cavanaugh

Ayes: Cavanaugh, McBain, Rood

Noes: None

Recused: Andersen, King

Vice Mayor King and Councilmember Andersen returned to the Chambers and took their seats at the dais.

Mr. Jackson briefed the Council on the other fourteen sites proposed in the settlement agreement. He further detailed the modifications to the design of the proposed sites intended to address prior design criticisms. He stated that once the City received applications from Crown Castle, each of the eighteen proposed sites would be evaluated on their own merits.

Public Testimony was received from:

Lisa Carnazzo, Bruce Mowat, and Ann Dowley urged the Council not to approve the settlement agreement. Speakers cited design issues with the equipment for the sites and concerns about effect on property values of homes near wireless sites. Speakers also urged the Council and Planning Commission to consider the applications for the sites on their own merits.

John Cheney urged the Council to consider the development of its own 5G network.

Council thanked staff, Special Counsel Harriet Steiner, and City Attorney Michelle Marchetta Kenyon for their work negotiating this settlement.

The Council thanked residents for their input and acknowledged the strong sentiment regarding wireless applications in general. Councilmembers acknowledged that the designs contemplated in the settlement agreement were improved over the original applications. Councilmembers also acknowledged that many residents have concerns regarding the health effects of electromagnetic radiation, but emphasized that the City is prohibited by state and federal law from considering this issue.

Resolution No. 89-18

RESOLVED, that the City Council approves the settlement with Crown Castle with respect to all remaining fourteen sites and approves the Settlement Agreement (as amended) between City and Crown Castle NG West LLG.

Moved by Rood, Seconded by King

Ayes: Andersen, Cavanaugh, McBain, King, Rood

Noes: None.

(0045, 0595)

**Design Standards for
Projects in Public Right
of Way**

City Administrator Benoit explained that the City established design and construction specifications for all work in the public right of way. He indicated that the standard details were periodically updated to keep them in line with best practices.

Senior Planner Pierce Macdonald Powell detailed the proposed revisions to the design standards, which document long-standing practices for management of City streets and other parts of the public right-of-way, including standards for projects undertaken by public utilities. Ms. Macdonald Powell indicated that the proposed revisions were developed in coordination with the Public Works Department and Fire Department.

There was no **Public Testimony** on the matter.

Council thanked staff for its work on this item, indicated its support for the revisions.

Resolution No. 90-18

WHEREAS, the Department of Public Works Standard Details were last revised and updated in January of 2017; and

WHEREAS, the Standard Details need to be revised to reflect current City practices regarding the management of streets and other parts of the public right-of-way, including standards for projects undertaken by public utilities;

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 true and correct and are hereby incorporated into this resolution as findings of the City Council of the City of Piedmont.

Section 2. The City of Piedmont Department of Public Works Standard Details,

dated December 2018 are hereby approved and adopted for use.

Section 3. The Director of Public Works and/or the City Engineer may authorize modifications of the Standard Details on a case-by-case basis upon a finding that (A) existing physical conditions at the site of the work require adaptation of the Standard Details to achieve the intent of the Standard Details; (B) existing physical conditions at the site of the work require modifications of these Standard Details to maintain or improve public safety; or (C) the outcome of the modifications will result in an equivalency in function and appearance as the Standard Details. The Director of Public Works and/or City Engineer may prepare minor revisions to the Standard Details without approval of the Council.

Moved by Cavanaugh, Seconded by King

Ayes: Andersen, Cavanaugh, Rood, King, McBain

Noes: None

(0825, 1000)

**REPORTS AND
ANNOUNCEMENTS**

Councilmember Andersen discussed the recent Local Hazard Mitigation Plan meeting.

Mayor McBain and Vice Mayor King commended the Piedmont Beautification Foundation, the Public Works Department and the Recreation Department for the success of the annual Holiday Tree Lighting ceremony. She also commended the organizers of the Piedmont menorah lighting.

Councilmember Cavanaugh indicated that there was great community participation in the annual Thanksgiving book drive as well as the Turkey Trot. She congratulated staff on the completion of the City Hall bathroom renovations. She also announced that the backstop at Hampton Field would be dedicated to John Hege on Sunday, January 6, 2019 at 1:00 p.m.

Mayor McBain commended the Piedmont firefighters who helped fight the Camp Fire in Butte County during November of 2018.

ADJOURNMENT

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