

City of Piedmont
COUNCIL AGENDA REPORT

DATE: June 4, 2007

FROM: Ann Swift, City Clerk

SUBJECT: **Consideration of Various Changes to the City's Utility
Undergrounding Policy**

RECOMMEDATION

Approve the attached amended policy which would:

1. Under specific conditions set forth in the policy, allow private undergrounding projects to use up to \$150,000 of the city's Rule 20A funds for Pacific Gas & Electric engineering costs subject to reimbursement from bond funds if the district is successful;
2. Require a deposit for legal costs or an agreement regarding provision of such expenses

BACKGROUND

On May 21, the council reviewed proposed changes to the city's undergrounding policy and requested that this matter be scheduled for June 4.

In the attached proposed policy, new language which has been added since your last review is highlighted in yellow.

City of Piedmont
UNDERGROUND UTILITY FORMATION POLICY

Policy

The City of Piedmont strongly supports the formation of privately financed utility undergrounding projects and encourages residents throughout the City to work with their neighbors in bringing forward such projects for the benefit of their neighborhood and community. No General Fund monies shall be used to assist in the formation of a private undergrounding district except those costs associated with the assessment of city owned property located within a private undergrounding district.

Procedure

Neighborhood groups wishing to form an Underground Utility District must prepare documents which conform to this procedure.

1. The City Clerk shall be responsible for preparing and maintaining public information regarding utility undergrounding and shall serve as the city's liaison between undergrounding groups, the Engineer of Work, the Public Works Director, bond counsel and the general public.
2. When a Steering Committee has been formed and a survey conducted by the committee regarding the general scope of the district, the City Clerk shall create a "Area Map". The map shall be prepared by the City Clerk on the Geographic Information System and shall be posted on the city's web site to inform the public regarding the scope of the proposed district.
3. The City Clerk will prepare an Official Petition for circulation and attach the map prepared in 2 above.
4. The Steering Committee shall be responsible for convening a meeting to which all homeowners in the proposed district are invited and at which time the official petition is made available for circulation. The Steering Committee shall be responsible for notifying in writing all property owners within the proposed district at least 15 days in advance of said meeting. The committee may continue to circulate the petition until persons representing a minimum of approximately 70% of the homes in a proposed district have signed and the petition has qualified for council consideration.
5. The City Clerk shall prepare a Preliminary Expense Agreement in a form acceptable to the city attorney which shall include the costs for anticipated civil engineering, telecommunications engineering, legal expense (unless other financial arrangements satisfactory to the city have been established for the payment of legal expenses), tree reserve and contingency.
6. The Steering Committee shall deposit with the city funds in an amount not less than the

total costs in Item 5 above.

7. Upon receipt of signed petitions, an executed Preliminary Expense Agreement, and funds per Item 6 above, the City Clerk ~~who~~ shall verify signatures and schedule council consideration on the matter as soon as practical.
8. Following appropriate public notice, the city council shall consider the Boundary Map, a contract with an Engineer of Work, a contract with Bond Counsel and a Resolution of Intention to form the district.
9. Subject to the City Council's findings that
 - a. There are sufficient Rule 20A funds available in the city's account
 - b. That no other use for such funds is currently anticipated
 - c. That there is sufficient homeowner support within a private undergrounding district, and
 - d. That the Steering Committee of the district has agreed to "bids before balloting",the council may direct the City Clerk to prepare a letter to Pacific Gas & Electric Company guaranteeing engineering costs up to \$150,000 for the district from the city's Rule 20A Funds. The actual costs incurred shall be reimbursed to the city from bond proceeds when the district is established. In the event the district is not successful, Pacific Gas & Electric shall debit the city's Rule 20A funds for the actual costs of engineering.
10. The Engineer of Work shall prepare plans and specifications for the undergrounding district and shall oversee the bidding of the project. The Engineer's Report which is presented to the city council for its consideration shall be based on the low bid received. At the public hearing regarding the proposed assessments, the city council shall either
 - approve the benefit assessment analysis by the Engineer of Work and order that ballots be prepared to determine continued support for the district, or
 - shall reject the benefit analysis or make such orders as it deems appropriate.

The Public Works Director has the discretion to retain an expert to review/audit the Engineer of Work's benefit assessment analysis.

