

Electronic Correspondence – Piedmont Hills District 12-12-07

(Received through 4:30 p.m. 12-10-09)

Please consider funding of the utility district at a later date to allow community comments on the issue. PHUUD should be privately not publicly funded.

Andrea Hazell
Piedmont Resident

Dear Ms. Swift,

We understand that a proposal to provide more than \$1 million of city funds for the Piedmont Hills Undergrounding District is being considered by the City Council tonight. This proposal certainly raises major questions about the appropriateness of city funds for this project. The "public safety" and "aesthetic" case for providing city support seems pretty weak. If these were compelling issues, then the city should be spending money to support undergrounding in the entire city. This is obviously not feasible.

We strongly oppose this proposal and believe that this appropriation should not be approved tonight. More time should be provided to disseminate information about this proposal and to obtain wider input from the residents of Piedmont.

We would appreciate it if you would make sure that this communication is shared with the City Council members. Thank you.

Steve Sidney, M.D. and Carolyn Schuman, M.D.

Dear Council Members,

I am writing to you in regards to the proposed request by the Piedmont Hills Undergrounding District to commit \$898,000, which amounts to almost a third of the City's General Fund reserve, to subsidize a project that benefits only 145 homes (or 1% of all Piedmont homes). I find the request entirely unreasonable as the proposed public subsidy of \$6000 per home provides virtually no public benefits and may severely limit Piedmont's ability to respond to true emergencies that require funding out of its General Fund reserve..

The Piedmont Hills utility work was supposed to be paid for entirely by the residents that will benefit from the visual improvements that result from the undergrounding. However, the Undergrounding District appears to have failed to take the most logical step to safeguard against the situation it now finds itself in. If due diligence had been exercised, the Piedmont Hills Undergrounding District would have obtained reliable and certified information about geological and soils conditions in the project area prior to entering into a contract that did not cover the cost for undergrounding of utilities under soils conditions now encountered. In light of the difficult economic times and fiscal uncertainties for California's local jurisdictions, it seems frivolous to commit scarce City funds to a beautification project that provides only marginal

public benefits. Approving a subsidy, would also create an unfortunate precedent for future utility undergrounding efforts as it sends the signal that poor preparation and contracting will be bailed out by the public.

I therefore strongly urge you to oppose the proposed funding request and require that the work be completed without the expenditure of public funds.

Sincerely,

Thomas Kronemeyer

Dear Council Members,

Please do not commit any public funds to subsidize utility undergrounding, including the Piedmont Hills Undergrounding District.

It doesn't make any sense to me to commit \$898,000, almost a third of the City's General Fund reserve, to subsidize a project that benefits just 145 homes.

The Piedmont Hills underground work was supposed to be paid for by the residents. This proposed public subsidy of \$6K per family provides negligible public benefits. Undergrounding 1% of the city's homes will not meaningfully improve public safety for the other 99%.

This proposal is being undertaken without adequate public notice and discussion. Particularly when the City is in the midst of unprecedented cutbacks, such an expenditure of scarce City funds on a beautification project that provides little or no real public benefit is not good public policy, and sets a bad precedent for future undergrounding projects.

I urge you to oppose this measure and require that residents of any and all undergrounding districts pay for the work in its entirety, with no expenditure of public funds.

Sincerely,

Nick Levinson

Dear Piedmont City Council:

It is my understanding there is being made an emergency request to the council for an appropriation of \$1,004,832 for funding the Piedmont Hills Underground Utility District. I would like to protest any such immediate expenditure. This moving much too quickly and there should be a reasonable time to discuss

the issue. For the city staff to bring this request up and expect it to be decided so quickly is unreasonable. I understand there is a desire to complete the project but \$1,000,000 is not something to spend without input from greater community. I strongly encourage all members of the council to vote against the expenditure and to hold more discussion on the issue.

Mark D'Ambrosi

I would like to make the following recommendation which I believe is the middle ground between the residents of the Piedmont Hills Underground Utility District (PHUUD) and those in the unaffected Districts:

- Explore the option of making a loan to the residents of PHUUD at a rate equal to the City's cost of funds for a reasonable term (touched on by Councilman Garrett Keating at the end of the meeting). For instance, if the City's cost of funds is 5% and the City offered a term of 5 years, the residents would have to pay about \$66/mo./household (using the 144 household count mentioned during the meeting last night and a loan amount of 50% of the \$1,004,832 which leads me to the next bullet point).
- Consider loaning the residents of PHUUD only 50% of the total \$1,004,832 and request that they pay the remainder directly from themselves. This allows the City to take the middle ground on this issue. This will show good faith to both sides.
- Ensure that any loan made by the City to the residents of PHUUD will have first priority to be repaid prior to any refunds/repayments made to the residents of PHUUD. For instance, if the City prevails in winning an award by a court from the engineering advisors, such funds would be applied first to the loan made to the residents of PHUUD.

Based on my initial observations, it appeared that many of the residents seem to be long-term residents (an assumption on my part). If correct, I think it's fair to say that these residents have made a contribution to the City of Piedmont that the rest of us are now enjoying. From that perspective, I'm fine with lending a helping hand to my fellow Piedmont resident so long as the City makes an attempt to strike a balance that serves the needs of all Piedmont residents.

As an FYI, I did attend the meeting last night through 11:30pm.

Kind Regards,

Raymond, Mariam & Sydney Marshall

Dear Council members.

Please see my letter attached and make it part of the record for the next public hearing on Piedmont Hills undergrounding. This is my attempt to be part of the solution rather than part of the problem
Thank you for your consideration

Joe

Joe Hurwich

Joseph M. Hurwich
260 Sea View Avenue
Piedmont, CA. 94610-1249
Tel: 510-654-9669 Fax: 510-547-2190 joe@hurwich.net

December 8, 2009

City Council
City of Piedmont
Piedmont, CA
via email

Piedmont Hills undergrounding

Dear Council Members

First, let me apologize for my comments last night that personalized the issues and may have distracted from the important message. The heat of the discussion got the best of me. The city's staff proposed use of over \$1 million of city reserves for the benefit of 144 residents has accomplished something that has eluded Piedmont over recent years. Citizen apathy is a way of the past and you united the citizens of our city who told you that they don't want you to spend their money to bail out the failed Piedmont Hills Undergrounding District (PHUD). Last night you ran for cover and kicked the ball down field, but next week you still have to make the tough decision. As many said, there is no easy or good decision. Predictably, staff suggested the easy decision which is just to continue to write the checks. You heard staff tell you that the "sky is falling" and that if you don't act quickly things will only get worse. Some important thoughts:

- Valley has to realize there is a risk to them as well as the engineers. They have a lot to lose if you terminate the contract. Stop begging them and tell them what is going to happen.
- PHUD needs to realize that you can and probably should stop work until they come to the table in a meaningful way. As council member Fujioka said, \$100,000 is not enough.
- PHUD needs to understand that you are prepared for the risks of their lawsuits and nonpayment of bonds. Prolonged litigation hurts them as much as you and you heard them say they haven't suggested suing the city.
- PHUD and the city need to understand the risk of lawsuits from the other residents if you spend general funds for the project is just as strong.
- The majority of the city's, non PHUD, residents realize that you can try to force everyone to pay for an expense that only benefits 144 residents and they might have to sue you to prohibit that solution;
- Council and PHUD residents need to understand that it only takes one, of the no longer silent majority, to legally challenge use of city funds for the benefit of a small group of homeowners. A court injunction would stop the project, the same as you can voluntarily stop the project, until a satisfactory resolution is reached;
- You need to make the tough decision and stop listening to staff when they tell you that paying now is the "least cost" approach. Staff has been wrong 100% of the time and has

continually underestimated the magnitude of the problem and risk. They have no authoritative basis for those comments.

It's time for compromise and you need to lead the way. Unless PHUD believes you are serious about stopping work and unless the rest of the citizens see PHUD coming to the table in a meaningful manner Piedmont is on a course for disaster. Based upon last night's meeting, if I were a PHUD resident I would think "we dodged the bullet, hang tough and the city will pay." PHUD has given you no choices.

We need a compromise in which nobody is 100% happy, for example:

1. Immediately call an information meeting of PHUD for later this week (like the ones held before the election) by hand delivering invitations to all 144 residents;
2. Take a hard stance and hold the line in that meeting to show PHUD that you are serious
3. PHUD voluntarily agrees to raise, either in cash or through another bond issue, \$800,000 toward the completion. That is an average of \$5,000-6,000 per resident or less than \$400 per year (before income tax benefits) if added to property taxes. If safety and esthetics are really their issue, are the residents saying "we will not pay \$400 per year for their own increased safety and esthetics?" If so, how do they justify asking the city to do so?
4. City of Piedmont agrees to pay all additional costs of the project and not attempt to charge PHUD for costs in excess of the current estimates. I think we all know that that current \$1 million will actually be larger.
5. Any net recovery from litigation will be shared in proportion to the contributions of PHUD and the city or alternatively assign the city's claim to the PHUD and let them raise money and pursue it. We heard that the city's lawyers believe it to be a good case.

Why is this a good deal for everyone?

- PHUD gets their project completed for a cost that is actually less than the "real cost" of their undergrounding. More than they wanted to pay, but still a bargain in undergrounding terms.
- The city doesn't have to get another engineering report and revote the project and can move forward relatively quickly
- The other residents will realize this is the best solution to a terrible problem and will allow the city to expend a smaller amount for the benefit of a few.

Time is of the essence. You must act quickly and with authority.

Very truly yours

Joseph Hurwich

Dear Mayor Friedman, Vice-Mayor Barbieri, Councilmembers Chaing, Keating and Fujioka,

I was a member of several steering committees that helped win the passage of the original school and city taxes. It was very important then and continues to be important today that the whole community understand problems facing the city. I am very concerned that the trust established then and carefully maintained over the years is being badly broken by this undergrounding muddle. I believe that an extraordinary effort must be made to communicate immediately with the whole community:

- Can a community-wide mailing be done, preferably by Thursday, Friday at the latest?
- Can information be posted on Mulberry's windows?
- Are there events taking place in the community this week where information could be distributed?
- What can be done to prevent this from becoming a messy fight?
- Could a group of volunteers help you get these steps accomplished?

My personal opinions about this current undergrounding problem are as follows:

I disagree with Judge Anderson that it will take a long time to get information to the involved undergrounding district members and a new vote taken. Certainly each of these homeowners is aware that there is a major problem with the job.

- Do these households understand that the extra \$7000 needed per house is the actual cost of their project?
- Do these households understand that this cost is in line with what the actual costs were in other undergrounding districts and that they are not getting ripped off?

When we recently had trench work done in front of our house to solve basement water problems we received and agreed to an estimate to do the job. Half way through the job, when the company ran into rock and had to bring in heavy drills and jackhammers to finish, the price went up. It was our understanding that this is standard practice for any ground work. Why are the undergrounding district members not expected to pick up this price difference in their job?

Page two of Rosenberg's report states, " To the extent that unforeseen unusual circumstances are encountered, the figures could rise."

Two thought here:

- What is "unusual" about running into rock if you are trenching on a steep hill that points up from flat ground? If it were made of soft dirt it wouldn't be a hill.
- Why haven't you, not your contractor, figured out a possible "worst case scenario" cost for the remaining section. This number is an important part of your problem solving. Find out the length of the whole job, the length completed thus far, the length of the sections that ran up the cost over-run and the length of the sections of work remaining. By using these numbers in comparison with costs that have already come in, you should be able to project out a worst case ball park number but it would give you a much better idea where you stand.

If you pay the current \$1,004,832 overrun now, then would you then pay this "worst case" increase as well?

I sadly believe that, if the city council breaks its word and uses General Fund Reserves to complete this project, you risk losing the trust of the community and will then face the very real risk of losing the next parcel tax election.

Sincerely,

Deanna M. Davis

Dear Council Members,

As tax payers and non-residents of the Hills Undergrounding District area we urge you NOT TO ABANDON this undergrounding project. We view this as a public safety issue which is important to the entire city.

This project includes at least two major thoroughfares (La Salle and Hampton), which are important to our city for access to our neighborhoods in case of major disasters (earthquake, fire, flooding...(Tyson Lake?). For some citizens they are also the only exit routes . If these important streets are blocked by downed utility wires and poles people will be trapped, just as people were in the Oakland Hills Fire.

We believe that the City has a responsibility to protect the safety of its citizens and that abandoning this project would be irresponsible.

Sincerely,

lynn and jim saunders

Dear Council,

Before you even suggest that the Piedmont Hill Utility District pay any more money beyond the \$100,000 we are already working on donating, which Ms. Fujioka was hinting about at the City Council meeting, please consider this: the million dollars from the general fund isn't paying for "undergrounding", it is paying for a city mismanagement! Our district isn't responsible for that. It was very irksome to have Ms. Fujioka suggest that more money would be sought from our group after Carl spoke.

Also, I want you to know that Mr. Friedman seemed far from neutral when he questioned Carl in front of the group on Monday night. And Mr. Keating is part of the contract problem and seemed to be very devious in speaking about "possibly it would be a good time to ask the district to rebalot when the trenches are open and unfinished"! I don't appreciate that comment at all. It isn't wise, Mr. Keating to add salt to the wounds.

