

## PIEDMONT CITY COUNCIL

Special and Regular Meeting Minutes for Monday, April 19, 2021

Special and Regular Sessions of the Piedmont City Council were held April 19, 2021, 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 April 15, 2021.

### CALL TO ORDER

Mayor Teddy Gray King called the meeting to order at 6:04 p.m. with the Pledge of Allegiance.

### ROLL CALL

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

Staff: City Administrator Sara Lillevand, City Attorney Michelle Marchetta Kenyon, Police Chief Jeremy Bowers, Planning & Building Director Kevin Jackson, Recreation Director Chelle Putzer, Senior Planner Pierce Macdonald-Powell, Assistant City Administrator / City Clerk John Tulloch

City Administrator Sara Lillevand announced Item 5, Legislative Update from the California League of Cities, has been removed from the agenda and continued to May 2021.

### CONSENT CALENDAR

The Consent Calendar consisted of the following items:

#### Council Meeting Minutes

Approval of Council Meeting Minutes for 03/15/2021, 03/29/2021, & 04/05/2021

#### 2020 Sewer Rehabilitation Project

Acceptance of the 2020 Priority Sewer Rehabilitation Project (0045)

#### Resolution No. 23-2021

RESOLVED, that the City Council approves the consent calendar with the exception of the meeting minutes for March 29, 2021.

Moved by McCarthy, Seconded by Rood

Ayes: McCarthy, Andersen, Cavanaugh, Rood, King

Noes: None

Absent: None

Councilmember McCarthy requested and received clarification regarding one of the appointments listed in the March 29, 2021 City Council minutes.

#### Resolution No. 24-2021

RESOLVED, that the City Council approves the meeting minutes for March 29, 2021.

Moved by Rood, Seconded by McCarthy

Ayes: McCarthy, Andersen, Cavanaugh, Rood, King

Noes: None

Absent: None

### CEREMONIAL ITEM

Mayor King proclaimed the month of April 2021 as Sexual Assault Awareness and Prevention Month in Piedmont. She invited Piedmont High School students Kaeli Huh and Maya Kumar of the organization Piedmont for Consent to speak on this important issue. Ms. Huh shared the group's work to normalize conversations about sexual violence, consent, and Piedmont's culture. Ms.

Kumar announced a workshop for parents and a Consent Town Hall are scheduled for April 22nd and May 4th respectively.

Mayor King expressed appreciation for Councilmember Cavanaugh's many efforts to ensure the Council is aware of issues surrounding sexual assault, consent, and young adult and teen sexual health in general. Councilmember Cavanaugh commended the Recreation Department's work to implement programming for healthy relationships.

The Council thanked Ms. Huh and Ms. Kumar for their efforts

## **PUBLIC FORUM**

There was no **Public Testimony**.

## **REGULAR AGENDA**

The Council considered the following items of regular business:

### **Fire Chief Appointment**

Ms. Lillevand recommended the Council appoint David Brannigan as Piedmont Fire Chief. She reviewed the selection process and Chief Brannigan's rise through the ranks of the Berkeley Fire Department to Chief in 2018. Pursuant to requirements of state law, Ms. Lillevand gave an oral report of the compensation, retirement contributions, and benefits for Chief Brannigan.

**Public Testimony** was received from:

Former Fire Chief Bret Black supported the appointment of Chief Brannigan.

Chief Brannigan appreciated the opportunity to work in the Piedmont Fire Department and to serve the community.

### **Resolution No. 25-2021**

RESOLVED, that the City Council appoints David Brannigan as Fire Chief effective April 26, 2021 and approves the employment resolution.

Moved by Cavanaugh, Seconded by Rood

Ayes: McCarthy, Andersen, Cavanaugh, Rood, King

Noes: None

Absent: None

(0045, 0750)

Councilmembers welcomed Chief Brannigan to the City and thanked Interim Fire Chief Despain for leading the Fire Department.

### **Receipt of Annual Housing Progress Report**

Ms. Lillevand indicated the Annual Progress Report to the California Housing and Community Development Department regarding the implementation of the 2015-2023 Housing Element covers the year 2020 and satisfies the legal requirement for the City to prepare an annual progress report on the effectiveness of the City's housing policies and programs.

