

PIEDMONT CITY COUNCIL

Regular Meeting Minutes for Tuesday, January 17, 2012

A Regular Session of the Piedmont City Council was held January 17, 2012, in the City Hall Council Chambers at 120 Vista Avenue. In accordance with Government Code Section 54954.2(a) the agenda for this meeting was posted for public inspection on January 12, 2012.

CALL TO ORDER

Following a 7:00 p.m. Closed Session regarding labor negotiations for all units and discussion regarding pending litigation in the matter of *Friends of Moraga Canyon v. City of Piedmont* and potential litigation and real property negotiations (Blair Park) held pursuant to Government Code Sections 54957.6, 54956.9, 54956.9(b)(1)(B), 54956.9(b)(1)(E) and 54956.8, respectively, Mayor Barbieri called the meeting to order at 7:45 p.m. with the Pledge of Allegiance.

ROLL CALL

Present: Mayor Dean Barbieri, Vice Mayor John Chiang and Councilmembers Margaret Fujioka, Garrett Keating and Jeff Wieler

Staff: City Administrator Geoff Grote, City Attorney Tom Curry, Finance Director Mark Bichsel, Public Works Director Chester Nakahara, Recreation Director Mark Delventhal, City Engineer John Wanger, City Planner Kate Black, City Clerk John Tulloch and Recording Secretary Chris Harbert

APPROVAL OF MINUTES

Resolution 1-12

RESOLVED, that the City Council approves as submitted its meeting minutes of December 19, 2011 and January 3, 2012.

Moved by Wieler, Seconded by Keating

Ayes: Barbieri, Chiang, Fujioka, Keating, Wieler

Noes: None

Absent: None

(Note: Vice Mayor Chiang and Councilmember Fujioka abstained from the vote approving the January 3, 2012, meeting minutes)

PUBLIC FORUM

Piedmont High School Seniors Renee Lane, Ashley Shuster, Karina Chan, Hao-Jun Michael Shi, Jack Winenser, Anna Wender, Sophia Elwakil, Ryan Lofstrom and Kenneth Hou, attending tonight's meeting for a Civic Class assignment, relayed their excitement over the opportunity to listen to the Council's discussions and deliberations.

Rick Schiller referenced the City's upcoming February 7th Municipal Election in setting forth his belief that the "Counterpoints to Arguments Against Measure A Sewer Surtax" published in the *Piedmont Post* contains incorrect and misleading information. He specifically cited and corrected what he believed to be misstatements of fact and voiced concern that since this document was sent to the *Post* by City staff, it could appear as if staff was attempting to influence election outcome.

REGULAR CALENDAR

The Council considered the following items of regular business:

FY 11-12 Mid-Year Financial Report

The Finance Director presented and summarized the FY 11-12 Mid-Year Fiscal Reports, noting in particular that the City is on target with regard to expenditures and slightly ahead of revenue projections. He also expounded upon the explanations contained in the report related to the requested: (1) transfer of \$11,904.73 from the Central Piedmont Underground Assessment District and \$64,567.21 from the Piedmont Hills Undergrounding District to the

City's General Fund; and (2) the transfer of \$275,682.82 from the General Fund to the Sewer Fund as reimbursement for Crest Road repairs which occurred in 2009.

Correspondence was received from: George Childs; Rick Schiller

Public testimony was received from:

John Wanger responded to questions concerning the Crest Road repairs and the reasons behind his field decision to proceed with a repair plan which differed from the trench dam design proposed by the City's geotechnical consultant. He agreed that better communication between himself, the City's Public Works Director and City Administrator could have avoided the misunderstandings which occurred regarding the specific method of repair actually employed and he voiced his concurrence with the Council Audit Subcommittee's recommendations for improving project management procedures.

Rick Schiller referenced his letter in criticizing staff for inadequately keeping the City Council and City Administrator apprised of the Crest Road repair issue and urged that the City Administrator and/or City Council authorize an independent investigation of the Crest Road matter.

Bob McBain, a member of the Municipal Tax Review Committee, noted that the Mid-Year Report indicates that the FY 11-12 General Fund Balance is now estimated to be greater than that projected by the Tax Review Committee in its final report -- good news.