We have stretched the patience of our group so far, not only about money but about the time it has taken for the project to take place. Some are ready to rumble!

We didn't know that you'd want a barrage of e-mail about this, but when Mr. Friedman pointed out publicly that a group (formed by whom??) had sent 100 e-mails, I believe it was disrespectful of our group. You know we represented 144 potential e-mail writers and we can find many more. Good luck reading!!

Respectfully yours,

Lonnie Simonson

Councilmembers Garrett and Chiang,

I was unable to attend the City Council meeting on Monday night, but I did review the Staff report. If I understand it correctly, approx. \$1million of rock removal work beyond the scope of the original contract was approved by the City and completed by the contractor. If that's correct, than I am guessing Staff' recommended paying to complete the work since the City may be legally obligated to pay the \$1 million, and if the work is not completed those funds plus whatever's already spent are basically lost, and finally the PHUUD could also threaten suit.

First, the City should recognize its likely more funding will be needed. The Staff report reduced the budget gap by using all of the contingency and moving funds from other budget line items, as well has counting reported commitments of donations from PHUUD residents. The work is not completed yet - and as our experience here tells us, there will be more unexpected costs as the work is finished. It's unwise to deplete all of the contingency at this point. I also would not count commitments of resident donations. So if you put back at least half the contingency and ignore the resident donations, the gap looks more like \$1,280,000.

The PHUUD was created to underground the utility lines. It serves a limited number of Piedmont houses. Those houses had utility services - the undergrounding was an aesthetic issue. Electrical and phone are not City of Piedmont services. Typically, infrastructure to pay for utility are borne by the real estate that is being served, through assessments. Though the homes affected in the PHUUD did not expect additional assessments and the additional financial burden to them is unfortunate, neither is this a cost that should be borne by all City residents - we did not vote for this project, do not benefit from it, and the servcies are not the province of the City.

The budget gap of approximately \$1,280,000 is a very large percentage of the City's General Fund reserve. I believe the reserve is there to ensure City residents receive essential City of Piedmont services in case of extreme financial disruption. In this case, it appears the City may have had some hand the PHUUD cost overruns and may have legal obligations. Therefore, I agree with Ray Marshall that if the City believes it must help fund the project gap, it also has a fiscal responsibility to seek repayment from the PHUUD for the full amount of the budget and restore the General Fund reserve.

Thank you,

Andy Madeira

Dear Leadership of the City of Piedmont-

It has come to my attention that an upcoming special meeting focused on the subject of undergrounding has been scheduled for Saturday, December 12th. Given that Saturday is the Jewish Sabbath, having the meeting on that date will prevent the significant number of my congregants who live in Piedmont from participating in the discussions. I respectfully request that you consider an alternative date for this discussion, so as to encourage the inclusion of as many members of the Piedmont community as possible. We greatly appreciate your kind consideration, and thank you for your efforts in this matter.

Wishing you very well and a happy new year in advance,
Rabbi Judah Dardik
Beth Jacob Congregation

Mayor and Council Members, Mr Grote and Staff

Thank you for postponing your decision on this item to allow for more information to be made available and for more discussion by residents. I will not be attending the meeting on Saturday due to religious observances, but I do wish to contribute to the debate.

Having read the latest Staff Report, and considered all available information, I still do not see how the City Council can confidently make a decision on this matter. Many questions remain unanswered, so perhaps a supplementary report should be published.

Please note that I have copied Mr Anderson of the District on this email so that perhaps he too considers some of the points raised.

1. Total costs are still unclear. The report clearly states that there is a significant likelihood that more than \$1,004,832 will be required to complete the project. Option 4 (the \$1,004,832) is based on nothing more than a best guess, and Option 3 (Not to Exceed) is \$330,000 higher. Given Valley Construction's savvy, it seems very likely that the City will be liable for more than the \$1,004,832 once the project is complete.

Where will additional funding come from if necessary? What provisions will be made for this possibility?

2. Exposure to litigation by Piedmont residents. Despite Mr Peyton's advice, it is possible that residents may pursue legal action to rescind any decision of the Council to appropriate funds for this matter. An action may be filed within 30 days of the decision.

These expenses are not included in the budget for the recommendations. If injunctive relief is ordered how will that impact the project?

3. How many homes in the District could be "undergrounded today?" Council Member Keating asked a very straightforward question in this regard. His question remains unanswered. It would not be too difficult to review the maps of the district and report which homes could be undergrounded today. This data is important when assess litigation risk for failure to complete

the district, and consider the opportunity to create a smaller more affordable district as some Piedmonters have proposed.

4. What will the contribution of the Piedmont Hills residents be? Council Member Fujioka was eloquent and clear in urging the residents of the District to increase their voluntary contributions to the shortfall funds. Council heard that the \$100,000 "donation" was based on estimated shortfall of approximately \$300,000? Has this contribution be increased yet to a more reasonable number given the fact that the shortfall is now more than three times larger?

5. Inconsistency in Finance Report. Mr Bichsel's budget overview shows expenditure of \$250,000 for undergrounding litigation. Elsewhere in the staff report \$300,000 is cited. Given the likelihood of other litigation (residents v the City, homeowners in the district v the City, the City v the Engineers) I suggest that the estimate for litigation is increased, if not doubled. Conservative estimates won't help manage expectations.

6. Resolution. The most recent staff report does not include a resolution. When I addressed the Council on Monday evening, I highlighted the deficiency of the proposed resolution. Please do not pass any resolution that does not acknowledge the gravity of this situation. Please do not allow for precedents to be established. Please do not ignore the realities of the past few months and repeat the City's policy in favor of undergrounding and infer that everything is "A OK".

Ryan Gilbert

Dear Piedmont City Council Members,

I urge you to vote against the proposed \$1.04 million appropriation for the Piedmont Hills Undergrounding District unless strict accountability provisions are attached to prevent this from happening again. This million-dollar bailout is on top of \$600,000 in previous appropriations for other undergrounding districts. All this is in direct contravention of City policy against using public funds for undergrounding. What is to prevent this from happening again?

This unprecedented request is being handled with a shocking lack of transparency. The City administrator kept the request out of public view until Friday, Dec. 4, the legally-required minimum notification period before your scheduled vote on Dec. 7. Only the extensive outcry from all around Piedmont kept the issue from being swept under the rug Monday night. Oddly, all those emails are still being kept out of the public record.

I realize that several of you are vocal proponents of undergrounding - yet you also claim the mantle of fiscal responsibility. Whatever your views on undergrounding, the real issues here are accountability and transparency. The voters want their elected representatives to exercise appropriate oversight over their staff. With an election coming up, I hope those of you seeking re-election in particular will take steps to keep this debacle from being repeated.