Senior Planner Pierce Macdonald-Powell presented information regarding the Housing Element context, the Regional Housing Needs Allocation (RHNA), 2019 and 2020 statistics, building permits issued from 2015 to 2020, and units needed for 2021 and 2022. She also discussed the progress in preparation of the 2023, [www.PiedmontisHome.org](http://www.PiedmontisHome.org), SB 2 housing programs, the Housing Advisory Committee, new RHNA goals, the Housing Element Update, key milestones, and next steps.

**Public Testimony** was received from:

Jill Lindenbaum inquired about the use of actual rent data to determine the affordability level of accessory dwelling units (ADU) and noted that ADUs may not be available for rent.

The Council discussed the City's progress on the 2015-2023 Housing Element and asked questions regarding the Housing element being prepared for the period of 2023-2031.  
(0775)

**Wireless  
Communication  
Facility for 898 Red  
Rock Road**

Planning & Building Director Kevin Jackson reported the City instigated the project in an effort to control the design and location of the facility. He related that the facility can accommodate four service providers and will improve cellular service in Moraga Canyon. He advised that the Planning Commission found that the proposed design incorporates many best practices and that the facility will not affect significant views of the Bay and beyond. He noted that the Planning Commission unanimously recommended approval of the project.

Ms. Macdonald-Powell reported the applicant held a community meeting on February 17, 2021. She indicated staff reviewed the environmental analysis, conducted site visits, and consulted with professionals before determining that the project creates no potential impacts and that there are no exceptions to the CEQA exemption.

**Public Testimony** was received from:

Rick Hirsch, Brandon Waller, Jack Vosney, Matt Huffty, and Mark Wessel, representing Gulf South Towers, described the proposed facility and shared photos of the site. Speakers discussed the view impacts of the proposed tower, the coverage need for carriers, and the impacts on the Corporation Yard.

Vincent Fisher advised that he and the neighbors with whom he met do not oppose the facility.

Councilmembers appreciated community members' feedback, the current lack of cellular coverage in Moraga Canyon, the location in the corporation yard, the proposed design, and improvement of public safety communications.

**Resolution No. 26-2021**

RESOLVED, that the City Council determines the wireless communication facilities (WCF) permit application to be categorically exempt from the California Environmental Quality Act (CEQA), pursuant to Section 15303 of the CEQA Guidelines.

Moved by McCarthy, Seconded by Rood

Ayes: McCarthy, Andersen, Cavenaugh, Rood, King

Noes: None

Absent: None

**Resolution No. 27-2021**

**WHEREAS**, Gulf South Towers Capital Partners LLC ("Applicant"), is requesting permits from the City of Piedmont ("City") for a wireless communication facility ("WCF") installation within the City of Piedmont Public Works corporation yard to replace an existing 31-foot-tall WCF tower, owned and operated by T-Mobile. The proposed WCF installation design includes a 95-

foot-tall tower pole with up to four colocation facilities consisting of wireless antenna at 10-foot intervals and associated ground-mounted equipment within specified lease areas, a base station enclosure surrounded by an 8-foot-tall chain link fence and gates, an 8-foot-tall ice bridge conduit, retaining wall, site grading, and associated site improvements, the construction of which requires a WCF permit; and

**WHEREAS**, pursuant to Piedmont City Code Sections 17.46.080 A and B, the Planning Commission reviewed the application for a WCF permit for the location at 898 Red Rock Road, at a duly noticed public hearing on March 8, 2021, and made recommendations of approval to the City Council, which is the decision-making body; and

**WHEREAS**, the equipment proposed to be installed, including the machinery in the base station enclosure, including temporary back-up power generator(s), is subject to mechanically-generated noise limits set forth in Section 1207.6 of the California Building Code, as adopted by the Piedmont City Code Section 8.02.030, and subject to conditions of approval required herein to protect existing and future users of the corporation yard and Coaches Field, which is adjacent to the WCF installation; and

