

PIEDMONT CITY COUNCIL

Regular Meeting Minutes for Monday, June 1, 2020

A Regular Session of the Piedmont City Council was held June 1, 2020, via teleconference, consistent with Executive Orders N-25-20 and N-29-20 and the Alameda County Health Official's Order #20-04. In accordance with Government Code Section 54957(b), the agenda for this meeting was posted for public inspection on May 28, 2020.

CALL TO ORDER

The Council met in Closed Session for (a) Conference with Labor Negotiators (Govt. Code 54957.6) Agency Designated Representatives: Michael Szczech and Charles Zuver, All Represented Labor Groups: Piedmont Firefighters Assn., Piedmont Firefighters Assn., Fire Captains Unit, and Piedmont Police Officers Assn. Following the 6:30 p.m. Closed Session, Mayor Bob McBain called the meeting to order at 7:30 p.m. with the Pledge of Allegiance.

ROLL CALL

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

Staff: City Administrator Sara Lillevand, City Attorney Michelle Marchetta Kenyon, Fire Chief Bret Black, Police Chief Jeremy Bowers, Public Works Director Chester Nakahara, Planning & Building Director Kevin Jackson, Recreation Director Chelle Putzer, Finance Director Michael Szczech, and Assistant City Administrator / City Clerk John Tulloch

City Attorney Michelle Marchetta Kenyon reported the need to add an agenda item for tonight's meeting to ratify a proclamation of local emergency and confirm an emergency order imposing a curfew on the City of Piedmont in response to the violent nature of local civil unrest. She noted that Council would need to make two findings to add this item to the agenda.

Resolution No. 27-2020

RESOLVED, that the City Council finds there is a need to add an item to the agenda for the June 1, 2020 City Council meeting and makes the following findings:

1. The need to take action arose after the posting of the agenda; and
2. There is a need to take action prior to the next Council meeting.

Moved by King, Seconded by Rood

Ayes: Andersen, King, McBain, Rood

Noes: None

Absent: Cavanaugh

Resolution No. 28-2020

RESOLVED, that the City Council adds an item related to ratification of a proclamation of local emergency by the Director of Emergency Services and confirmation of Emergency Order #2020-02 to the June 1, 2020 City Council agenda as Item No. 6.

Moved by King, Seconded by Andersen

Ayes: Andersen, King, McBain, Rood

Noes: None

Absent: Cavanaugh

CONSENT CALENDAR

The Consent Calendar consisted of the following items:

Council Meeting Minutes

Approval of Council Meeting Minutes for 05/18/2020

**Resolution Authorizing
LEAP Grant**

WHEREAS, pursuant to Health and Safety Code 50515 et. seq, the Department of Housing and Community Development (Department) is authorized to issue a Notice of Funding Availability (NOFA) as part of the Local Government Planning Support Grants Program (hereinafter referred to by the Department as the Local Early Action Planning Grants program or LEAP); and

WHEREAS, the City Council of the City of Piedmont desires to submit a LEAP grant application package (“Application”), on the forms provided by the Department, for approval of grant funding for projects that assist in the preparation and adoption of planning documents and process improvements that accelerate housing production and facilitate compliance to implement the sixth cycle of the regional housing need assessment; and

WHEREAS, the Department has issued a NOFA and Application on January 27, 2020 in the amount of \$119,040,000 for assistance to all California Jurisdictions;

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 City Administrator is hereby authorized and directed to apply for and submit to the Department the Application package;

SECTION 2. In connection with the LEAP grant, if the Application is approved by the Department, the City of Administrator of the City of Piedmont is authorized to submit the Application, enter into, execute, and deliver on behalf of the Applicant, a State of California Agreement (Standard Agreement) for the amount of \$65,000, and any and all other documents required or deemed necessary or appropriate to evidence and secure the LEAP grant, the Applicant’s obligations related thereto, and all amendments thereto; and