Rev. 6/4/07

City of Piedmont
COUNCIL AGENDA REPORT

DATE: May 21, 2007

FROM: Ann Swift, City Clerk

SUBJECT: **Consideration of a Change to the City’s Utility Undergrounding Policy to Allow Limited Use of Rule 20A Funds for Rule 20B Projects**

RECOMMEDATION

Approve the attached amended policy which would:

1. Allow private undergrounding projects to use up to \$150,000 of the city’s Rule 20A funds for Pacific Gas & Electric engineering costs subject to reimbursement from bond funds if the district is successful;
2. Mandate “bids before balloting” for all future undergrounding districts; and
3. Stipulate that all future districts must deposit \$60,000 for legal expenses as part of the Preliminary Expense Agreement.

BACKGROUND

On May 7, the council approved the use of Rule 20A funds for an anticipated overage in engineering fees for Pacific Gas & Electric Company by the Piedmont Hills Undergrounding District. The council also directed that a policy decision regarding further use of 20A funds be scheduled for this agenda.

The city currently requires that all undergrounding districts deposit private funds to pay for expenses which occur prior to the sale of bonds. Those expenses include civil engineering by a private party; engineering by Pacific Gas & Electric and A.T. & T.; costs for a certified arborist; and a contingency. A sample breakdown is as follows:

Civil Engineering	\$170,000 (up to \$300,000)
Pacific Gas & Electric Engineering	\$ 25,000
A. T. & T. (SBC) Engineering	\$ 20,000
Tree Reserve	<u>\$ 5,000</u>
Subtotal	\$220,000
10% Contingency	\$ 22,000
Total Deposit	\$242,000

The required funding for two of these financial components has changed in the past six months.

- Pacific Gas & Electric would require \$75,000 for preliminary engineering
- Bond counsel costs are no longer contingent and will cost \$60,000 - \$110,000 depending on whether the district ballots before or after construction bids

It has also become clear that districts which have a “stop loss” provision which requires a vote before securing firm bids for construction are likely to need a second ballot to cover actual costs. This presents a credibility gap and great uncertainty in the minds of district homeowners. It is staff’s recommendation that no district should be allowed to proceed in the future unless the proponents agree to “bids before ballots”.

If council agrees to the “bid before balloting” requirement, the initial costs for districts will go up because the engineering will be for complete plans and specifications, rather than estimates. This will, however, reduce the cost for legal expense from \$110,000 to \$60,000 because there is less anticipated cost for legal services. An example of the new preliminary costs follows:

Civil Engineering	\$170,000 (up to \$300,000)
Pacific Gas & Electric Engineering	\$150,000
Legal Expense	\$ 60,000
A. T. & T. (SBC) Engineering	\$ 40,000
Tree Reserve	<u>\$ 5,000</u>
Subtotal	\$425,000
10% Contingency	\$ 42,500
Total Deposit	\$467,500

These new costs will impose a higher burden on future districts. If council wishes to strongly support undergrounding, it can make a substantial difference to these districts by allowing the use of its Rule 20A funds to cover Pacific Gas & Electric design and engineering. In the example above, it would reduce the districts costs by \$150,000 and make the total required \$317,500.

Before making a decision on these recommendations, the council will wish to consider what other uses could be made of Rule 20A funds and what impact the \$150,000 advance to new districts would mean for the future of this fund. Currently, the city has approximately \$460,000 in Rule 20A funds and receives approximately \$80,000 per year in new funding.

In 1985 the city council prioritized a series of Rule 20A projects which might be possible in Piedmont. These included Grand Avenue, Moraga Avenue and Oakland Avenue. Grand Avenue was completed in the 1980s. The following chart shows the cost in current dollars to undertake the remaining two projects and the number of years that the city would need to

accumulate 20A funds to pay for them. The current cost per linear foot is \$300-400 for these projects.

Project	Linear Feet	Cost	
Moraga Avenue	3,779	\$ 1,511,600	18 years
Oakland Avenue	5,719	\$ 2,287,600	28 years

In contrast, the use of 20A funds for Rule 20B engineering would yield greater linear feet at a lesser cost. That is because the private undergrounding district is paying for a substantial portion of the total expense, including actual construction of the joint trench. The following are estimates based on the projected linear feet in each of the proposed districts and are subject to change when final design is complete.