**WHEREAS**, based upon the evidence and after reviewing the applications, plans and any and all testimony and documentation submitted in connection with such application, the City Council finds in the exercise of its independent judgment that the project is categorically exempt from the California Environmental Quality Act (CEQA), pursuant to Section 15303 of the CEQA Guidelines (construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures), because the proposed wireless communication facility is a single small utility structure located in a developed setting which replaces an existing telecommunications tower. No exceptions to the above exemption has been identified that would make the proposal ineligible for use of a categorical exemption because the project's setting is not in a location that is particularly sensitive, the surrounding area is developed and urbanized, existing utilities are located at or near the proposed installation, there are no unusual circumstances relating to the proposed installation, and no scenic highways, hazardous waste sites, or historical resources could be affected by the project; and

**WHEREAS**, the project is located in the City corporation yard within Zone B, the public facilities zone. Pursuant to Section 17.22.030, a wireless communication facility is permitted as a conditional use in Zone B, and pursuant to Section 17.22.040, there are no limits on lot area, frontage, coverage, height, setbacks, and floor area ratio, in Zone B for non-residential uses; and

**WHEREAS**, based upon the evidence and after reviewing the applications, plans and any and all testimony and documentation submitted in connection with such application, the 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;

1. The City Code requires the Applicant to demonstrate the facilities are necessary to close a significant gap in the operator's service coverage or capacity. The Applicant has demonstrated that the facility is necessary to close a significant gap with a location justification exhibit with coverage maps; three major wireless service providers have demonstrated their

desires to collocate on the proposed new tower; and the Applicant has provided the theoretical equipment schedule and power of the equipment for three major wireless service providers, for which the City has requested that a third-party engineering firm model the predicted range of the tower and theoretical equipment schedule, which shows that coverage and capacity will be improved with the proposed new tower; and

2. 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;
3. 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 proposed WCF Permit complies with development standards for collocation because the proposed installation is designed to provide lease space for four wireless service providers on a 95-foot-tall tower pole in the City corporation yard.
    2. Height Limit. The WCF Permit complies with development standards for height because pursuant to Section 17.22.030, a non-residential use is expressly excluded from the development standards for height in Zone B, and the proposed tower installation is a wireless communication facility which is a non-residential use allowed in Zone B.  
Section 17.46.070.A.2 requires that any ground mounted wireless communication equipment, base station, antenna, pole, or tower must be the minimum functional height. The City's technical experts, CTC Technology & Energy, have reviewed the proposed tower and determined that the current proposed height is the minimum functional height to provide lease space for four wireless service providers under the conditions and the topography of the site.
    3. Concealed or Camouflaged. The proposed WCF Permit complies with development standards in City Code Section 17.46.070.A.3, which states wireless communication facilities must be designed to minimize visual impacts. When feasible, the facilities must be concealed or camouflaged. The facilities must have a non-reflective finish and be painted or otherwise treated to minimize visibility and the obstruction of views. The facilities may not bear signs, other than certification, warning, emergency contacts, or other signage required by law or expressly required by the city. The proposed WCF Permit complies with this standard because of the following reasons:
      - a. According to the project plans, no beacons or other lighting is required on the proposed tower. As conditioned, the applicant shall prepare a lighting plan for the base station enclosures prior to issuance of a building permit. The lighting plans shall show foot candle measurements at ground level and shall be subject to staff review and approval.
      - b. As conditioned, the equipment and the tower structure shall be painted a consistent non-reflective color.
      - c. As shown on the proposed plans, cabling will be within the hollow core of the proposed tower and within an ice bridge leading from each of the base station enclosures to the tower. As conditioned, the Applicant shall minimize exposed cabling for each antenna,

and no spooling or coils of exposed wire are permitted on the exterior of the proposed installation.