SECTION 3. The Applicant shall be subject to the terms and conditions as specified in the NOFA, and the Standard Agreement provided by the Department after approval. The Application and any and all accompanying documents are incorporated in full as part of the Standard Agreement. Any and all activities funded, information provided, and timelines represented in the Application will be enforceable through the fully executed Standard Agreement. Pursuant to the NOFA and in conjunction with the terms of the Standard Agreement, the Applicant hereby agrees to use the funds for eligible uses and allowable expenditures in the manner presented and specifically identified in the approved Application.
(0525)

**Renewed Agreement
For CDBG Program**

WHEREAS, the Congress of the United States has enacted the Housing and Community Development Act of 1974 and Federal regulations have been adopted pursuant thereto, hereinafter called the “Act”; and

WHEREAS, Title I of the Act consolidates previously separate grant programs for open space, public facility loans, water and sewer grants, urban renewal, model cities, rehabilitation loans, and affordable housing into a program called the Community Development Block Grant (“CDBG”) program; and,

WHEREAS, Title I makes available entitlement grants to cities whose 2010 Census population exceeds 50,000 persons and to counties which qualify as an urban county; and

WHEREAS, the term "urban county" means any county within a metropolitan area which:

1. is authorized under state law to undertake essential community development and housing assistance activities in its incorporated areas which are not units of general local government; and,
2. has a combined population of 200,000 or more in such unincorporated areas and in its included units of local government:
 - a. in which it has authority to undertake essential community development and housing assistance activities and which do not elect to have their population excluded; or,
 - b. with which it has entered into cooperation agreements to undertake or to assist in the undertaking of essential community development and housing assistance activities; and,

WHEREAS, the Department of Housing and Urban Development ("HUD") has made a determination that the County of Alameda has the essential powers to operate as an urban county; and

WHEREAS, the cities Albany, Dublin, Emeryville, Newark, and Piedmont, each of which has a 2010 Census population of less than 50,000, have expressed their interest in joining with the Alameda County Unincorporated County to continue in the Alameda County Urban County for federal fiscal years 2021, 2022 and 2023; and

WHEREAS, these same five cities combine with the County of Alameda to form a combined 2010 Census population of 200,000 or more persons, thereby qualifying as an urban county, and becoming eligible for an entitlement of CDBG funds; and,

WHEREAS, pursuant to HUD requirements, these same five cities must execute cooperation agreements with the County of Alameda, wherein the parties agree to participate in the Urban County for the duration of the three-year funding cycle;

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 City Council of the City of Piedmont hereby authorizes the continued participation of the City of Piedmont in the Alameda County Urban County.

SECTION 2. The City Council of the City of Piedmont hereby authorizes the City Administrator to execute a cooperation agreement with the Alameda County in order to continue the City's participation in the Urban County.
(0045)

Resolution No. 29-2020

RESOLVED, that the City Council approves the consent calendar.

Moved by Cavanaugh, Seconded by Rood

Ayes: Andersen, Cavanaugh, King, McBain, Rood

Noes: None

Absent: None

PUBLIC FORUM

There was no **Public Testimony**.

REGULAR AGENDA

The Council considered the following items of regular business:

**Public Hearing and
Consideration of FY
20-21 Budget**

City Administrator Sara Lillevand reported the City's favorable mid-year position for FY 2019-20 and conservative budgeting result in a flat FY 2020-21 budget despite a significant decline in revenues caused by the COVID-19 crisis. She indicated in the short term, the City is poised to continue providing high levels of essential services and core programs to residents. Ms. Lillevand advised that medium- to longer-term budgetary impacts are difficult to predict due to tremendous economic uncertainty. She noted property-related taxes comprise more than 70% of total revenue, and staff can make long-term projections for property-related taxes with a good degree of confidence.

Ms. Lillevand related that long-term concerns include pension costs, aging facilities and infrastructure, as well as the volatility of the real property transfer tax. She indicated the finance team will continue to monitor the economic impacts from the COVID-19 crisis and be prepared to make midyear budget adjustments as needed.