	Linear Feet	Cost	Cost/L.F.
Piedmont Hills	9,441	\$150,000	\$15.88
Hampton/Sea View	4,800	\$150,000	\$31.25
Alta Piedmont	10,200	\$150,000	\$14.70

Key to this decision is the fact that the city currently receives approximately \$80,000 per year in 20A funds. The proposed policy would use approximately two years of accumulation for each district. The city would be reimbursed the full amount when a district is successful, replenishing the fund and making it possible for other districts to use the same monies. It is only if a district fails that the 20A funds would be lost.

In the past, the city did not have written assurance from Pacific Gas & Electric that it would waive its right to collect in cash from the city the amount of 20A funds advanced to a 20B district. The city now has such assurance and staff can now recommend the expenditure of up to \$150,000 per district in Rule 20A funds since this cost will never reach the city's general fund.

City of Piedmont
UNDERGROUND UTILITY FORMATION POLICY

Policy

The City of Piedmont strongly supports the formation of Underground Utility Districts.

Procedure

Neighborhood groups wishing to form an Underground Utility District must prepare documents which conform to this procedure.

1. The City Clerk shall be responsible for preparing and maintaining public information regarding utility undergrounding and shall serve as the city's liaison between undergrounding groups, the Engineer of Work, the Public Works Director, bond counsel and the general public. ~~Groups interested in forming an Underground Utility District shall contact the Director of Public Works who will provide them with a packet of information describing the formation process, including a cover sheet, a FAQ sheet, a sample petition, a sample reimbursement form, and a sample map.~~
2. When a Steering Committee has been formed and a survey conducted by the committee regarding the general scope of the district, the ~~City Clerk~~ ~~Public Works Director~~ shall arrange a meeting between city staff, the Engineer or Work appointed by the city, and ~~representatives of both P.G. & E. and PacBell~~ to create a "Area Map". The map shall be prepared by the City Clerk on the Geographic Information System and shall be posted on the city's web site to inform the public regarding the scope of the proposed district.
3. The City Clerk will prepare an Official Petition for circulation and attach the map prepared in 2 above.
4. The Steering Committee shall be responsible for convening a meeting to which all homeowners in the proposed district are invited and at which time the official petition is made available for circulation. The Steering Committee shall be responsible for notifying in writing all property owners within the proposed district at least 15 days in advance of said meeting. The committee may continue to circulate the petition until persons representing a minimum of approximately 70% of the homes in a proposed district have signed and the petition has qualified for council consideration.
5. The ~~City Clerk~~ ~~Steering Committee~~ shall prepare a Preliminary Expense Agreement Reimbursement Agreement in a form acceptable to the city, including in a form acceptable to the city attorney which shall include the costs for civil engineering, A.T. & T. engineering, legal expense, tree reserve and contingency. ~~and the Steering Committee shall provide proof of commitments sufficient to pay for initial engineering and bond counsel costs as determined by the city.~~

6. The Steering Committee shall deposit with the city check(s) in an amount equal to the total costs in Item 5 above.
7. Upon receipt of signed petitions, an executed Preliminary Expense Agreement, and check(s) as per Item 6 above, ~~The Steering Committee shall present all signed petitions and reimbursement forms to the City Clerk who shall verify signatures and schedule council consideration on the matter as soon as practical.~~
8. Following appropriate public notice, the city council shall consider the Boundary Map, Area Map (and make changes as appropriate to create a tentative Boundary Map), a contract with an Engineer of Work, a contract with Bond Counsel and a Resolution of Intention to form the district. ~~consider scheduling a public hearing regarding the formation of the proposed district.~~
9. Upon council approval of Item 8 above, the City Clerk shall prepare a letter to Pacific Gas & Electric Company guaranteeing engineering costs up to \$150,000 for the district from the city's Rule 20A Funds. The actual costs incurred shall be reimbursed to the city from bond proceeds when the district is established. In the event the district is not successful, Pacific Gas & Electric shall debit the city's Rule 20A funds for the actual costs of engineering.
8. The Engineer of Work shall prepare plans and specifications for the undergrounding district and shall oversee the bidding of the project. The Engineer's Report which is presented to the city council for its consideration shall be based on the low bid received. At the public hearing regarding the proposed assessments ~~District~~ the city council will either approve the benefit assessment analysis by the Engineer of Work and order that ballots be prepared to determine continued support for the district, or shall reject the benefit analysis or make such orders as it deems appropriate. ~~The Public Works Director has the discretion to retain an expert to review/audit the Engineer of Work's benefit assessment analysis.~~

Rev. 5/21/07