

PIEDMONT CITY COUNCIL

Regular Meeting Minutes for Monday, May 6, 2019

A Regular Session of the Piedmont City Council was held May 6, 2019, 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 May 2, 2019.

CALL TO ORDER

The Council met in Closed Session for (a) Public Employee Appointment – review of applicants (Government Code Sec. 54957) - Title: City Administrator. Following the 7:00 p.m. Closed Session, Mayor Bob McBain called the meeting to order at 7:31 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, Police Chief Jeremy Bowers, Public Works Director Chester Nakahara, Finance Director Michael Szczech, Assistant Planner Chris Yeager, Parks and Project Manager Nancy Kent, and Assistant City Administrator / City Clerk John Tulloch

REGULAR AGENDA

The Council considered the following items of regular business:

With the Council's consent, Mayor McBain called agenda item 4 for consideration.

Dedication of Corner of Linda & Lake Avenues to Arthur Ward

Vice Mayor King introduced the proposal to dedicate the corner of Linda and Lake Avenues to Arthur Ward. She indicated that Mr. Ward has served as the crossing guard at this intersection for a number of years and, during that time, has become a part of the Beach Elementary School community. She discussed Mr. Ward's dedication to the students and parents of Beach School, the surrounding neighborhood, his church, and the City of Piedmont.

Public Testimony was received from:

(Norma) Summer Ward thanked the children and parents of Beach Elementary School, as well as the City of Piedmont for supporting her husband.

Students Lucy Barton, and Zoe Berman thanked Mr. Ward for his dedication to students and the community. Ms. Barton read the poem she wrote to Arthur.

Arthur Ward, Jr., Mr. Ward's son, stated his father respected all people and did his job well.

Odis James, spoke of how Mr. Ward provided love and inspiration through his example.

Arthur Ward thanked the community and Council for recognizing him, spoke of his love for the community, and expressed his dedication to keeping the students of Beach Elementary School safe. He also stated that this recognition was the biggest and best surprise of his life.

On behalf of the Council, Mayor McBain thanked Mr. Ward for his dedication to the community, thanked the community for turning out in droves to honor Mr. Ward, and expressed gratitude for Mr. Ward's work to keep the students of

Beach Elementary School safe.

Resolution No. 20-19

WHEREAS, Arthur Ward is recognized as the sentinel of Linda and Lake Avenues, ensuring safe passage for Beach Elementary School students, faculty, and staff, as well as neighbors, in rain and wind, sun and heat; and

WHEREAS, while Mr. Ward's careful attention has helped keep pedestrians and drivers passing through this intersection safe, he also consistently models respect, kindness, inclusivity, and graciousness to all who travel through this intersection; and

WHEREAS, with a dignified doff of his cap and a hearty wave, Arthur is often the first face students see before their school day begins, and one of the last they see at the conclusion of their school day, exuding kindness, acceptance, encouragement, and love; and

WHEREAS, during his years at this corner, Mr. Ward has also become a part of the Beach School community, playing his saxophone in the annual Beach Dad's Club "Battle of the Bands" and receiving and accepting one of the most coveted invitations in Piedmont, to perform with students in the annual Beach Revue; and

WHEREAS, with the utmost professionalism and measured demeanor, Arthur Ward has come to Piedmont and embraced our community and its members as his own, serving as a touchstone for our community since the day he started and infusing the neighborhood, Beach School, and the entire City of Piedmont, with his kindness, smile, and dedication;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Piedmont that the corner of Linda and Lake Avenues be dedicated to Arthur Ward from this date through the conclusion of the 2020-2021 school year.