- d. As conditioned, the plans submitted for building permit shall show facility signage that is small and consists of safety warnings and emergency contact information, as required by state and federal law.
4. Public Health, Peace and Safety. The proposed WCF Permit complies with development standards for public health, peace, and safety because on February 1, 2021, the Applicant filed a RF study demonstrating compliance with the Federal Communications Commission (FCC) regulations and guidelines limiting human exposure to radio frequency (RF) emissions, which has been reviewed and accepted by the City's consulting engineers, CTC. Furthermore the project shall comply with such requirements because conditions of approval require that prior to issuance of a building permit for the construction of the tower pole and for each subsequent permit to install telecommunications equipment, the Applicant shall provide electromagnetic field/radio frequency emissions reports for the specific equipment to be installed on the proposed tower and within the base station on the ground, including the cumulative emissions with all prior equipment, demonstrating compliance with federal safety standards. In addition, as conditioned herein, the WCF installation must comply with additional noise control measures.
  5. Compliance with State and Federal Law. The proposed WCF Permit complies with City Code Section 17.46.070.A.6 which requires each wireless communication facility application to comply with federal and state statutes governing local agencies' land use authority regarding the siting of wireless communication facilities, because the applicant has complied with all City application requirements that the City has promulgated in accordance with state and federal laws, and because of the following reasons:
    - a. Operation and Maintenance Standards. As conditioned, the proposed wireless communication facilities will comply with the operation and maintenance standards provided in Piedmont City Code Section 17.46.070.B; and
    - b. Term of Permit. As conditioned, the approved WCF Permit will be valid for an initial period of ten years commencing on the approval date of this Resolution subject to renewals pursuant to local, state and federal law.
- B. General Plan:  
The proposed design of the WCF Permit installation is consistent with the Piedmont General Plan in that the scale and mass of the communication equipment are appropriate for the City corporation yard and Zone B public land; the installation will be camouflaged to blend with its surroundings; and the project satisfies the following Piedmont General Plan policies:
1. Piedmont General Plan Policy 35.8, "Telecommunication Services: Collaborate with telecommunication service providers to foster access to emerging communication and information technology for Piedmont residents," because the proposed WCF Permit will foster access to emerging communication and information technology, and
  2. Policy 37.4, "Siting and Design of Infrastructure: Ensure that the siting and design of infrastructure facilities, including water tanks and telecommunication towers mitigate the potential for adverse visual

impacts and are consistent with policies in the Design and Preservation Element” because the location and design of the proposed WCF Permit is sensitive to the proposed setting, includes separations to neighboring property owners of over 300 feet, and is designed to be as narrow as possible.

C. Piedmont Design Guidelines:

The proposed WCF Permit complies with the following sections of the Piedmont Design Guidelines:

1. **3.03.01 SIGNIFICANT VIEWS.** The project is consistent with the Design Guidelines for protection of significant views because: the top of the proposed tower is lower than the homes on neighboring properties on Abbott Way, Hilltop Crescent, and Starknoll Place; the curve of the hillside and existing trees and shrubs screen and obscure the view from properties on Echo Lane and Maxwellton Road; and the tower is aligned with the crest of the adjacent hillside to the north, as viewed from properties on Alta Avenue, Scenic Avenue, and Pala Avenue to the south.
2. **3.03.02 VISUAL AND ACOUSTICAL PRIVACY; ACCESS TO DIRECT OR INDIRECT LIGHT.** The project is consistent with the Design Guidelines for visual and acoustical privacy and access to direct or indirect light because the proposed tower is separated by over 300 feet from the nearest residential property, and because the distance from neighboring properties and the maximum width of the tower of 8 feet, will result in minimal shadowing of neighboring properties. In addition, as conditioned herein, the WCF installation must comply with additional noise control measures.
3. **3.08 RETAINING WALLS.** The proposed retaining wall meets the guideline because it is low (approximately 6 feet tall) and intended to allow the tower and base station to be constructed as closely as possible to the existing T-Mobile tower (to be removed by the proposed tower application). The retaining wall allows a 20-foot-wide fire access road to be located along the face of the base station enclosures, leading to the City skate park beyond it.
4. **3.09 FENCES AND WALLS.** The proposed project is consistent with Design Guidelines for fences and walls because the proposed 20-foot-wide by 60-foot-long chain-link-fenced enclosure (8 feet tall) is located in the City corporation yard where industrial and functional design and fencing are appropriate.
5. **3.11 LANDSCAPE AND HARDSCAPE DESIGN.** The proposed project is consistent with Design Guidelines for landscape and hardscape design because, as conditioned, the Public Works Director will direct the removal of the three small oak trees located on the hillside above the existing T-Mobile tower in order to construct the base station enclosure. As conditioned, the Applicant shall provide a landscape plan including the retaining wall and new plantings of native trees and shrubs to replace the removed trees, prior to issuance of a building permit. The landscape plan shall balance the new areas of hardscape with new areas of landscape appropriate for the location in the City corporation yard, near at gateway to a City park, subject to staff review and approval.
6. **3.12 EXTERIOR LIGHTING.** The proposed project is consistent with Design Guidelines for exterior lighting because there is no beacon or other lighting of the tower. As conditioned exterior lighting of the