Please do not approve this bailout without attaching strict accountability provisions to investigate

the cost overruns and ensure that City policy is followed to prevent any public funds being expended for any future undergrounding contracts the City enters into.

Thank you for your attention.

Timothy Rood

Dear Council Members,

It appears the amount of the bonds for the PUHD was capped at \$1,753,251, per the bond purchase contract posted at http://www.ci.piedmont.ca.us/html/city_clerk/underground/phu_bpc_06-15-09.pdf.

According to the Valley Utility construction contract provided by the City Clerk, the original construction contract before change orders was for \$1,515,295.

According to the Council staff report for 12/7/09, the ten change orders to date have totaled \$1,480,384. Taking into account credits received (\$ 423,025) from not having to do the standard open trench cut work for certain trenches as shown in the original contract brings the overall net additional cost for rock work to approximately \$1,057,359.

I would like to know whether these change orders were authorized by the Council, or if not, whether the Public Works Director and/or City Administrator had the authority to approve change orders in excess of the bonding capacity of the district. If they did not, it would appear that one or both staff members was derelict in their duty to bring this matter to the Council for authorization before authorizing the additional expenditure of public funds.

This is a truly regrettable situation for all Piedmonters. Only your oversight of staff can prevent this from happening again and again.

Please do not approve the \$1.04 million strict conditions to the \$1.04 million appropriation, including both a statement reiterating the City's policy against public funding of undergrounding projects, and appointment of a Council subcommittee to further investigate this matter and take any appropriate disciplinary action.

Thank you for your attention.

Sincerely,

Timothy Rood



The Jewish Community Foundation

Serving the Greater East Bay

300 Grand Avenue
Oakland, CA 94610-4826
Tel: 510.433.0134
Fax: 510.839.3996
www.jfound.org

Piedmont City Council
120 Vista Avenue
Piedmont, CA 94611

Officers

Joseph Hurwich
President

Moses Libitzky
Immediate Past President

Morton Friedkin
Richard A. Goodman
Vice Presidents

Joseph Felson
Treasurer

Ilene Weinreb
Secretary

Board of Directors

Dennis Albers
Mathilde Albers
Donald Chaiken*
Roberta Cohn
Sanford Colen*
Jon Eager
Hon. Judith Epstein
Elliott Fineman
Amy R. Friedkin
Terry Friedkin
Herbert J. Friedman
Stephen Goldman
Diana Grand
Randall E. Kessler
Janet King*
Amnon Rodan
Barbara Rothblatt
Harvey Rowen
Ronald Rubenstein, M.D.
Eileen Ruby
Rob Ruby
Josh Sadikman
Bruce Taragin
Paul Weiss
Jerry Yanowitz
Steve Zatkin

Dear Piedmont City Council,

Thank you for scheduling a special meeting of the Piedmont city council to discuss the undergrounding issue

However, we ask that those hearings be rescheduled to a date that is accessible to all of Piedmont's citizens.

As you know, the hearings are presently set for Saturday, December 12 at noon. This scheduling on Saturday, the Jewish Sabbath, will prevent many residents from attending. In addition, December 12th is the first day of Hanukah and synagogues and families will be holding special holiday programs.

For the testimony at the hearings to truly reflect the Piedmont community, it would better serve the city to publicly address this important issue on a date that is user-friendly to all residents.

Sincerely,

Joe Hurwich.
President.

Rabbi James Brandt
CEO

Rabbi James Brandt
Chief Executive Officer

Lisa Tabak
Executive Director

**Past President*

*Affiliated with the
Jewish Community Federation
of the Greater East Bay*

Electronic Correspondence – Piedmont Hills District 12-12-07

(Received through 12:00 p.m. 12-11-09)

Dear Mayor and City Councilmembers:

We can all agree the current situation is both unanticipated and unfortunate, but is the Piedmont Hills neighborhood responsible, let alone completely responsible? I don't think so because the neighborhood had little control over events other than requesting that an undergrounding district be established and voting affirmatively in favor of it.

The neighborhood had no control over the engineering studies and no expertise to evaluate the findings. By contrast, the City has a public works department which not only has engineering expertise, it had the background of evaluating and managing other Piedmont undergrounding projects. It also had access to seismic and soil condition studies which might have revealed some of the subsequent problems.

The neighborhood had no control over, or even access to, the contracting process. This was done entirely by the City Attorney and perhaps the most charitable thing which can be said about the contract is that the rock clause was generous to Valley Construction. A less charitable reading is that the clause was completely open-ended. Whether the rock clause is considered "generous," "weak," "open-ended," "one-sided" or "negligent," one thing is clear: The neighborhood didn't write it.

So who should pay for the City's mistakes in writing a bad contract or not evaluating the engineering studies properly?

Opponents of City funding for the completion of the project argue that general funds money should not be invested in a project which benefits a small segment of Piedmont. But isn't this true of nearly all City expenditures? Isn't it the case that nearly all City expenditures differentially favor small groups of residents?

Take, for example, building the park on Moraga: I fully supported that expenditure, but who benefitted? For the most part, young children who use the sports facilities, but since only a small minority of the City residents are young children, and not all of them will even use that park, relatively few people benefitted by that expenditure. Yet general funds were used.

When streets or curbs or sidewalks or lights in a neighborhood are repaired, who are the beneficiaries? Obviously, mainly the local neighborhood, yet general funds pay for the local repairs.

When general funds are used to remodel a local park, who benefits? Well, mostly the residents who live near that park.

When tens of millions are spent to rebuild schools, who benefits? Not everyone, in fact, mainly those families with young children and even families who may someday in the future move to Piedmont and who pay no City taxes. Mind you, I never have voted against a school bond

measure in my life, but let's be clear that the direct beneficiaries of these large expenditures are limited.

I suspect that if you review City general fund expenditures, you will find that nearly every expenditure you authorize either benefits only a relatively small number of residents or differentially benefits a small percentage of residents---but I am not arguing this is a bad thing.

Quite the contrary! Improving the City a piece at a time is the essence of good public policy; it is why Piedmont is such a fine place to live. Because as we make each piece better, the whole is improved. In short, the plight of undergrounding in one neighborhood is not unrelated to the general welfare.

If you are looking for specific benefits to the City, in general---which should not be the sole test of this expenditure any more than it should be for any public expenditure benefitting any local project---there are general benefits. For one, the undergrounding in Piedmont Hills will protect two access routes in major emergencies. Secondly, finishing the Piedmont Hills project will protect the hundreds of Piedmont children and parents who use Hampton Field every week from having power lines fall on them in an earthquake. These are not insubstantial general benefits.

