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and to notice area residents of the proposed bus stop change and potential loss of on-street parking spaces as a result of the installation of a raised median and crosswalk; and that no median/crosswalk installation take place until area residents are notified. **THIS MOTION DIED FOR LACK OF SECOND.**

The Council noted its preference that discussions first be held with AC Transit regarding the possibility of the El Cerrito bus stop change before notifying area residents of the options under consideration for the intersection. The Council requested staff to discuss the issue with AC Transit and submit a report at a future Council meeting detailing the various options for improving pedestrian safety at the Oakland/El Cerrito intersection.

Resolution 38-05

RESOLVED, that the City Council instructs staff to install a crosswalk at the El Cerrito/Magnolia intersection, with the corresponding elimination of on-street parking spaces, as set forth in the Traffic Engineer's December 23, 2004, report, Paragraph #2, page 9.

Moved by Friedman, Seconded by McEnroe

Ayes: Bruck, McEnroe, Barbieri, Friedman, Wieler

Noes: None

Absent: None

(1060)

**Piedmont Hills
Utility Underground
Assessment District**

The City Clerk recommended a series of Council actions to proceed with the proposed formation of the Piedmont Hills Underground Assessment District as directed on April 4, 2005.

Public testimony was received from:

Barbara Bee stated that originally property owners within the proposed district were told that the average cost to participate would be \$15,000, the proposal represented a "neighborhood" project and that assessment amounts would be equally shared. She cited concern that cost estimates have probably escalated based upon the experience of other Piedmont utility underground districts yet district proponents have not communicated this fact to proposed members. In addition, she questioned the likelihood that assessment rates will be the same for all properties, regardless of lot size, frontages or views, since this has not been the case for other districts. She emphasized her strong position that the assessment rate should be the same for all properties and felt that it would be unfair if this was not the case.

Rosemary Baker relayed her request that her corner property not be included in the proposed district and cited concerns that proposed trenching could damage her large trees. She also noted that in response to district proponents, she agreed to pay for the cost of an arborist to assess potential damage to her trees, yet a letter sent to district properties indicated that she would pay the cost of an arborist inspection of the entire district. She requested that district proponents clarify this situation. She also encouraged the City to develop a procedural manual requiring district proponents to provide consistent noticing and appropriate disclosures before asking for financial contributions.

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Carl Anderson stated that the assessment formula for the district has not yet been developed and apologized for any misunderstanding regarding arborist inspection cost, adding his belief that the Baker's originally offered to cover this cost for the entire district. He noted that the Engineer of Work has indicated that the Baker property must be included in the proposed district.

Tony Truttner noted his expectation that the average assessment will be approximately \$30,000.

The Council inquired why a portion of Indian Gulch was not included in the proposed district and the City Clerk replied that those properties already have underground utilities. The Vice Mayor and Councilmember Friedman requested that the Engineer of Work be directed to examine if the Indian Gulch properties will receive sufficient benefit from the Piedmont Hills undergrounding project to justify their inclusion in the proposed district.

Resolution 39-05

WHEREAS, there has been filed with the City Clerk a proposed boundary map entitled "Proposed Boundaries of the Piedmont Hills Underground Assessment District, City of Piedmont, County of Alameda, State of California" (the "Proposed Assessment District"), which map shows the area to be assessed in the Proposed Assessment District; and

WHEREAS, this City Council wishes to revise said map as the map of the proposed boundaries (the "Boundary Map") of the Proposed Assessment District.

NOW, THEREFORE, THE CITY COUNCIL HEREBY FINDS, DETERMINES AND RESOLVES as follows:

1. This City Council approves the Revised Boundary Map and adopts the boundaries shown on the Revised Boundary Map as describing the extent of the territory included in a proposed assessment district to be known as the Piedmont Hills Underground Assessment District, City of Piedmont, County of Alameda, State of California.
2. This City Council finds and determines that the Boundary Map contains the matters and is in the form prescribed by Section 3110 of the California Streets and Highways Code.
3. This City Council directs the City Clerk to certify the adoption of this resolution on the face of the Boundary Map and to file a copy of the Boundary Map with the Alameda County Recorder for placement in the Book of Maps of Assessment and Community Facilities Districts.

Moved by Friedman, Seconded by Wieler

Ayes: Bruck, McEnroe, Barbieri, Friedman, Wieler

Noes: None

Absent: None

(1075)

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Resolution 40-05

RESOLVED, that the City Council approves the Preliminary Expense Agreement for the proposed Piedmont Hills Underground Assessment District as on file in the City Clerk's office.

