

PIEDMONT CITY COUNCIL

Special and Regular Meeting Minutes for Monday, July 18, 2022

Special and Regular Sessions of the Piedmont City Council were held on July 18, 2022, both in person and via teleconference, in accordance with the provisions of Government Code 54953. In accordance with Government Code Section 54957(b), the agenda for this meeting was posted for public inspection on July 14, 2022.

CALL TO ORDER

Vice Mayor Cavanaugh called the meeting to order at 6:00 p.m. with the Pledge of Allegiance.

ROLL CALL

Present: Vice Mayor Jennifer Cavanaugh and Councilmembers Betsy Smegal Andersen, Jennifer Long, and Conna McCarthy

Absent: Mayor Teddy Gray King

Staff: City Administrator Sara Lillevand, Deputy City Attorney Mary Wagner, Fire Chief David Brannigan, Public Works Director Daniel Gonzales, Planning & Building Director Kevin Jackson, Parks & Project Manager Nancy Kent, Sustainability Program Manager Alyssa Dykman, and Assistant City Administrator / City Clerk John Tulloch

CONSENT CALENDAR

The Consent Calendar consisted of the following items:

Minutes

Approval of Council Meeting Minutes for the 05/21/2022 (Special), 06/06/2022, and 06/20/2022

Resolution for Teleconference Meetings

WHEREAS, on October 4, 2021, pursuant to the requirements of Government Code Section 54953(e)(1)(B), the City Council passed Resolution 77-2021, which made the required findings to authorize the use of streamlined notice requirements for teleconference meetings for the City Council and all Commissions, Committees, or advisory bodies of the City of Piedmont; and

WHEREAS, the gubernatorial declaration of a State of Emergency regarding the COVID-19 pandemic remains in place, and COVID-19 continues to threaten the health and lives of Piedmont residents and there is scientific consensus that variants of COVID-19 are highly transmissible in indoor settings; and

WHEREAS, AB 361 requires that every thirty (30) days, the City to reconsider the circumstances of the emergency and review whether it continues to directly impact the ability of the members to meet safely in person, and the circumstances described in Resolution 77-2021 continue to persist;

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 correct and are material to this Resolution and are incorporated into this Resolution as findings of the City Council.

SECTION 2. The City Council desires to continue to meet by teleconference in accordance with Government Code Section 54953(e).

SECTION 3. The City Council has reconsidered the findings made in Resolution 77-2021, and finds that:

- (i) The state of emergency continues to directly impact the ability of the members to meet safely in person; and
- (ii) State or local officials continue to impose or recommend measures to promote social distancing.

SECTION 4. The City Council reconfirms and incorporates the findings made in Resolution 77-2021 regarding the need for the Council and all Commissions, Committees, or advisory bodies of the City of Piedmont to meet by teleconference.
(0440)

**Tax Collection
Agreement**

Approval of Mutual Indemnification & Certification Agreement with Alameda County for Collection of Taxes
(0045)

**General Municipal
Election Procedure**

WHEREAS, a General Municipal Election is scheduled for November 8, 2022, for the purpose of the election of three (3) members of the City Council, for a regular term of four (4) years, and two (2) members of the Piedmont Board of Education for a regular term of four (4) years; and

WHEREAS, it is necessary to determine a number of details relating to such General Municipal Election and to request that the Alameda County Board of Supervisors consolidate such General Municipal Election with the Statewide General Election to be held on the same date;

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. Pursuant to the requirements of the Charter of the City of Piedmont, a General Municipal Election is called and ordered to be held in the City of Piedmont, California on Tuesday, November 8, 2022 for the purpose of electing three (3) members of the City Council, for a regular term of four (4) years, and two (2) members of the Piedmont Board of Education for a regular term of four (4) years.

SECTION 2. Pursuant to §10002 and §10403 of the Elections Code, the City of Piedmont formally requests that the General Municipal Election be consolidated with the Statewide General Election to be held on November 8, 2022 and further requests the services of the Alameda County Registrar of Voters in carrying out the General Municipal Election, including sending to the City's registered voters all required election materials, conducting the General Municipal Election, canvassing the vote received, and taking all steps necessary and required for the holding of this election within the City of Piedmont.

SECTION 3. That the City Council acknowledges that the consolidated election will be held and conducted in the manner prescribed by §10418 of the Elections Code.

SECTION 4. The compensation for election officers shall be based on the rates set by the Alameda County Board of Supervisors which are in effect at the time of the General Municipal Election.

SECTION 5. The location of the central counting place for the ballots to be cast at the General Municipal Election shall be the Alameda County Courthouse, 1225 Fallon Street, Oakland, California.

