

City of Piedmont
COUNCIL AGENDA REPORT

DATE: July 7, 2007

FROM: Ann Swift, City Clerk

SUBJECT: **Consideration of Various Changes to the City's Utility
Undergrounding Policy (cont. from 6/4/07)**

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 and June 4, the council reviewed proposed changes to the city's undergrounding policy, gave direction regarding changes and requested that this matter be scheduled for July 2.

In the attached proposed policy, new language which was suggested at your last meeting has been added and is highlighted in yellow. An extract of the minutes of June 4, which shows those suggestions, is attached for reference. Council will note that some additional editing has been proposed. The additional suggestions were provided by Councilmember Barbieri who could not be present at the meeting of July 2.

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 **direct** costs associated with the assessment of city owned property located within a private undergrounding district **and indirect costs for staff time required to process undergrounding applications.**

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 **neighborhood** undergrounding groups, the Engineer of Work, the Public Works Director, bond counsel and the general public.
2. When a Steering Committee **of the neighborhood undergrounding group** has been formed and a survey conducted by the committee regarding the general scope of the district, the City Clerk shall create an "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 **Area Map described in item 2 above.** ~~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 Steering Committee may continue to circulate the **Official** Petition until persons representing a minimum of **approximately 70% of the homes in a proposed district have signed the Official Petition at which time it shall be qualified for City Council consideration.** ~~and the Official 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 **and any such other costs as may be necessary.**

6. The Steering Committee shall deposit with the city funds in an amount not less than the total costs **described** in Item 5 above.
7. Upon receipt of signed **Official** Petitions, an executed Preliminary Expense Agreement, and funds **described** per Item 6 above, the City Clerk ~~who~~ shall verify signatures and schedule City Council consideration on the matter as soon as practical.
8. Following appropriate public notice, the City Council shall consider an official Boundary Map **prepared by an engineer**, a contract with an Engineer of Work, a contract with Bond Counsel, a Resolution of Intention to form the district **and such other documentation as may be necessary.**
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 of 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:
 - a. Approve the benefit assessment analysis by the Engineer of Work and order that ballots be prepared to determine continued support for the district; or
 - b. Shall reject the benefit analysis or make such other 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.

11. **Upon presentation of a report by the City Clerk regarding the results of a district ballot, the City Council shall either:**

- a. **Pass a resolution declaring a Majority Protest if more than 50% of the weighted**

ballots received are negative, or

b. Use its discretion to determine whether or not to pass a Resolution Overruling Protests and Levying Assessments if more than 50% of the weighted ballots are affirmative.

12. Following the adoption of a Resolution Overruling Protests and Levying Assessments, the City Clerk shall produce such notices and file such assessments as are required by law.

Rev. 7/2/07

**Utility
Undergrounding
Policy**

Per Council direction of May 21, the City Clerk submitted for Council review and approval revisions to the City's Utility Undergrounding Policy.

On a Motion by Councilmember Barbieri, Seconded by Councilmember Chiang and Unanimously Carried, the Council agreed to extend tonight's meeting to 11:35 p.m. in order to complete agenda consideration.

Public testimony was received from:

George Childs reiterated his May 21 misgivings regarding using Rule 20A funds for Rule 20B private undergrounding projects.

The Council reviewed the revised draft, suggesting several additional changes, including:

- Add language under the Policy section indicating that *indirect costs associated with staff time in processing undergrounding projects will be funded from the General Fund*
- Add language *citing the state law provisions which require that liens will be filed within a month following Council approval of the district.*
- Add language indicating that state law allows the Council full discretion to approve a district if a majority of the weighted ballots cast favor district formation.
- The Vice Mayor to submit his revisions directly to the City Clerk

The Council requested that the revised policy be submitted for Council review and approval on July 2.