Moved by King, Seconded by Cavanaugh
Ayes: Andersen, Cavanaugh, King, McBain, Rood
Noes: None
(1000)

CONSENT CALENDAR

Mayor McBain then called the Consent Calendar, which consisted of the following items:

Council Meeting Minutes

Approval of Council Meeting Minutes for 04/01/19

Annual Volunteers

Approval of a Resolution to be Presented to Volunteers at the Annual Volunteer Reception for 2019
(0890, X1100)

1st Reading Ordinance 745 N.S. New Cingular Lease Amendment

Approval of the 1st Reading of Ordinance 745 N.S. – Lease Amendment with New Cingular Wireless PCS, LLC for Wireless Communication Facilities at 120 Vista Avenue
(0705, 0045)

Resolution No. 21-19

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

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

PUBLIC FORUM

Sunny Bostrom-Fleming suggest that the Piedmont schools adopt the motto “Be Kind.” She also encouraged continuation of the Bird Calling Contest.

CEREMONIAL MATTERS

**Bike to Work Day
Proclamation**

Councilmember Rood presented the proclamation declaring May 9, 2019, as Bike to Work Day, to Dave Campbell of Bike East Bay and Shawn Antaya.

Dave Campbell, Bike East Bay, thanked the Council for its support and announced additional energizer stations and events. He encouraged bicycle safety.

Shawn Antaya stated that the Grand Avenue road diet had improved safety and he encouraged residents to participate in Bike to Work Day.

REGULAR AGENDA

The Council considered the following items of regular business:

**Solid Waste
Diversion Outreach**

City Administrator Paul Benoit reported that the City had previously entered into a one year agreement with consultants Abbe & Associates to promote the diversion of waste from landfills. He indicated that the one year agreement is coming to an end and that staff is recommending a new agreement for an additional year with funds derived from the annual payment from Republic Services.

Associate Planner Chris Yeager summarized the success Abbe & Associates had achieved in its first year with Piedmont and discussed the programs and events undertaken during that time. He announced the 87% recycle rate at the Harvest Festival and 96% at the Turkey Trot. He discussed the City’s revamped waste and recycling website and plans for the upcoming year.

Ruth Abbe, Abbe & Associates, stated she enjoyed becoming a part of the Piedmont community over the previous year. She discussed the first year of work as well as the goal to continue collaboration with Piedmont Education Foundation, the Piedmont Unified School District, and Piedmont Connect. She indicated that in the second year, the waste diversion program would be introduced to faith and civic organizations to help green their environments.

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

Council thanked Ms. Abbe and her team for their work and indicated it was looking forward to continued good work from the firm.

Resolution No. 22-19

RESOLVED, that the City Council approves the agreement with Abbe & Associates, LLC in an amount not to exceed \$77,000 for Professional Services Related to Public Engagement and the Diversion of Solid Waste for Landfills.

Moved by Rood, Seconded by King
Ayes: Andersen, Cavanaugh, King, McBain, Rood
Noes: None
(0045)

2018 Pavement Project Mr. Benoit requested that the City Council consider awarding the contract for the 2018 Pavement Project to Gallagher & Burk in the amount of \$1,729,462. He noted only one bid was received which exceeded the engineer's estimate by just over \$350,000. He noted that the City Engineer reported that project costs had been escalating due to the booming economy in the state, and particularly in the Bay Area. He stated that Council had the option of having the project rebid, but that he would not recommend this because it would likely not reduce costs and the project timeline would have to be pushed out an additional year. He noted that the firm that did submit the bid, Gallagher and Burke, is an excellent firm and he is confident the project would be done right. He stated the specific budget line items were detailed in the staff report but a General Fund appropriation of \$905,378 was necessary.

Public Works Director Chester Nakahara reviewed the deteriorated condition of the streets to be paved as a part of this project, Magnolia Avenue, Annerley Road, and Craig Avenue. He indicated that the improvements at the intersection of Craig and Highland Avenues, which is included in this project, was recommended by the Pedestrian and Bicycle Master Plan.

Mr. Nakahara then discussed the proposed removal of problematic liquidambar trees along Magnolia Avenue. He stated that staff did not take removal of street trees lightly and the staff's goal is always to minimize tree removals balanced with the advice of arborists and safety concerns. Mr. Nakahara noted that the trees slated for removal as a result of this project would each be replanted.

Mr. Nakahara indicated that the Park Commission was briefed on the proposed tree removals at its meeting of May 1st and that, after significant testimony and discussion, staff had been directed to review the trees selected for removal to see if more could be saved.