SECTION 6. The polling place rental fees shall be the same as the fees which are adopted by the Alameda County Board of Supervisors, and which are currently in effect at the time of the General Municipal Election.

SECTION 7. There shall be no filing fee for candidates for office in the General Municipal Election.

SECTION 8. The candidates' statements shall be limited to a maximum of 200 words.

SECTION 9. In the event of a tie-vote for any office which is being voted on at such General Municipal Election, the provisions of Section 15651 of the California Elections Code, relating to determining the tie by lot, shall apply.

SECTION 10. The nominations for the General Municipal Election shall open on July 18, 2022 and close no later than 5:00 pm on August 12, 2022, unless extended pursuant to Elections Code Section 10225.

SECTION 11. The City Clerk is directed to give notice of the election in the time, form, and manner as required by law.

SECTION 13. In all particulars not recited in the Resolution, the election shall be held and conducted as provided by law for holding municipal elections.

SECTION 14. The City Clerk is authorized to transmit a certified copy of this resolution to the Alameda County Board of Supervisors and the Alameda County Registrar of Voters.
(0435)

These was no **Public Testimony** on these items.

Resolution No. 48-2022

RESOLVED, that the City Council approves the Consent Calendar as noted.

Moved by Andersen, Seconded by Long

Ayes: Andersen, Cavanaugh, Long, McCarthy

Noes: None

Absent: King

PUBLIC FORUM

Public Testimony was received from:

Eric Sullivan, Georgina Russell, and Theodore Kinch expressed concerns with the possible increases in housing density in the Civic Center area included in the draft Housing Element. Speakers also encouraged the Council to work with the community on the Housing Element update.

CEREMONIAL MATTERS

Fire Chief David Brannigan introduced new fire fighters Nikolas Christ and Tariq Harless to the Council and community.

REGULAR AGENDA

The Council considered the following items of regular business:

**Presentation from
East Bay Municipal
Utility District**

East Bay Municipal Utility District (EBMUD) Ward 3 Director Marguerite Young and Water Conservation Manager Alice Towey reviewed how the drought is affecting the ability to provide water to EBMUD communities. They provided information on water supply, conservation, drought management

efforts, use restrictions, and residential and non-residential conservation programs, and consumer tips.

In response to Council questions, Ms. Young indicated that EBMUD does not consider the reservoir property in Piedmont as surplus.

Public Testimony was received from:

Garrett Keating shared a shower timer incentive for Piedmont Connect new members.

Hope Salzer supported water conservation efforts, the work of EBMUD, and Piedmont Connect incentive and questioned additional restrictions and pricing with unmet water consumer goals.

116 Fairview Appeal

Planning & Building Director Kevin Jackson presented an appeal submitted by Jeremy Fisher to overturn the Planning Commission's decision to deny a design review permit application for a stylistic remodel at 116 Fairview Avenue. He discussed the standards by which the Council review of appeals takes place, noting that the Council can only grant the appeal on grounds laid out in the City Code.

Mr. Jackson noted the project's complexities related to architectural form and style, and building design integration. He detailed the Planning Commission's consideration of the application and its decision to deny the application without prejudice, on the basis that the project only met two of three standards for approval and that the project and that the proposed design was not consistent with the City's General Plan or the Piedmont Design Guidelines as it relates to the roof form, overall style and massing, and the front door location.

Mr. Jackson indicated staff's conclusion that the appeal was without merit and recommended the City Council deny the application and uphold the Planning Commission's motion. Mr. Jackson reviewed the basis for the appeal.

Public Testimony was received from:

Frances and Jeremy Fisher expressed the opinion that the Planning Commission erred in its decision regarding their application. They shared their experience of going through the City design review process. They stated their belief that they were misled by the Planning Commission and staff, implored the Planning Commission and staff to apply clear and consistent guidelines and provide adequate guidance. They suggested that approval rates are biased based on the value of the project and urged the City Council to hear the appeal in broader terms.

Brooke Wall and Meghan Bennett expressed support for the project and stated their opinion that the design review process is strenuous and costly, and supported transparency and consistent rulings by the Planning Commission.

Councilmember Andersen noted an opportunity to streamline the design review process and provide greater transparency and supported the Planning Commission's motion based on a consistent application of the design standards to the contemporary design, along with Councilmembers McCarthy and Long.

Vice Mayor Cavanaugh believed that inconsistent comments existed and were used by staff to provide guidance and advice to the applicant.