ground mounted equipment shall be shielded and directed downward, subject to staff review and approval.

7. **4.04 MECHANICAL EQUIPMENT.** The project satisfy Design Guidelines for mechanical equipment because as conditioned the applicant shall provide noise studies prepared by an acoustical engineer prior to the issuance of a building permit for the proposed facility or any subsequent building permit for the addition of new equipment. Regarding Design Guideline 4.04.02.1, Mechanical Equipment, On-Site Aesthetic Design Compatibility, which states, "Site-and ground-mounted mechanical or electrical equipment should be screened using plant materials, fencing, walls, or other approved means to shield the equipment from view," the proposed installation includes concealment and screening devices, including a fenced enclosure, and an ice bridge and the hollow core of the tower to conceal cabling. Regarding Design Guideline, 4.04.02.5, Mechanical Equipment, On-Site Aesthetic Design Compatibility, which states, "Utility connections should be screened or painted to blend in with the exterior materials to which they are mounted," the WCF Permit is consistent with the Guideline because, as conditioned, and where feasible, the equipment attached to the utility poles will be close-mount and painted a consistent color scheme.

**NOW, THEREFORE, BE IT RESOLVED** that the City Council that:

**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 report and evidence presented at the public hearings, the City Council approves the WCF Permit filed by Gulf South Towers Capital Partners, LLC, subject to conditions of approval listed herein, and subject to the successful execution of a license agreement with the City of Piedmont for use of City-owned property:

1. **Conditions in construction documents.** These conditions of approval shall be included as a sheet in the plan set submitted for any City building permit, excavation permit or encroachment permit application ("City-required construction permits") for the work approved herein.
2. **Noise.** The Applicant shall include on the site plan, submitted for the initial building permit application, an 8-foot-tall solid wood fence enclosure at the perimeter of the chain link fence enclosure. The applicant shall provide a noise study prepared by a licensed acoustical engineer for the specific equipment shown on any building permit application for the GST Capital Partners tower and any subsequent equipment added to the facility, including emergency back-up power generator(s). Noise study shall include cumulative noise, including the noise from existing equipment at the GST Capital Partners facility. Noise study shall demonstrate compliance with the following requirements. All equipment, including any back-up power generator, shall have noise attenuation design limiting the maximum noise level to 65 dBA, per occurrence of noise, measured at 7 meters from the equipment. Noise limits at the exterior of the corporation yard offices shall be no greater than 60 dBA, per occurrence of noise. Noise levels at the property line shall not exceed 50 dBA, pursuant to Section 1207.6 of the California Building Code, as adopted by the Piedmont City Code Section 8.02.030. Back-up power generators shall only be located within the fence enclosures.
3. **Power and utility connections.** Prior to issuance of a building permit, the locations and designs of all power and utilities connections shall be shown



on the site plan submitted for a building permit, subject to the review and approval of City of Piedmont Public Works Director and City Engineer. Unless use of City power utilities is permitted pursuant to the terms of a lease or site agreement, the Applicant shall be required obtain power from PG&E or other available power provider, and to install a separate utility meter for Applicant's use. Applicant shall underground its power utilities serving the project to nearest available connection point.

