

City of Piedmont
Council Agenda Report

DATE: May 16, 2005

FROM: Lawrence A. Rosenberg, Director of Public Works

SUBJECT: **Consideration of Possible Legal Action Related to Damage to City Owned Property in Piedmont Park**

RECOMMENDATION:

It is recommended that the city demand full reimbursement through either voluntary reimbursement to the city or formal legal action for all costs associated with damage to a Memorial Bench site in Piedmont Park.

BACKGROUND:

For over fifteen years, the Piedmont Beautification Foundation (PBF) and the city have cooperated in a Memorial Bench program in the city's parks. The city has managed the program, placing over seventy-five teak benches. The program has afforded our residents a way to honor special events in their families or the memory of deceased family members.

The Piedmont Beautification Foundation (PBF) administers the ordering, shipping, finances as well as correspondence with the donors. The bench price, which includes an inscription selected by the donor, is determined by PBF. The locations for the benches and the poured in place concrete pads are identified by the Parks and Projects Manager who also manages the installation by an outside contractor. The Parks and Projects Manager meets with each donor to solicit input regarding the final placement of the benches. The cost of installing the concrete pad is paid for by the City. This program has been a benefit to the City as these beautiful teak benches have been installed at very little cost to Piedmont residents.

On April 1, 2005, A. Rapella & Sons was in the process of pouring five new concrete pads in Piedmont Park. One of these pads was located near 125 Guilford Road owned by Mr. Roger Strauch and Dr. Julie Kulhanjian. As the pad in question was being poured, Dr. Kulhanjian came out of her house and objected to the location of the bench pad which she said was too close to her house and the family's living quarters. Mr. Strauch and Dr. Kulhanjian called the Police Department to dispatch an officer to stop the concrete pour. Dr. Kulhanjian disrupted the concrete pour by standing inside the concrete construction.

When the officer arrived, it was determined that the pad was on public property and Dr. Kulhanjian exited the area of the pour. City records indicate that 125 Guilford Road is 5 feet 9 inches from the Strauch/Kulhanjian north wall. The bench pad was an additional twenty-one (21) feet from the property line in Piedmont Park.

The contractor finished pouring the pad and Dr. Kulhanjian proceeded to step into the freshly poured concrete thereby again stopping the work. Upon notification, and in an effort to defuse a highly volatile confrontation, I directed the contractor to stop work at the site.

As the city was unable to finish the pad installation, costs have been incurred associated with this work stoppage including the following:

Costs Associated with Concrete Bench Pad Destruction

1. Remove Vandalized Bench Pad 300.00
2. Form and Pour New Memorial Bench Pad (new location or same location) \$1,300.00
3. Staff time Related to Incident (including benefits)

L. Rosenberg	4 hrs @ \$89.46/hr	\$357.84	
M. Feldkamp	4 hrs @ \$74.65/hr	298.60	
D. Frankel	2 hrs @ \$55.65/hr	111.30	
G. Peyton	1 hr @ \$197.50/hr	197.50	
One (1) yard soil	\$41.00/yard	<u>41.00</u>	
		\$1,006.24	<u>\$1,006.24</u>
		Total	<u>\$2,606.24</u>

It is recommended that the city demand full reimbursement of all costs associated with this incident through either voluntary reimbursement to the city or formal legal action. Further, it is requested that the council give direction to staff as to whether they wish to install a pad and new bench at the original location adjacent to 125 Guilford Road.