Mr. Nakahara also indicated that, while beautiful, these trees have a significant impact on the roadway, curb, gutter, and sidewalks on Magnolia Avenue. He described the work which was undertaken to determine which trees had caused the greatest infrastructure damage and, therefore, should be removed. He indicated that some poorly rated trees were retained because they are not causing any infrastructure damage. He then introduced Darya Barar of Hort Science, the independent arborists retained to assess the trees on Magnolia Avenue.

Ms. Barar explained issues with liquidambar trees and their reduced life expectancy in urban areas. She noted that this type of tree had not been on their planting pallet for 15-20 years. She explained the tree rating system used in the report and gave ratings for the trees proposed for removal on Magnolia Avenue. She noted that of the 47 slated for removal, none were in the lowest category, but many were compromised.

City Administrator Benoit confirmed that staff was extremely conservative in tree removal.

Steven Van Saun of Coastland Engineering, explained the crosswalk design at the intersection of Craig and Highland Avenues, noting that the crosswalk would not be moved to the south side of the intersection, as suggested in the Pedestrian and Bicycle Master Plan, due to engineering reasons.

Public Testimony was received from:

Carole Parker, Dan Reicher, Mary Wells, Christian Charnaux, and Paul Lettieri asked the Council to reconsider such a large tree removal on a single street and urged rejection of the bid. Speakers expressed concerns with lack of notice given to neighbors, the proposed California Environmental Quality Act exemption, and the possible damage to the urban forest. Speakers urged a phased approach to tree removal and suggested that the City should prioritize trees over sidewalks. Speakers also suggested possible methods of minimizing damage to infrastructure from existing trees.

Brandt Kwiram urged the Council to award the contract, discussing damage from fallen tree branches and the potential for litigation against the City for not removing trees known to be dangerous.

Erin Hong asked about the impact on traffic flow and parking during the project.

The Council thanked the speakers for their comments and discussed the project at length. With regard to public notice of the proposed tree removals, the Council expressed frustration with the lack of adequate notice to residents, indicating that other tree removal proposals had gone through a series of discussions at the Park Commission before being approved. Council urged staff to provide as much information and notice as possible to neighbors about proposed tree removals, whether as a result of neighbor requests or engineering need.

With regard to the question of the proposed tree removals, Councilmembers indicated that, while unfortunate, the removal of the proposed trees was likely necessary. Mayor McBain indicated that the City continually updates, improves, and maintains its urban forest. He stated the liquidambar tree was not appropriate in its current locations on Magnolia Avenue and that replacement trees would be better suited to their planting locations. Councilmember Andersen suggested that Council direct staff to work with neighbors on Magnolia Avenue who are impacted by street tree removal to consider whether engineering and/or other accommodations can be made to preserve additional trees on this street. Councilmembers also discussed possible methods for reducing the impact of the current liquidambar trees on existing and new infrastructure.

Councilmember Cavanaugh brought up the issue of the pedestrian safety improvements at the intersection of Magnolia Ave. and Nova Drive, which are included in the proposed project. She indicated her belief that the proposed bollards at this intersection could improve safety, but were an eyesore. She requested engaging neighbors regarding this proposal. Mayor McBain noted that this issue was agendaized and discussed at a previous meeting. Councilmember Andersen indicated that the proposed measures would be effective and were cost effective as well. She discussed finite resources and the possibility of neighbors raising money to replace the proposed bollards with hardscape.

Councilmember Rood expressed frustration that the proposed pedestrian safety measures at the intersection of Magnolia Ave. and Nova Drive were added to bid documents before receiving Council approval. Mr. Benoit stated staff was trying to expedite the project, not subvert Council direction and that, should the Council desire, these improvements could be removed from the project.

In response to Council questions, City Attorney Michelle Marchetta Kenyon explained the use of the CEQA exemption and tree removal and replacement

was not deemed to be a project.