Moved by Friedman, Seconded by Wieler

Ayes: Bruck, McEnroe, Barbieri, Friedman, Wieler

Noes: None

Absent: None

(1075)

Resolution 41-05

RESOLVED, that the City Council approves an agreement between the City and Harris & Associates as *Engineer of Work* for the proposed Piedmont Hills Underground Assessment District.

Moved by Friedman, Seconded by Wieler

Ayes: Bruck, McEnroe, Barbieri, Friedman, Wieler

Noes: None

Absent: None

(1075)

Resolution 42-05

WHEREAS, under the authority of the Municipal Improvement Act of 1913 (Sections 10000 and following, California Streets and Highways Code; hereafter the "1913 Act"), this City Council intends to order public improvements consisting generally of the conversion of existing overhead and above-ground utility facilities to underground facilities, together with appurtenant work and improvements (the "Undergrounding Project") within or immediately adjacent to the proposed boundaries of an assessment district to be known as the "Piedmont Hills Underground Assessment District, City of Piedmont, County of Alameda, State of California" (the "Proposed Assessment District"); and

WHEREAS, this City Council finds that the land specially benefited by the Undergrounding Project is the land shown within the proposed boundaries shown on the Revised Boundary Map approved by this City Council and on file with the City Clerk (the "Revised Boundary Map"); and

NOW, THEREFORE, THE CITY COUNCIL HEREBY FINDS, DETERMINES AND RESOLVES as follows:

1. As authorized by the 1913 Act, including the provisions of Sections 5896.1 through 5896.17, inclusive, of the Streets and Highways Code, as incorporated into the 1913 Act by Section 10102.1 thereof, and Section 53753 of the California Government Code ("Section 53753"), this City Council intends to levy a special assessment upon designated portions of the land within the Proposed Assessment District in accordance with the special benefit to be received by each parcel of land, respectively, from the Undergrounding Project.
2. Where any disparity occurs in level or size between the work and improvements of the Undergrounding Project and private property, this City Council determines that it is in the public interest and more economical to eliminate the disparity by doing work on the private

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property instead of adjusting the work on public property. Accordingly, work may be done on private property for this purpose with the written consent of the landowner. Without limiting the generality of the foregoing sentence, this City Council intends to include within the authorized Undergrounding Project the work of installing underground on the private property of each requesting landowner the facilities to connect the residential improvements of such landowner to the newly-undergrounded utility improvements, on the conditions that (a) the estimated cost and expense of such parcel-specific work will be added to the assessment levied against that specific parcel and (b) the owner or owners of the specific parcel will consent thereto.

3. This City Council intends, pursuant to subparagraph (f) of Section 10204 of the 1913 Act, to provide for an annual assessment upon each of the parcels of land in the proposed assessment district to pay various costs and expenses incurred from time to time by the City of Piedmont (the "City") and not otherwise reimbursed to the City which result from the administration and collection of assessment installments or from the administration or registration of the improvement bonds and the various funds and accounts pertaining thereto, subject to the limitation on the amount of such annual assessment as shall be prescribed in the engineer's report to be prepared and considered by this City Council as prescribed by the 1913 Act and Section 53753.

4. Bonds representing unpaid assessments, and bearing interest at a rate not to exceed twelve percent (12%) per annum, will be issued in the manner provided by the Improvement Bond Act of 1915 (Division 10, Streets and Highways Code; hereafter the "1915 Act"), and the last installment of the bonds shall mature not to exceed twenty-four (24) years from the second day of September next succeeding twelve (12) months from their date.

5. The procedure for the collection of assessments and advance retirement of bonds shall be as provided in Part 11.1 of the 1915 Act.

6. Pursuant to Section 8769 of the 1915 Act, the City will not obligate itself to advance available funds from the City treasury to cure any deficiency which may occur in the bond redemption fund. A determination not to obligate itself shall not prevent the City from, in its sole discretion, so advancing funds.

7. This City Council appoints Harris & Associates as Engineer of Work for this project, and directs the preparation of the report containing the matters required by Section 10204 of the 1913 Act, as supplemented by Section 53753.

8. In the opinion of this City Council, the public interest will not be served by allowing owners of assessable lands to enter into a contract for the Undergrounding Project as otherwise permitted in Section 20485 of the Public Contract Code.

9. The amount of any surplus remaining in the improvement fund after completion of the Undergrounding Project and payment of all