Bill Hosler, Chair of the Budget Advisory and Financial Planning Committee (Committee), agreed that developing budget projections is difficult given the uncertainty of the economic situation. He reported the Committee anticipated transfer tax revenue would be stronger than projected; expressed concern regarding facilities maintenance funding; suggested surplus revenues, if any, be allocated to facilities maintenance needs; and believed the City's pension payments could increase if the California Public Employees' Retirement System's (CalPERS) investment performance falls below the target. Mr. Hosler noted the Committee will provide a report on capital funding in the next few weeks. He thanked the Committee for its hard work and staff for their efforts to plan for the long term.

Finance Director Michael Szczech gave a detailed presentation on the proposed budget, including an overview of the General Fund, changes made to the proposed budget published on May 13, 2020, and analysis of revenues, expenditures, and other funds.

Mayor McBain opened the Public Hearing.

Public Testimony was received from:

Winifred Walters believed the budgeted authorization for library services should be increased to reflect the amount invoiced annually absent a formal contract with the City of Oakland.

Mayor McBain closed the public hearing.

Councilmembers appreciated the Committee's deep and succinct analysis of the financial situation and staff's planning for financial uncertainty.

(0165, 0320)

**2020 Priority Sanitary
Sewer Project Award**

Public Works Director Chester Nakahara recommended that the Council award the contract for the 2020 Priority Sanitary Sewer Project to APB General Engineering. He discussed the City's compliance with the Environmental Protection Agency (EPA) Consent Decree, including that Piedmont has

completed 80% of the rehabilitation projects required by that agreement.

He described the scope of the 2020 project in the Littlewood Drive and Dudley Court neighborhoods, indicating that the low bid of \$148,934 was below the engineer's estimate of \$160,000 for the project. He also discussed the project's work in relation to the COVID-19 pandemic, noting that the contractor agreed to follow pandemic safety protocols without increasing its bid amount.

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

Resolution No. 30-2020

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 2020 Priority Sewer Rehabilitation Project ("Project"); and

WHEREAS, bids for the Project were opened on February 25, 2020 in accordance with Purchasing Ordinance, California Public Contract Code Section 4104.5 and other applicable laws; and

WHEREAS, four bids were received ranging in price from \$148,934 to \$371,300; and

WHEREAS, the lowest responsive bid was submitted by APB General Engineering, in the amount of \$148,934; and

WHEREAS, staff has determined that the APB General Engineering's bid is responsive and satisfies the bidding requirements for the Project; and

WHEREAS, staff has verified that APB General Engineering possesses a valid California Contractor's License under the requested Class A, Number 1038184 (expires 04/30/20) 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(b) of Title 14 of the California Code of Regulations as it consists of minor alterations of existing city-owned sewerage facilities and the project involves no expansion of an existing use.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Piedmont does hereby resolve, declare, determine and order 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 bid of APB General Engineering for the 2020 Priority Sewer Rehabilitation Project to be the lowest, responsive bid and waives any irregularities in such bid in accordance with applicable law.
3. The contract for the 2020 Priority Sewer Rehabilitation Project is hereby awarded to APB General Engineering in the amount of \$148,934 conditioned on APB General Engineering'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 APB General Engineering 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 \$196,534.
 6. City staff is hereby directed to issue a Notice of Award to APB General Engineering.
 7. The Project is exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15301(b) of Title 14 of the California Code of Regulations.
 8. 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 other portion may be held invalid or unconstitutional.

Moved by Rood, Seconded by Andersen
Ayes: Andersen, Cavanaugh, King, McBain, Rood
Noes: None
Absent: None
(0045, 0459, 0935)

**Proclamation of Local
Emergency and
Emergency Order**

City Administrator Lillevand read her letter to the public regarding civil unrest. She advised that earlier in the day as Director of Emergency Services she proclaimed the existence or threatened existence of a local emergency in response to civil unrest, which has approached the city limits three times in the past 24 hours. City Administrator Lillevand noted the curfew is in effect from 8:00 p.m. to 5:00 a.m. daily beginning June 1 and ending June 5, 2020 and aligns with the curfews imposed by the County of Alameda and the City of Oakland.