The Piedmont Hills District has done everything correctly, yet a serious problem has arisen not of its making. Does the City now abandon a project it endorsed not only as a good individual project, but also as an example of something the City Council recognized was good for the City?

Is the City going to abandon a project where nearly \$5 million has been invested---which investment would be totally lost if the project was not completed? Or does the City complete a project which, like many City projects, not only will benefit a group of neighborhoods, but the City as well, and then seek reimbursement for the overcharges from the negligent work by the engineering companies?

I have been impressed that the City Council [or at least a majority thereof] has shown leadership in supporting the undergrounding of utilities. I continue to hope this leadership will continue.

Best Regards,

Guy Saperstein

Dear Council Members,

Regarding the overruns of \$1.7 million for rock:

The contract is with the City, rather than the District. The fact that the contract was set up this way is regrettable. But given these facts, I would point out:

1. **RE OPTION 1:** The \$680,000 estimate (option 1) appears to lack solid substantiation:

- a. There is no calculation of the cost of remaining work assuming ALL remaining work is rock (e.g. what is the high end of the risk?) How reliable are the estimates of rock vs non-rock left?
 - b. The estimate assumes \$295/ft cost when work to date has cost \$328/ft.
 - c. The remaining 2300 linear feet of rock work calculated at \$328 would cost \$754,400.
2. **RE OPTION 3:** The \$1 million “Not to exceed” option 3 merits serious consideration.
3. **RE OPTION 2:** The costs and risks of Option 2 (Stop and Think) seem overstated. However, if there is no legal way to force the District to pay for the overruns, then further delay may be pointless and Option 2 moot.
4. To resolve Piedmont Hills:
 - a. CIP funds – current and future - should be used rather than General or any other reserves.
 - b. All possible steps should be taken to ensure residents repay the City for this overage.
5. Once immediate issues are resolved, the following issues require attention:
 - a. How could any employee commit the City to \$1 million in unfunded costs?
 - b. The City could have been facing \$5.75 million in unfunded costs right now – placing it on the brink of bankruptcy.
 - c. Why was the \$4.2 million assessment represented to the Council and homeowners to be a “firm cost”? (March 16, 2009 staff report)
 - d. In the future, all contingencies should be either removed or capped and covered by the contingency set-aside before the staff describes any contract as a “firm bid”.
 - e. Current City reserves are the only thing standing between the City and complete disaster. Thanks to our reserves, the City has the ability to avoid disaster and, instead, choose among several bad options. Hopefully this experience will mean that, in the future, prudence will be the Council’s calling card. Hopefully, it will mean the push for undergrounding districts will be abandoned. Hopefully, it will mean the City will return with a passion to living far below its means, maintaining a large ANNUAL cushion between revenues and annual expenses, **limiting its activities to essential government functions**, and rebuilding its reserves.

- f. The City must consider actions which will ensure a new direction for its Public Works Department** – a direction with LESS focus on the holy grail of climate issues and MORE focus on basic City services – fixing potholes and reading contracts carefully.
6. Sea View-Hampton must be resolved in light of these developments.
- a. The City presumably has an identical contract for Sea View Hampton – with a rock clause.
 - b. Ideally, the SVH District Trustees should immediately dissolve the SVH District to avoid a repeat of the PH situation since the City cannot afford another bailout.
 - c. Otherwise, an engineering report must estimate “rock clause” costs, and a revote taken immediately to determine if residents wish to proceed given the “real” cost of the contract that the City has signed with Valley.
7. Given the necessity of a termination or revote of the SVH district, the City should immediately negotiate a termination of the Kurtin lawsuit, rather than incurring any further legal fees to pursue the case.

Elizabeth Schultz

After careful review of the various options presented in the Staff Report, it appears to me as if the least costly approach is to complete the work.

Option 1 is not viable: The homeowners agreed to \$4.3 million in assessments in return for the City undergrounding their neighborhood. The City then used that money to hire engineers and contractors, etc. This is a City project, not a homeowner project. Even if the City doesn't complete the project, the City is still responsible for repaying the bondholders and paying the remaining bills. However, if the project is not completed, the City contract with the homeowners has been breached, and the homeowners are almost certain to sue, and it is highly likely the City will lose. In that event, the City will be liable not only for its own legal costs, but for the plaintiff's costs as well. Even if the City were to win (ie, the homeowners have to pay for a project which isn't completed), the probable legal fees would make this option at least as expensive as completion. It would not be prudent to take a course of action where the "best case" outcome is break-even; the worst case scenario catastrophically expensive.

Choosing Option 2 at this time makes no sense. It is highly improbable that homeowners would vote to add to their assessments to pay the additional costs, and the potential additional costs involved are substantial.

Option 3 is conceivably viable, but assumes -- and pays for -- a worst-case geological scenario.

Option 4 is the same as Option 3, and will be more economical unless the worst-case geological scenario arises. However bad things are in construction, they rarely are the absolute worst-case scenario, which to me makes Option 4 a better choice.

In other words, the City can spend \$1 million to complete the project, or potentially as much as \$4.3 million -- plus legal fees -- to abandon the project. Even if we care nothing about safety and are focused 100% on the cheapest alternative, completing the project is the obvious choice.

Finally, I would suggest that the Council fund the project by transferring the needed \$1 million from the CIP fund and cancelling the associated projects. The two obvious projects to cancel are the 801 Magnolia appropriation and the Swim Pool appropriation. The remaining \$70,000 also can come from CIP.

Given the economy, it seems unlikely that Piedmont will be commencing either the 801 or pool projects anytime soon, and taking funds from deferrable capital projects to pay for a capital project overrun seems appropriate.

Jeff Wieler

Dear City Council members,

I wrote a memo to you on early Monday morning when I was alerted at that time to undergrounding problem. Since then I have had an opportunity to read through the December 7 Council Agenda Report from Lawrence Rosenberg as well as the attached December 4 letter from Joseph Hurwich. I also watched the meeting on KCOM.

I will be fairly brief. I totally agree with Mr. Hurwich's assessment. I think the project should be halted and negotiations entered into with all effected parties (residents who are being assessed for the project, contractors, PG&E, etc.) to minimize financial losses and to attempt to prevent lawsuits.

It was apparent from meeting that there is no way to know whether \$1 million would be enough in the absence of definitive information on the quantity of rock to be excavated, and it must be obvious to you that assessing the entire city for this cost is unfair to the non-residents of that area. In fact, it is possible that a lawsuit against the City would be considered by the non-residents of that area if you were to go forward with assessing them for the work. If you think things are rough now, can you imagine what the reaction would be if the city continued to support the project and the bill increased another million dollars?