4. **Lighting plan.** Prior to issuance of a building permit, the Applicant shall submit a lighting plan for the WCF Permit installation including all lighting of the tower, access roadway, gates, and base station enclosures. All lighting shall be shielded and directed downwards. A photometric plans shall be provided. Lighting plan shall be subject to staff review and approval.
5. **Design, heights of facilities and diameter of WCF Tower.** The WCF Permit tower shall have a maximum height of 95 feet as measured from the surface of the existing access road in the Piedmont corporation yard, adjacent to the existing T-Mobile facility, to the top of the tower, excluding the lightning rod. The width or diameter of the WCF tower approved herein, including any equipment mounted to the tower, shall be 8 feet maximum. Prior to issuance of a building permit for the GST Capital Partners tower or subsequent building permits to add equipment to the tower in the future, a cabling plan shall be submitted with building permit application, and it shall be subject to staff review and approval. Cables shall be concealed inside the tower pole and ice bridge. No spooling or coils of exposed wire or cables are permitted on the exterior of the proposed installation. Antennas, radios, tower, tower pole, cabinets, and equipment shall be painted a consistent non-reflective color and maintained in good repair by GST Capital Partners, to the satisfaction of the City Engineer. Fencing shall not open into the required 20-foot-wide access road adjacent to the base station enclosure. Fencing may have gates that slide open to the side. The WCF tower facility approved herein shall have a total of 24 antennas and 36 base station radios of the general types shown in the conceptual equipment schedule. The WCF tower shall have a maximum of four RAD centers (centers of transmission) with three sectors each, corresponding to the four lease areas shown on the plans. Each of the four tower lease spaces shall have a maximum of two antennas per each of the three sectors for a maximum of six antennas at each lease space. A maximum of three remote radio units (RRUs) shall be mounted to the tower at each of the four lease spaces. Additional RRUs and other equipment must be located within the ground-level base station unless granted an exception to this condition in writing by the Planning & Building Director based on a determination that the equipment is unobtrusive in the proposed location. Antennas shall incorporate less than 10% tilt.
6. **No blasting.** Excavation for the foundation of the tower pole and construction of the retaining wall shall not be conducted with explosives of any kind.
7. **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, prior to issuance of any required City permits for construction the Applicant shall require all contractors performing work on the Project to maintain a General Commercial Liability policy covering bodily injury, including death, and property damage that may arise out of or result from the contractor's operations. Such insurance shall be written for not less than \$2,000,000 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 ensure that the contractor immediately arranges 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. If the Applicant self-performs the installation of the facilities, the Applicant shall maintain property insurance and coverage for contractors, which is substantially equivalent to the contractor's requirement of this section.

8. **Defense of legal challenges.** If there is a third party administrative, legal or equitable action challenging the project approvals, the Applicant shall defend, indemnify, and hold harmless the City against any and all liability, fees and costs arising out of the defense, including without limitation, Applicant shall pay for all costs of City's own selected legal counsel(s). For this purpose, "City" includes the City and its elected and appointed officials, agents, officers, employees, consultants, and volunteers.
9. **Radio frequency (RF) emissions and electromagnetic fields.** Prior to issuance of a building permit for the GST Capital Partners tower and any subsequent building permit to install equipment on the tower, the Applicant shall provide RF emissions reports for the specific equipment to be installed on the tower and within the base station on the ground, including the cumulative emissions with all prior equipment, analyzed per sector, demonstrating compliance with federal safety standards. RF emissions reports shall be subject to the review and approval of City staff. Prior to final inspection, the Applicant shall provide a report summarizing the RF testing of the facility to confirm conformance with conclusions of the predicted RF emissions report filed as part of the building permit submittal.
10. **Construction Management Plan.** Prior to issuance of City required construction permits for the approved project, the Applicant or contractor shall develop a comprehensive Construction Management Plan and file it with the Public Works Director. The Construction Management Plan shall address noise, vibrations, traffic control, access to neighboring properties, 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 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 to park in an area defined by the Public Works Supervisor. The plan shall specify the sequencing of demolition, grading, and construction activities. The City Public Works Director 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.** Applicant shall comply with Provision C.6 "Construction Site Control" of the Regional Water Quality Control Board, San Francisco Bay Region NPDES Permit Order No. R2-2015-0049, as subsequently amended, 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.