Resolution No. 49-2022

WHEREAS, on March 10, 2022, Ellen and Gene Switkes (“Applicants”) applied for a design review permit that proposed stylistic change to the exterior of the house, to make interior modifications on the main level and several other modifications to hardscape and landscape throughout the property, including: altering the profile of the front (west) facade and roof, modifying exterior siding on all sides and the main entry alcove, removing the existing chimney, making window and door modifications throughout, constructing a wood deck and wood and steel trellis in the front (west) and rear (east) of the house, constructing retaining walls and on-grade site stairs, adding skylights, installing guardrails, installing a wood fence within the 20-foot street yard setback, installing one roof mounted air conditioning unit within a wood screening enclosure, and adding exterior lighting (the “Project”); and

WHEREAS, on April 11, 2022, the Planning Commission held a public hearing to consider the Project, and at the conclusion of the public hearing, the Planning Commission denied the Project without prejudice, finding that the Project is not consistent with Piedmont City Code Section 17.60.060(a) which specifies that the proposed design must be consistent with the City’s General Plan and Piedmont Design Guidelines; and

WHEREAS, on April 21, 2022, Jeremy Fisher (“Appellant”) appealed the Planning Commission decision in accordance with Division 17.78, Appeals; Calls for review, of the Piedmont City Code (“Appeal”); and

WHEREAS, on July 1, 2022, a 14-day public notice was duly given to the Applicants, the Appellant, the surrounding property owners notified in the original application hearing, and to any other person requesting notice, in accordance with Section 17.78.030 and Section 17.66.050 of the City Code; and

WHEREAS, based upon all of the evidence in the record and after reviewing the application, plans and any and all oral or written testimony and documentation submitted in connection with the Project, the Piedmont City Council denies the appeal and upholds the findings rendered by the Planning Commission to deny the application for design review permit, and finds that the Planning Commission’s decision is supported by the weight of the evidence:

WHEREAS, the City Council of the City of Piedmont finds:
the Project does not comply with the design review criteria set forth in Section 17.66.060 of the Piedmont City Code because:

1. The proposed design is not consistent with the City’s General Plan and Piedmont Design Guidelines in that the building features are not consistent with the original architecture and neighborhood development, including the roof form, overall style and massing of the proposed design, and location and orientation of the front door.
2. The application does not comply with the following Design Review Guidelines and General Plan policies and programs: Building Design 4.01.
3. The project is not consistent with General Plan policies and programs, including the land use element, housing element, and design and preservation element, including: Design and Preservation Element Policy 28.1 (Scale, Height, and Bulk Compatibility), and Design and Preservation Element Policy 28.2 (Style Compatibility), because the Project is not

compatible with the prevailing style on account of the fact that the Project's contemporary style was unique to the neighborhood of traditional style houses in terms of the application of exterior materials, the location of main entry door and the way in which the building was massed.

NOW, THEREFORE, BE IT RESOLVED that the Piedmont City Council does hereby resolve, declare, determine, and order as follows:

SECTION 1. The above recitals are correct and that the Piedmont City Council finds that the Appellant has not met the burden of proof that errors were made by Planning Commission or Planning and Building Department staff, pursuant to Section 17.78.040(A)(2)(a) of the Piedmont City Code and have not proved that the Planning Commission's findings made as a basis for its action were not supported by the weight of the evidence.

SECTION 2. The City Council denies the appeal and upholds the Planning Commission's denial of the Design Review Permit application to make stylistic change to the exterior of the house, to make interior modifications on the main level and several other modifications to hardscape and landscape throughout the property, including altering the profile of the front (west) facade and roof, modifying exterior siding on all sides and the main entry alcove, removing the existing chimney, making window and door modifications throughout, constructing a wood deck and wood and steel trellis in the front (west) and rear (east) of the house, constructing retaining walls and on-grade site stairs, adding skylights, installing guardrails, installing a wood fence within the 20-foot street yard setback, installing one roof mounted air conditioning unit within a wood screening enclosure, and adding exterior lighting.

SECTION 3. The Planning and Building Director is the custodian of documents and other materials that were considered by the City Council and constitute the record of proceedings on which this decision was based. The records are located at the Planning and Building Department, 120 Vista Avenue, Piedmont, CA 94611.

SECTION 4. 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 Long
Ayes: Andersen, Long, McCarthy
Noes: Cavanaugh
Absent: King
(0080-0285)

**2022 Greenhouse Gas
Emission Report and
Climate Action Plan
Update**

Sustainability Program Manager Alyssa Dykman presented the Climate Action Plan 2.0 implementation update and results of the 2020 greenhouse gas (GHG) emission inventory. She highlighted GHG emission goals and trends, detailing emission sources and made comparisons to prior years.