Resolution No. 23-19

WHEREAS, in accordance with the requirements of Chapter 2, Article XV of the Piedmont City Code (“Purchasing Ordinance”) the City of Piedmont solicited bids for the 2018 Pavement Project ("Project"); and

WHEREAS, bids for the Project were opened on April 22, 2019 in accordance with Purchasing Ordinance, California Public Contract Code Section 4104.5 and other applicable laws; and

WHEREAS, one bid was received from Gallagher & Burk, Inc. in the amount of \$1,729,462; and

WHEREAS, staff has determined that the Gallagher & Burk, Inc.’s bid satisfies the bidding requirements for the Project; and

WHEREAS, staff has verified that Gallagher & Burk, Inc. possesses a valid California Contractor’s License under the requested Class A, number 141140 (expires 8/31/19) as required to qualify to perform the Project; and

WHEREAS, the Project has been found to be exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15301(c) of Title 14 of the California Code of Regulations as it consists of: the repair, maintenance, and minor alternation of existing streets, sidewalks and gutters.

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

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.
2. In accordance with the Purchasing Ordinance and California Public Contract Code Section 20160 et seq., and other applicable laws, the City Council of the City of Piedmont hereby finds the base bid of Gallagher & Burk, Inc. for the 2018 Pavement Project to be the lowest, responsive bid and waives any irregularities in such bid in accordance with applicable law.
3. The contract for the 2018 Pavement Project is hereby awarded to Gallagher & Burk, Inc. in the amount of \$1,729,462 conditioned on Gallagher & Burk, Inc.’s timely executing the Project contract and submitting all required documents, including, but not limited to, executed bonds/surety, certificates of insurance, and endorsements, in accordance with the Project bid documents
4. The Mayor is hereby authorized and directed to execute upon submission by Gallagher & Burk Inc., Inc. all documents required pursuant to the Project bid documents for performance of the Project.
5. The overall construction budget for the Project be established at \$2,012,408.
6. City staff is hereby directed to issue a Notice of Award to Gallagher & Burk, Inc.
7. City staff is directed to work with neighbors on Magnolia Avenue who are

impacted by street tree removal to consider whether engineering and/or other accommodations can be made to preserve additional trees on this street.

8. This Resolution shall become effective immediately.
9. All portions of this resolution are severable. Should any individual component of this Resolution be adjudged to be invalid and unenforceable by a body of competent jurisdiction, then the remaining resolution portions shall be and continue in full force and effect, except as to those resolution portions that have been adjudged invalid. The City Council of the City of Piedmont hereby declares that it would have adopted this Resolution and each section, subsection, clause, sentence, phrase and other portion thereof, irrespective of the fact that one or more section subsection, clause sentence, phrase or another portion may be held invalid or unconstitutional.

Moved by Rood, Seconded by McBain
Ayes: Andersen, Cavanaugh, King, McBain, Rood
Noes: None
(0045, 1000)

REPORTS AND ANNOUNCEMENTS

Mayor McBain commended staff and the Park Commission for its work on the annual Arbor Day celebration on April 11, 2019. He discussed the Alameda County Transportation Commission discussion of the proposed reconstruction of the MacArthur Maze.

Vice Mayor King announced the Appreciating Diversity Film Series showing of the film *Dolores* highlighting the life of labor leader and social justice advocate Dolores Huerta on June 6th and 9th.

Councilmember Andersen announced that the Planning Commission would consider the new Design Guidelines at its meeting on May 13th. She noted the City's annual Volunteer Recognition event on June 4th. On behalf of the League of Women Voters, she invited residents to the League of Women Voters annual meeting on May 10th, featuring Lateefa Simon, Executive Director of the Akonadi Foundation.

Councilmember Cavanaugh urged residents to register for Recreation Department summer programs, which will launch in 4 weeks. She invited residents to attend the Council's annual budget workshop on May 11, 9:00 a.m. in the Police Department EOC. She also highlighted the upcoming public hearings on proposed East Bay MUD water rate increases on June 11th.

Councilmember Rood welcomed new residents Greg Dunstand and Marie McKenzie, who are a formerly homeless couple taken in by a Piedmont resident.

ADJOURNMENT

There being no further business, Mayor McBain adjourned the meeting at 10:45 p.m.