Here's my idea, admittedly a long shot and perhaps one that you have already thought of. Have you considered approaching the wealthier residents in that undergrounding district and asking if

they would step to the plate and pay for this. Perhaps some special recognition could be arranged for individual(s) who took care of the bill. We know that there are at least a few individuals in that area who could probably write a \$1 million check without any meaningful impact on their financial situation. If my memory is correct, there is a precedent for this. Around 1999-2000, the new Witter Field was became essential a pile of mud during the first or second year of its use. I believe it was Otis Spunkmeyer that made the major contribution to replace the turf with an all weather field, rescuing the School Board from an extremely embarrassing and expensive situation. An undergrounding project that is limited to a relatively small part of town is perhaps not quite as attractive but the idea is the same.

I know this a difficult and very painful situation, and I wish you the best of luck with it.

Steve Sidney, MD

I am not a member of the proposed Underground District.

I attended the Council meeting last week.

I have the following comments/observations:

- The mea culpa from the City staff are insufficient.
- While it is fine that the Council both recognized its own failed responsibility and noted various suggestions from the audience as to how to prevent this appalling situation from occurring yet again, what preventative and disciplinary actions are you willing to take? It would be very helpful if you would be very specific.
- The City entered into the various contracts, including with Valley. These contracts are obviously legal obligations. Who performed the legal review of such contracts? Counsel to the City may have expertise in municipal law, but, to my knowledge, not in commercial contract matters. Who retained bond counsel and what were the criteria?
- What, if any, authority does the staff, or any of them, have to execute documents on behalf of the City?
- What, if any, disciplinary actions will be considered and likely taken with respect to the performance of members of the staff? Please be very specific?
- The Council seems to be content to continue to rely on the very same people who recklessly got us into this appalling situation. I urge you to retain one or more truly qualified engineering and legal firms to provide guidance, before you commit to spend another \$1M, or more, on this Project.
- I understood that the City had stated previously that the contract would be on a fixed price basis, with no liability for cost overruns. What happened? Seemingly, Newport Beach succeeded in obtaining and enforcing such a provision.
- Council should state, with great specificity, to what extent could the City be liable for amounts in excess of the approximately \$1M being sought.
- Council members who voted for the District should submit explanations for their decisions as well as for why they failed to pursue answers to questions that should have been asked.
- I was particular disturbed by the proposed Resolution presented to the Council. Besides the inexcusable mathematical error, the repetitive recitations relating to the policy of the Council and City with respect to undergrounding are obnoxious. Should, for example, the City approve such projects if the City has to pay, say, \$3M for the next one? And is the point of the repetition to buttress the case that the City gains legal protection for its actions, as suggested by counsel?

- Councilwoman Fujioka asked counsel if he were able to provide an opinion, to which he responded that he could only provide the steps for the City to follow. This puzzles me. Why is he unable to provide the opinion if he simply assumes the City's compliance with whatever requirements he wishes to state? Is it anticipated that damages would also be sought against counsel?
- In addition, the City needs protection against approval of the proposed resolution being used as a precedent in the future. What actions, specifically, will be taken to protect us? In that regard, I believe the Resolution should strongly state that it is and should not be used as a precedent.
- And, importantly, this Council should stop this incessant drumbeat in support of undergrounding, regardless of the "curious" lack of clarity as to the rules and the callous disregard toward homeowners in a district who neither favor nor are able to afford the extraordinary costs. The City should not take a public position on any proposed district.

I oppose the approval of this Resolution until outside advisors have provided their opinions.

Thank you,
Aaron Salloway

Dear City Council members,

We are surprised to learn that consideration is being given to this, and urge you to vote NO. Here are the simple facts:

- Undergrounding is primarily done for aesthetic reasons. If undergrounding were a major safety improvement, the city should spend the money to underground on Highland, Oakland, and Grand Avenues—all major transportation routes for public safety vehicles—before undergrounding a residential corner of upper Piedmont.
- The funds allocated by PG&E for undergrounding the city of Piedmont have all been spent already on this Piedmont Hills Underground Utility District.
- The discovery of rock where none was presumed to be, is unfortunate, but the consequent additional costs should be borne by the residents of the Piedmont Hills Underground Utility District, who are the sole beneficiaries of the project.

The good news is that this is not a difficult decision!

Regards,
Stephen & Lynn Dee

Dear Mayor Friedman and Members of the City Council:

Thank you for changing the order in which items were heard at the December 7, 2009 City Council meeting, and for scheduling the special meeting on December 12. These actions allow Piedmont's citizens to participate more fully in our City's government, particularly when a substantial financial issue is involved.

I am unable to attend the December 12 meeting, but would like to offer some comments. First, I wish to note that statements made by the City Council at the December 7 meeting are susceptible to an interpretation that the City Council is not being open-minded. For instance, a statement by one of the Council members that the Council had heard from people "other than undergrounding opponents" makes it sound like the Council disregards input from those who are opposed. Many people are not opposed to undergrounding in and of itself, but believe that undergrounding is very low priority when viewed against

the City's and homeowners' necessities. Many of us would like to see new city stop lights at dangerous intersections, more police patrols on weekend nights, and safety-related improvements in our own homes. These all come first over extremely expensive undergrounding.

Additionally, I ask that the Council consider some changes to the proposed resolutions, including incorporating the following concepts:

- Reaffirm the Council's commitment not to use general City funds for undergrounding.
- Sponsor an independent review of what went wrong in the City's handling of the district, and consider appropriate steps to hold any responsible parties accountable.
- Direct the City Manager to make recommendations within a specific number of days, as to whether it would be cost-effective for the City to pursue third parties to recover the additional construction costs. It is very difficult and extremely expensive to win a negligence claim against engineers and similar experts when their contracts also undoubtedly have clauses that exclude liability for unknown factors such as buried granite beds and even recommend further tests. Also, the City did not mitigate these potential costs by conducting borings. It is essential to discuss at a City Council meeting the full range of potential legal costs and chance of recovery, given the language in the engineering and other contracts. It would add insult to injury for the City to run up legal fees, if the prospect of recovery is slight.
- Sponsor a review of how the City handles undergrounding, and implement appropriate changes in how future districts will be handled. This review should include the possibility of a determination that the City is neither well equipped nor financially able to oversee undergrounding without exposing the City to unacceptable financial risk. At a minimum, the high financial risk to homeowners and to the City should be discussed publicly, and included in the City's communications to homeowners who are considering the formation of an undergrounding district and again in City communications to homeowners before voting on assessments.

Thank you for the opportunity to provide comments.

Sincerely,
Kathleen Quenneville

Electronic Correspondence – Piedmont Hills District 12-12-07

(Received through 5:00 p.m. 12-11-09)

December 11, 2009

Mayor Friedman and Members of the City Council:

I write to reiterate my strong opposition to the proposed use of general City tax revenues to bail out the Piedmont Hills Undergrounding District, and also to respond to points made in the supplemental Staff Report (the “Staff Report”), dated December 12, 2009 [sic].