- 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 Applicant's expense after Final Inspection.
11. **Maintenance of facilities.** Applicant shall obtain access from the Public Works Supervisor for each maintenance visit by tenants of the lease areas on the tower or for each visit by the tower owner, GST Capital Partners, LLC. Except for emergency maintenance needs, the maintenance of the wireless communication facility tower shall occur between 8 am and 3 pm on weekdays. The requests for access to the City corporation yard shall include contact person's name and phone number, supervisor's name and phone number, and type of equipment to be used.
  12. **Project Security.** Applicant shall provide a performance bond or other form of security, in a form acceptable to the Director of Public Works, and in an amount sufficient to cover the cost of restoration of the corporation yard. Applicant shall provide an estimated cost of removal and restoration in the form of a quote from a bonded and licensed contractor.
  13. **Insurance.** The Applicant shall provide adequate and appropriate insurance covering the Applicant's construction, excavation, and related work involving the project, in a policy form approved by the Director of Public Works and City Attorney, and specifically covering bodily injury, property damage, products and completed operations, in an amount not less than \$2,000,000.00 per occurrence and if determined by the Director of Public Works in the Director's sole discretion that construction may involve environmental hazards, obtain and cause all contractors and subcontractors to obtain, prior to commencement of any Work, Contractors' Pollution Legal Liability and/or Asbestos Legal Liability and/or Errors and Omissions insurance (if project involves environmental hazards) with limits no less than \$1,000,000 per occurrence or claim, and \$2,000,000 policy aggregate.
  14. **Height verification.** Prior to completion of the project and final inspection by the City, the Applicant shall provide the Building Official written verification by a licensed land surveyor stating that the height of the new wireless communication tower, excluding the lightning rod, is less than or equal to the height measured from grade adjacent to the tower as shown on the approved plans. If the height exceeds the approved height, then the Applicant or contractor shall immediately reduce the height of the tower until it is in compliance with the approved plan.
  15. **Concealment design and project site.** The outer edge of the equipment as shown in elevation and in plan view are identified as the "project site" and "concealment strategy." Future modifications shall incorporate the highest industry standards for compact designs that minimize visibility and shall not defeat the concealment strategies outlined in these conditions of approval.
  16. **Term.** The approval of the wireless communication facilities permit is valid for a term of 10 years. At the end of the term, the Applicant shall remove its equipment or apply to the City Council for a new Wireless Communication

Facilities Permit to extend the term of this Wireless Communication Facilities Permit.

17. **Tree work.** The Applicant and its contractors, partners, or agents are prohibited from performing any tree work related to construction, pre-construction clearance, or on-going maintenance and operation during and after construction. Tree trimming and tree removal may only occur with the approval of the Director of Public Works.
18. **Landscape plan.** Trees proposed for removal shall be replaced on a one-to-one basis with native trees and shrubs planted elsewhere on the property, which shall be shown on a final landscape plan, prior to issuance of a building permit. Replacement tree size is subject to staff review and approval, and shall be commensurate with the size and numbers of trees to be removed, of a minimum of 24-inch box size. Applicant shall conduct any utility pole installation so that clearance pruning does not remove more than 25% of tree canopy. Final height and design of the new retaining wall and chain link fence and wood fence enclosure shall be shown on the landscape plan, subject to staff review and approval. The landscape plan shall balance the new areas of hardscape with new areas of landscape appropriate for the location in the City corporation yard, near a gateway to a City park.
19. **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 Public Works Director. If at any time a new owner or operator provider takes over operation of the facility, the new operator 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. The wireless communication facility must at all times be maintained in good repair, free from trash, debris, litter, graffiti, and other forms of vandalism. The Applicant, as landlord, 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. The