The Council reviewed the Mid-Year Report in detail with the Finance Director, Public Works Director and Recreation Director, correcting a few typographical errors and requesting that future reports:

- not "round up" numbers to insure accuracy and consistency within the documentation;
- include "bullet points" to indicate when actual and estimated numbers differ substantially;
- include descriptions of what constitutes "Other Expenses"
- provide a separate list of the status and funding breakdowns of Capital Improvement Projects

As to the requested transfers, the Council referenced submitted legal opinions indicating the appropriateness of the transfers from the Central Piedmont and Piedmont Hills Undergrounding Districts to the General Fund. As to the Sewer Fund reimbursement, the Council acknowledged differing opinions regarding whether the use of Sewer Fund monies for Crest Road repairs was an appropriate expenditure of funds as well as the impact this continuing controversy may have on the passage of City's sewer surtax measure on the February 7th Municipal Election (Measure A). Following discussion, the Council agreed that since the repair method ultimately used to remedy the 2009 storm damage to Crest Road and the undergrounding construction site constituted essentially street resurfacing rather than the installation of a new storm drainage trench dam system, the funding for this repair should come from the General Fund rather than the Sewer Fund.

Resolution 2-12

RESOLVED, that the City Council accepts the FY 11-12 Mid-Year Fiscal Reports and approves the transfer into the General Fund of \$11,904 from the Central Piedmont Underground District and \$64,567 from the Piedmont Hills Underground District.

Moved by Chiang, Seconded by Fujioka
Ayes: Barbieri, Chiang, Fujioka, Keating, Wieler
Noes: None
Absent: None
(0165)

Resolution 3-12

RESOLVED, that the City Council approves the transfer of \$275,682 from the General Fund into the Sewer Fund for the Crest Road repair.

Moved by Chiang, Seconded by Fujioka
Ayes: Barbieri, Chiang, Fujioka, Keating, Wieler
Noes: None
Absent: None
(0165)

Councilmember Keating requested staff to provide a timeline of the Crest Road repair invoices from Valley Utility cited in the staff report and an explanation as to how these invoices coincide with the date of the Council's repair appropriation.

**FY 11-12 Mid-Year
Budget Adjustments**

The Finance Director recommended the following mid-year budget adjustments: (1) an appropriation increase of \$26,000 to the Schoolmates Fund to cover "re-occupation" costs at the Wildwood Schoolmates facility incurred in connection with the seismic upgrade to Wildwood School (including fire alarm connections, painting and kitchen and restroom improvements); (2) an appropriation increase of \$14,000 to Community Hall Contract Services to cover expenses associated with restroom leak repairs and kitchen code compliance issues; (3) an de-appropriation of \$50,500 from the Aquatics Fund in recognition of a reduction in costs of part-time salaries; and (4) a transfer of \$216,866 from the PERS Medical Account to the OPEB (Postemployment Benefits Plan Other than Pensions Plan) Trust Fund managed by Osterweis Capital Management.

Councilmember Fujioka requested staff to advise the Council of the annual rate of return for the Osterweis OPEB Trust Fund.

Resolution 4-12

RESOLVED, that the City Council approves appropriation increases of \$26,000 for the Schoolmates Fund and \$14,000 for the Community Hall, de-appropriates \$50,500 from the Aquatics Fund and transfers \$216,866 from the PERS Medical Account to the OPEB Trust Fund.

Moved by Chiang, Seconded by Wieler
Ayes: Barbieri, Chiang, Fujioka, Keating, Wieler
Noes: None
Absent: None
(0165)

Utility Undergrounding As previously requested by the Council, the City Administrator submitted a

Moratorium

proposed resolution extending the City's existing moratorium on new underground assessment districts for another two years. The moratorium was established in March 2010 to allow the City sufficient time to complete its investigations related to the Piedmont Hills Underground Assessment District as well as re-evaluate and revise the City's undergrounding policies, procedures and processes. The Piedmont Hills Undergrounding District matter is currently in litigation and the City's re-evaluation of policies, procedures and processes is in its preliminary stage. The City Administrator and Council acknowledged that the moratorium does not apply to privately funded utility undergrounding projects arranged directly between property owners and PG&E.