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

Councilmembers commended City Administrator Lillevand for her well-worded letter to the public and Police Chief Jeremy Bowers for his timely message to the public, professional approach to policing, and rapport with the Oakland Police Department. In addition, Councilmembers acknowledged the challenges of balancing shelter-in-place requirements with desires to support peaceful protests.

Resolution No. 31-2020

WHEREAS, Government Code Section 8630 and Chapter 5 *et seq.* of the Piedmont City Code empowers the Director of Emergency Services to proclaim the existence or threatened existence of a local emergency when the City Council is not in session, subject to confirmation by the City Council at the earliest possible time; and

WHEREAS, the City Administrator is the Director of Emergency Services of the City of Piedmont; and

WHEREAS, on May 25, 2020, George Floyd died as a result of the action and inaction of police officers in Minneapolis, Minnesota while being detained; and

WHEREAS, in response to this death, many Americans took to the street to exercise their right to free speech as guaranteed by the First Amendment to the United States Constitution; and

WHEREAS, though the majority of the protests regarding Mr. Floyd's death have remained peaceful, some have resulted in violence, looting, property damage, and injury; and

WHEREAS, civil unrest, including related violence, looting, property damage and injury have been occurring in cities and counties across the San Francisco Bay Area, including the cities of Oakland, Emeryville, Fremont, Walnut Creek, Pleasant Hill, San Francisco, and Vallejo, among others; and

WHEREAS, widespread civil unrest has taken place in the City of Oakland, which surrounds Piedmont and such unrest has come within ½ mile of the City of Piedmont three times, the closest being just a few blocks away from the city limit; and

WHEREAS, in order to ensure the availability of mutual aid and an effective response to potential injuries or property damage resulting from civil unrest arising in relation possible protests, it is necessary to proclaim a local emergency;

WHEREAS, in response to these developments, the City Administrator in her capacity as the City's Director of Emergency Services has proclaimed the existence of a local emergency and issued an order imposing a curfew;

WHEREAS, as contemplated in the Emergency Service Act contained in Government Code Section 8550 et seq., including Section 8558(c), a local emergency exists because of the existence of conditions of disaster or of extreme peril to the safety of persons and property within the City of Piedmont caused by the aforesaid conditions which are likely beyond the control of the services, personnel, equipment, and facilities of the City and require the combined forces of other political subdivisions to combat, and the declaration of a local emergency shall enable the City of Piedmont and other local government entities to adequately plan, prepare and secure resources to be able to effectively respond to the threat posed by civil unrest;

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

1. The proclamation of existence of a local emergency, as issued by the City Administrator in her capacity as the Director of Emergency Services, is hereby ratified;
 2. In accordance with Government Code section 8360, this local emergency shall be deemed to continue to exist until its termination is proclaimed by the City Council of the City of Piedmont, and it shall be terminated at the earliest possible date that conditions warrant. The Council shall review this emergency at least once every sixty days.
 3. Emergency Order #2020-02 is hereby confirmed by the City Council.
- Moved by Cavanaugh, Seconded by Andersen

Ayes: Andersen, Cavanaugh, King, McBain, Rood
Noes: None
Absent: None

**REPORTS AND
ANNOUNCEMENTS**

Mayor McBain announced he on behalf of the City has accepted the City of Clayton's challenge regarding response rate for the 2020 Census.

Councilmember Cavanaugh announced Census response rates of 84.7% for the City, 83.5% for the City of Clayton, and 68% for the County of Alameda.

Councilmember Andersen thanked Piedmont Unified School District and the Piedmont Police Department for facilitating graduation ceremonies for Piedmont High School and Millennium High School.

ADJOURNMENT

There being no further business, Mayor McBain adjourned the meeting at 9:35 p.m. in memory of George Floyd.