- Applicant shall provide a post-construction and an annual report with the following information: equipment model and manufacturer, frequency bandwidths, effective radiated power, and emission levels measured to nearest building(s) with a comparison to FCC safe exposure limits.
- e. **Noise.** A wireless communication facility must be operated to comply with Chapter 8 of the City Code and conditions of approval required herein. Should the noise emanating from the facility be found to exceed the limits provided in City Code Chapter 8 and these conditions of approval, 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 8 noise limits and conditions of approval required herein. The acoustical engineer shall be selected by the City and the cost of the engineer's services shall be paid by the Applicant.
  - f. **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.
20. **Expiration of Wireless Communication Facilities Permit.** A building permit must be issued within one year of this approval of the City Council, or this approval shall be null and void. Upon issuance of the building permit, the Applicant shall diligently pursue construction to completion.
21. **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 to the Public Works Director for his/her 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 Mechanical; iv) Completion of Facilities; v) Completion of Hardscaping and Landscaping; and any further construction benchmarks and conditions 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.

**SECTION 3.** 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 McCarthy, Seconded by Rood

Ayes: McCarthy, Andersen, Cavanaugh, Rood, King

Noes: None

Absent: None

(1127, 0459)

**2<sup>nd</sup> Reading of Ord.  
758 N.S. for an  
Amended and  
Restated Lease**

Ms. Lillevand reported that the City Council had approved the 1<sup>st</sup> reading of Ordinance 758 N.S., at its meeting of November 2020. She indicated that since that time, the city and Piedmont Center for the Arts have worked to improve the lease to take into account many of the issues brought forth by the

**Agreement with  
Piedmont Center for  
the Arts for 801  
Magnolia Avenue**

community at and subsequent to the 1<sup>st</sup> reading. She also noted that the proposed text of the ordinance has been revised to update Section 4, the California Environmental Quality Act (CEQA) provision. She summarized the proposed amendments to the agreement, which staff believes improve the agreement, provide broader community access, and increase overall utilization of the facility.

**Public Testimony** was received from:

Tom Reicher and Sue Malick supported some type of agreement for PCA to utilize space at 801 Magnolia Avenue.

Jennifer Long, representing the Piedmont Anti-Racism and Diversity Committee and the Piedmont Racial Equity Campaign spoke against renewal of the lease, urging the Council to live up to the commitment it made to promote inclusion and equity.

Garrett Keating proposed the Council postpone consideration of the lease and hold a public hearing regarding use of the building.

Aparna Rao stated PCA values diversity, equity, and inclusion in the arts and welcomes diverse audiences.

Rick Schiller questioned the sublease of a portion of the facility to a for-profit business.

Becca Posamentier believed it was imperative for the City to determine the best use of the facility and to ensure the facility serves the entire community.

Councilmembers appreciated PCA's contributions to arts in the City and rehabilitation of the building. Councilmembers also discussed the role of PCA in managing the property, a Memorandum of Understanding versus a lease agreement, cost recovery, staffing if the City offers arts programming or manages the facility, insurance requirements, under-utilization of the facility, and a broad review of potential users.

The Council directed staff to return with a framework in which the City manages the property, allocates space, and calendars activities while prioritizing arts uses and designating time and space for PCA.  
(0705, 0045)

**REPORTS AND  
ANNOUNCEMENTS**

Vice Mayor Rood announced the Housing Advisory Committee will hold a virtual meeting on April 20<sup>th</sup>.

Councilmember Cavenaugh announced registration for adult recreation programs is open, and summer program registration for nonresidents opens April 21<sup>st</sup>. She also announced that PUSD will honor Ken Li as the Arthur Hecht Volunteer of the Year on April 28<sup>th</sup>, and announced community events including the Piedmont Art Walk 2021, League of Women Voters' annual meeting, the Piedmont Community Quilt, and the formation of a group to commemorate Sidney Dearing.

Councilmember Andersen announced Earth Day celebrations on April 22<sup>nd</sup> and the City's annual Arbor Day celebration on April 30<sup>th</sup>. She also announced the debut of the Inside PPD video series.

Mayor King acknowledged Councilmembers' support for PUSD reopening schools.

**ADJOURNMENT**

There being no further business, Mayor King adjourned the meeting at 10:18 p.m.