Correspondence was received from: George Childs

Resolution 5-12

WHEREAS, it is the intent of the City Council in adopting this resolution to extend the existing moratorium on underground assessment districts until the City is able to put in place policies and programs which substantially reduce the financial risk to the City of Piedmont of establishing Underground Assessment Districts; and

WHEREAS, the City will need to establish programs and policies to implement the recommendations of the City Council Audit Subcommittee and League of Women Voters Task Force to Investigate and Report on Piedmont Hills Undergrounding Project, to establish a minimum approval threshold for balloting, and methods to fully inform homeowners of the risks and responsibilities attendant to the establishment of Underground Assessment Districts; and

WHEREAS, litigation concerning the Piedmont Hills Underground Assessment District remains under way; and

WHEREAS, until the adoption and implementation of the above referenced policies and procedures, it is not in the best interest of the residents of this city to invest city funds in support of new underground assessment development, including but not limited to expenditure of staff time and resources or the promissory use of the city's 20A funds from PG&E; and

WHEREAS, it is difficult to predict exactly the time required for the above actions but the Council wishes to allow sufficient time for a comprehensive public process; and

NOW, THEREFORE, BE IT RESOLVED, that the Piedmont City Council extends the existing moratorium on all new underground assessment districts in the City of Piedmont for a period of two years until March 2014.

Moved by Fujioka, Seconded by Chiang
Ayes: Barbieri, Chiang, Fujioka, Keating, Wieler

Noes: None

Absent: None

(1075)

**Sustainable
Communities
Strategy**

The City Planner briefed the Council on land use-based long range planning strategies being developed by a joint partnership of ABAG (Association of Bay Area Governments) and MTC (Metropolitan Transportation Commission) called "One Bay Area" to integrate land use, transportation and environmental planning

policies for the region. The Planner voiced concern that the strategies currently under consideration with regard to housing development goals being assigned to Piedmont will be physically impossible to attain. The Planner recommended that a letter to be sent to ABAG and MTC advising that the strategies do not accommodate Piedmont's unique constraints (already built-out city with no planned development potential) and would place Piedmont in the untenable position of being out of compliance, with potential exposure to lawsuits, loss of funding and possible fines. A proposed draft letter was submitted for Council approval.

Correspondence was received from: George Childs

The Council supported staff recommendation and in addition suggested that the City Attorney also send a letter strongly underscoring the fact that the proposed housing development strategies are not realistic for Piedmont and requesting a exemption from these requirements. In addition, staff was requested to determine if other Bay Area cities find themselves in a similar predicament and to coordinate efforts in opposing unattainable strategy mandates. The Council requested the letter be revised as follows:

Page 1 (3rd paragraph, second sentence): ". . .growth increment and would be impossible to attain."

Page 8 (3rd paragraph, second sentence): ". . . presumes every city can continue to grow in proportion . . ."

Resolution 6-12

RESOLVED, that the City Council approves the proposed letter, as revised, and authorizes additional letters to the joint partnership of ABAG and MTC called "One Bay Area" outlining the City's concerns regarding the Sustainable Communities Strategy Land Use Alternatives.

Moved by Chiang, Seconded by Wieler

Ayes: Barbieri, Chiang, Fujioka, Keating, Wieler

Noes: None

Absent: None

(0775)

FUTURE AGENDA ITEMS

Public Safety Committee -- Councilmember Fujioka requested that consideration of extending the term and revising the charge of the Public Safety Committee be scheduled for action in early February or March.

Budget Advisory Committee -- The Vice Mayor requested that Council consideration of the formation of a budget advisory committee, as recommended by the Municipal Tax Review Committee, be scheduled for discussion and action prior to the beginning of Council budget deliberations.

ANNOUNCEMENTS

Martin Luther King, Jr. Event -- the Council thanked event Chair Lois Corrin and her organizing committee and volunteers for arranging another well-attended and joyous celebration of Dr. Martin Luther King, Jr.'s birthday on January 16.

Municipal Election -- residents were advised that January 23 is the last day to register to vote in the City's February 7th municipal election.

Upcoming Fundraisers -- residents were encouraged to attend the Piedmont Center for the Arts' Music & Dancing fundraiser on January 27th; the Wildwood Dads Club's Crab Feed on February 4th and the Beach School Dads Club's Jazz Night fundraiser on February 11th.

ADJOURNMENT

There being no further business, Mayor Barbieri adjourned the meeting at 10:15 p.m.