The Staff Report is biased and incomplete. The Staff Report is not the informational document the Council requested at its December 7, 2009, meeting. Rather, it is an incomplete advocacy piece that seeks principally to defend the proposed action. Notably, it nowhere addresses the fundamental issues of fairness that run through many of the emails the Council has received and many of the comments made by City taxpayers at the December 7, 2009, Council meeting.

In particular, the Staff Report ignores or downplays the following critical issues:

There is no discussion of the fundamental unfairness of requiring all Piedmont taxpayers to subsidize the project undertaken by a small group of residents. While the Staff Report disingenuously refers to undergrounding as a “City project” and recites that work occurs on “City streets,” that misses the point entirely. The City has never taken complete **financial** responsibility for an undergrounding project. To the contrary, undergrounding projects have without exception been represented to the public as being paid for by residents of the districts. That is why district residents alone are given an opportunity to vote on undergrounding. Accordingly, Staff is proposing a 180-degree reversal in City financial policy. Given that fact, and given the obvious deep outrage of Piedmont citizens to this proposal, it is shocking that the report does not even attempt to address this issue.

There is no guarantee that the proposed additional contribution will be sufficient. What will the Council do when Piedmont Hills needs more money? With all due respect to the City Staff, there is no reason to believe that Staff is even remotely qualified to make this estimate. Indeed, it was reported in the December 7, 2009 Council meeting that the estimated cost overage increased nearly **three fold** (from approximately \$300,000 to over \$1 million) in the short period from November 20, 2009 to the Council’s December 7, 2009 meeting. This plainly suggests that the estimates may be wildly unreliable. While the Staff Report pays lip service to the cost issue—conceding, as they must, that the costs may increase—there is no provision or recommendation made for what the Council should do if the current estimate again falls short of the project’s actual costs.

The Staff Report ignores accountability, including Staff accountability. Vague comments were made by the Mayor and Staff at the December 7, 2009 Council meeting

about seeking reimbursement from the “responsible parties.” Both Mayor Friedman and the City Administrator acknowledged at that meeting that the City may be at least partly at fault.¹ I will address the proposed lawsuit against the engineers separately below. However, nowhere does the Staff Report identify the precise cause of the current problem; nor does it identify what steps will be taken to preclude recurrence of these problems. In short, if the City Staff, or the City’s procedures were even partially here at fault, why should Staff be trusted to continue doing this work?

The Staff Report ignores the precedential effect of this proposed action. As the Council is plainly aware, Piedmont Hills is not the only undergrounding district in the City. The Staff Report contains no discussion of the possible impact on the City of demands for funds from other undergrounding districts. In short, if the Council approves this bailout, how will you say “no” the next time? If you do say no to another district, how is that fair if Piedmont Hills gets a subsidy?

While the Council may believe that Piedmont Hills presents unique problems, there is no guarantee that other districts will not also present unique problems. Are you so certain that the other undergrounding projects are **perfect** that you can guarantee other districts won’t also ask for money? If not, where will you draw the line?

There are also a number of overarching issues that still have not been resolved. I address them now:

Purported issues regarding the bonds and possible foreclosures are scare tactics, based on a flawed premise that residents will refuse to pay their taxes. At the December 7, 2009 meeting, and again in the Staff Report (at ¶ 8 and Option 1, ¶ 2), Staff speculated that the City would be harmed and the bonds implicated if some or all of the Piedmont Hills residents refused to pay their taxes if the project was suspended or halted. This is a false premise, based on absolutely nothing.² As I understand it, payment of the current bonds is secured by the revenue stream coming from the assessments imposed on District residents. As Staff acknowledged on December 7, those assessments will continue in place (and will support the bonds without the City’s funds) whether or not the project is completed.

While it would be tragic for any one to lose their home to foreclosure, does the Council seriously believe that residents would risk losing their homes to somehow protest these payments? The Council should not allow itself to be held hostage by such imagined threats, nor should it make important public policy on the fanciful assumption that Piedmont residents will violate the law.³

¹ I suggest that the City’s legal counsel should review these admissions, and reconsider whether they impact in any way the viability of the City’s purported malpractice claims. Is the City’s position jeopardized if the City was even partially negligent? Has that fact been considered?

² To the contrary, the only testimony the Council heard on December 7, 2009, consisted of assurances that District resident would **not** seek legal action against the City. If the Council is unwilling to accept those assurances, then that only underscores the uncertainty inherent in the Staff’s proposal.

³ I note that Staff have apparently (wisely) abandoned the argument advanced at the December 7, 2009, Council meeting that stopping the Piedmont Hills project would be unfair to district residents because they would end up “paying for something they didn’t get.” As I pointed out at the hearing, if this is the standard the Council must

The budget analysis is incomplete and allows Piedmont Hills to circumvent the City's normal budgetary processes. I understand that the City budget will be up for routine review after the first of the year. While the City may have ample reserves right now, will the Council guarantee that no cuts to other programs will be made if the Piedmont Hills bailout goes forward?

If the Council cannot make such a guarantee, then why should Piedmont Hills receive number one priority and full funding? In short, there is no basis for allowing Piedmont Hills to “jump to the front of the line” unless funding for all other City projects is unequivocally secure. If the Council cannot make that guarantee, then any bailout of Piedmont Hills should be made part of the regular budget review, so the Council (and taxpayers) may assess whether this is a proper commitment of the City's resources compared to other city needs.

Suing “the Engineers” is either a false hope or proof that Piedmont Hills should pay for the overcharge in the first instance. At the December 7, 2009, meeting, the Council went to great lengths to assure taxpayers that the City had a “good claim” against “the engineers,” who the Council has apparently identified as the culprit here. In short, the City proposes paying for the Piedmont Hills project and then suing the Engineers for malpractice and/or negligence.

But of course there is no guarantee that any such action will succeed. Nor is there any estimate in the Staff Report of the cost of bringing such an action, what the likely recovery would be and when it could be expected. This is particularly troubling, as the Staff Report goes to great lengths to quantify the cost of other potential litigation against the City if the project is stopped.⁴ Put another way, the “suing the Engineers” option looks like little more than a faint hope.

Since I have no access to the information that leads the City to believe it has a valid malpractice claim, I may well be wrong here. But if I am incorrect on this point, if the City does have a solid malpractice claim, then the Piedmont Hills District should pursue it. Piedmont Hills could make the malpractice claim either in its own right, or as the City's assignee.

If the malpractice claim is strong, then the City has put the cart before the horse. Instead of making **the City** pay Piedmont Hills up front and then seeking reimbursement from the Engineers, **Piedmont Hills** should make the payment in the first instance and then itself be reimbursed via the lawsuit.