Additionally, Ms. Dykman reviewed City programs and policies to support GHG emission reduction and climate action plan progress which included building electrification, electric vehicles, organics and recycling, and sustainability outreach and education.

Public Testimony was received from:

Indira Balkisson, Moira Chapman, Nancy Kent, Hope Salzer, Margaret Ovenden, Garrett Keating, and Sophia Ware commended staff and thanked the City Council for its work on climate action, suggested assistance in identifying conversion starting points, supported sustainability incentives, noted opportunities to add panel upgrades to solar panels, suggested EV transit buses and updated carbon targets, offered resources, proposed youth education in combination with the City and school district, questioned residential food waste collection data, urged the City Council to take action on the staff recommendations and make climate action a top priority, proposed a climate action community task force, questioned increased natural gas use, and proposed EV strategies for existing residential building projects.

The Council discussed the emissions report and Climate Action Plan update at length. Councilmembers suggested additional public outreach. Councilmembers also expressed the need for urgent additional actions to reduce Piedmont's climate footprint and the possibility of a Climate Action Task Force.
(0459)

**Amendment to Pool
Architectural Contract**

City Administrator Sara Lillevand gave a brief introduction of the proposed amendment to the existing agreement with ELS Architecture & Urban Design, noting that the current agreement with ELS excludes frontage and right-of-way areas around the facility.

Public Works Director Daniel Gonzales detailed the need for the amendment, highlighting the desire to complete improvements to the frontage and right of way at the same time the Piedmont Community Pool is constructed. He also noted the efficiencies of designing and constructing these improvements at the same time as the main project is being built.

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

The Council discussed the proposed amendments, noting the need to segregate expenditures for frontage and right of way improvements from Measure UU expenditures. The Council also discussed several aspects of the frontage and right of way improvements, including Americans with Disability Act implications.

Resolution No. 50-2022

RESOLVED, that the City Council approves an amendment to the agreement with ELS for Architecture and Engineering Design Services for the Piedmont Community Pool Project, based on a time and materials basis, at an amount not to exceed \$75,140, and amends the agreement to reflect this total; and

RESOLVED Further, that the City Council approves an appropriation of \$75,140 from the Facilities Capital Fund to cover the expense and amends the overall budget for this amended agreement of \$2,550,694 and authorizes the City Administrator to spend up to this amount.

Moved by Andersen, Seconded by McCarthy
Ayes: Andersen, Cavanaugh, Long, McCarthy
Noes: None
Absent: King
(0045)

**Agreement for
Americans with**

Ms. Lillevand gave a brief introduction of the agreement for consideration to provide for ADA access in City facilities and public rights-of-way. Mr.

**Disabilities Act
Transition Services**

Gonzales indicated that a year-long review, in partnership with Disability Access Consultants (DAC), of all City-owned facilities is necessary to determine compliance issues related to ADA standards and requirements so the City can make a consistent decision and a good faith effort to reach ADA compliance. The review will include guidance for reasonable and achievable improvements with a realistic plan and implementation process over several years.

Public Testimony was received from:

Hope Salzer noted a past ADA assessment and requested an ADA review methodology that accounts for neighborhood equity and a distribution of City improvements.

Councilmembers discussed implementation tracking tools, related liabilities, funding, and remodeling opportunities.

Resolution No. 51-2022

RESOLVED, that the City Council approves the proposed agreement with DAC for Americans with Disabilities Act (ADA) Self-evaluation and Transition Plan services in an amount not to exceed \$99,510, approves an overall budget for this agreement of \$109,461, and authorizes the City Administrator to spend up to this amount.

Moved by McCarthy, Seconded by Long
Ayes: Andersen, Cavanaugh, Long, McCarthy
Noes: None
Absent: King
(0045)

**REPORTS AND
ANNOUNCEMENTS**

Councilmember Andersen announced the Piedmont Recreation Department winning the Highland Cup at the July 4th parade for their entry theme: “Magic is our Mojo” with a unicorn flotilla. She further noted the publication of the PRD fall activity guide and registration dates. She also noted that PRD is hiring for coaching positions.

Councilmember Long reminded the community to visit piedmontishome.org to get information and provide feedback on the Housing Element process.

Councilmember McCarthy announced the 100th birthday of longtime resident Lillian Rubinstein.

City Clerk John Tulloch reminded the City Council of the nomination period for City Council and Board of Education positions on the November ballot.

ADJOURNMENT

There being no further business, Vice Mayor Cavanaugh adjourned the meeting at 10:13 p.m.