There is still no reason for this rush to judgment. Finally, there still remains absolutely no basis for this rush to judgment. It remains astonishing that the City would propose to make a fundamental policy shift and put the City budget at risk for a non-existent emergency. At best, there is some risk that the project might be delayed if the City exercised its right to stop work (Staff Report at ¶ 8). As speakers at the December 7, 2009 Council meeting made clear, the

apply, then the Staff recommendation should be summarily rejected: It is manifestly unfair to force non-Piedmont Hills residents to pay for this project because we will unquestionably be “paying for something we didn't get.”

⁴ For example, the first and second “Con” arguments identified to Option 1 in the Staff Report purport to quantify costs arising from lawsuits that the City may either face or be “forced” to initiate if the project is stopped.

Piedmont Hills project has been on-going for many, many years. Why is there a rush to get it done now? Why the “emergency” meetings? Why does this decision need to be made outside the City’s normal budgetary process?

These questions all remain unanswered. Staff is recommending that the Council make a crash decision that is unwise and unsound, both philosophically and financially. Your job is to both represent the City’s residents and to “do the right thing.” There is little doubt here about the community sentiment. And as to “the right thing,” the only proper course of action is rejecting this proposal.

Robert C. Phelps

Members of the Piedmont City Council

Please postpone any action on the staff request to provide general city funds to pay any costs for the Piedmont Hills Utility District (PHUD) until a thorough and independent review of all decisions made and actions taken as part of this project can be undertaken. Too many questions remain unanswered.

It appears from the Staff Report for last Monday's meeting (12/7/09) that sometime in July 2009 (Page 1, last paragraph), an individual or individuals(s) held themselves out to the contractor, Valley Utility, as having the proper authorization to approve an "option" offered by Valley Utility ("July option") and obligate the City to pay the subsequent costs if Valley Utility proceeded under that option. This appears to have been done even though there were concerns that the costs would easily exceed the total amounts of revenues raised by the PHUD bond measure (\$1,753,211.00). As far as I can see from the historical information and reports provided on the City's website, no such additional contract terms, expenditures or funds were or have been authorized or allocated by the City Council. It appears from the reading of the Staff Report that a new contract option was offered by Valley Utility and agreed to by someone but not the Council. If this option was one provided by the contract language as previously approved by Council, it is important to know and will alleviate some of my concerns.

It was apparent last July to those involved that the contract dollar amounts and the bond funds raised would prove inadequate to complete this project. But it appears that no one thought it appropriate to consult the City Council nor request from the Council approval for additional amounts from City general funds for this project. The request for authorization of the funds to cover "the bill" -- the cost overruns -- only reached the Council this month.

Now there is an outstanding request by Valley Utility to the City of Piedmont for payment "for completed rock work not yet paid \$1,057,359". Are these the costs

generated under the July option -- "the bill"? This is stated by the authors of the Staff Report as a current unquestionable obligation owed by the City to Valley Utility in all Options (1 through 4) (Exhibits, City Staff Report prepared for the City Council Meeting on 12/12). Did the individual or individuals have the legal authority to obligate the City to pay the amounts charged under the July "option" without prior approval by the City Council? Was the District Committee informed? Did staff or a city consultant (Coastland Engineers?) have the authority to commit the City to pay these types of option costs when it appeared that these overruns would exceed the revenue source? Shouldn't the City Council approved the costs before Valley Utility proceeded? It would depend whether Valley Utility was depending on previously approved contract language or made the assumption that the City would pay any billed amounts based on someone's acquiescence during some meeting. I assume Valley Utility proceeded in good faith but whether the City has an obligation to actually pay the bill depends on the language of the contract and who actually agreed to the contract.

From reading the Staff Report for 12/12/09 Option 1, it appears that for under \$300,000 the City can safely close down the project and discussions can continue on -- 1) the issue of whether there was proper authorization on the City's behalf for the \$1,057,359 expended under the July (written?) option 2) the City should provide City budget dollars to the District to complete this project 3) with or without full repayment by property owners in the District (rebid the contract) and 4) whether if it becomes a city funded CIP project should it now jump ahead of the many worthwhile CIP projects previous approved by the City CIP Committee.

In addition to this payment requested by Valley Utility, an additional payment will be needed to complete the work of either \$680,000 (Staff Report Option 4) or \$1,010, 000 (Staff Report Option 3) to complete the Project. It appears the City Budget will need to provide an additional amount to the District of closer to to \$1,200,000 or \$1,500,000 (assuming the \$500,000+ contingency fund has not been previously spent). In either case, it appears that the cost overruns for this District will equal the amount raised by the District (which I assume paid for bond and legal fees as well as other administrative costs) of \$1,753, 211.00.

Some may feel the City is on the hook for these cost overruns with or without proper Council authorization. I do not. I also think it is the District's responsibility to pay the full cost of this discretionary capital improvement project as this has been the understanding in the past for the community at large for all undergrounding didistricts.

I urge the City Council to take the time needed to review all aspects of the project before committing City funds and setting policy for future districts.

Thank you for your time, consideration and effort in this matter.

Nancy F. McEnroe

55 Glen Alpine Road
Piedmont, California
94611

TO: The Piedmont City Council

FROM: Robert S. Fisher

RE: Piedmont Hills Underground Utility Project

I am greatly disappointed in the Council and the professional City staff that the Council has hired.

It is inconceivable to me that any reasonably intelligent person would not have anticipated the potential for the problems this project has now encountered: rock and Acts of God (Crest washout). The citizens do not expect each Council member to be an engineer or lawyer, but when such substantial amounts of the citizens' money is being spent, it would seem that competent experts would be engaged.

I do not ever like using the City's emergency funds, however this seems to be the only practical choice in this case.

As for me contributing any further dollar amount to this project, it is out of the question. I am 80, retired and living on a fixed income – which is increasingly difficult to do in Piedmont. Not all of us have unlimited resources.

Please vote to use the City's emergency funds and then aggressively seek to restore those funds from whomever is responsible for this unfortunate situation.

A handwritten signature in black ink, appearing to read "Robert S. Fisher". The signature is written in a cursive, flowing style.

Dear Piedmont City Council:

If an unexpected emergency threatens the welfare of our
City Piedmonters

expect our Council to take dramatic action to alleviate the
problem. A problem

that involves only a handful of residents does not justify
breaking a pledge

that City funds will not be used for undergrounding. I believe
many residents of

the district involved will have divided opinions on whether
City funds should be

used in this instance. All are Piedmonters and a small group
of advocates does

not speak for the entire small district.

Arthur R. Flegal

Arthur R. Flegal
12-11-09