

CITY OF PITTSBURG
Redevelopment Agency
November 5, 2001

Mayor Frank Quesada called the meeting of the City Council to order at 4:30 P.M. to conduct interviews for Leisure Services Commissioners, after which the Mayor convened into Closed Session at 5:04 P.M. pursuant to Government Code Section 54956.9 for Conference with Legal Counsel - Existing Litigation re City of Pittsburg v. Affinito, Case No. C92-00612; Conference with Legal Counsel - Anticipated Litigation regarding three cases; and Public Employee Performance Evaluation for the City Manager. The meeting reconvened at 7:00 P.M.

City Attorney Linda Daube advised that there were two items to report. She identified the settlement of the lawsuit City of Pittsburg v. Affinito and stated that the Council had unanimously approved an agreement between the property owner, Mr. Affinito, and certain bondholders. A public hearing would be scheduled in the near future to allow those bondholders an opportunity to respond.

With respect to the performance review of the City Manager's contract, City Attorney Daube reported that the City Council had, based on the review, unanimously determined to extend the current contract for a two year period under the same terms and conditions, with a one year option to extend the contract at the discretion of the City Council, and with an additional provision of a performance evaluation added into the contract. The City Attorney was to prepare the agreement for return to the City Council for approval.

Chair Frank Quesada called the meeting of the Redevelopment Agency to order at 7:03 P.M. in the City Council Chambers at City Hall, 65 Civic Avenue, Pittsburg, California.

MEMBERS PRESENT: Aiello, Beals-Rogers, Lewis, Rios, Quesada

MEMBERS ABSENT: None

STAFF PRESENT: Executive Director, Willis Casey
Assistant Executive Director, Nasser Shirazi
Legal Counsel, Linda Daube
City Clerk, Lillian Pride
Director of Economic Development, Garrett Evans
Acting Director, Planning & Building, Randy Jerome
Director of Leisure Services, Paul Flores
Director of Public Services, John Fuller
Economic/Redevelopment Coordinator, Brad Nail
Acting City Engineer, Wally Girard
Rebecca Ines, Administrative Analyst I
Police Chief, Aaron Baker

PLEDGE OF ALLEGIANCE

Ralph Ramirez led the Pledge of Allegiance.

CITIZENS REMARKS

BEN JOHNSON, Pittsburg, speaking on behalf of the United Veterans Council, Inc. and as Chairman of the Veterans Memorial ceremony scheduled for November 11, presented a copy of the program for that event entitled "America in Action As Patriots Come Together as One." He described some of the events and encouraged everyone to attend.

MEMBERS REMARKS

There were no Members' remarks.

CONSENT

On motion by Vice Chair Aiello, seconded by Member Beals-Rogers, to adopt the Consent Calendar, carried by the following vote:

Ayes:	Aiello, Beals-Rogers, Lewis, Quesada
Noes:	None
Abstain:	Rios

a. **MINUTES** Dated: October 15, 2001, October 26, 2001

Approved Minutes dated October 15, 2001 and October 26, 2001.

CONSIDERATION

Mayor Quesada CONVENED JOINTLY AS THE CITY COUNCIL AND THE REDEVELOPMENT AGENCY to consider Redevelopment Agency Resolution 01-800 and City Council Resolution 01-9513, and associated Investment Reports.

1. **RESOLUTION 01-800** Annual Investment Policy

Director of Finance Jim Holmes advised that as a result of Councilmember Rios' concerns with the Investment Policy and Investment Report at the September 4 meeting, the item had been referred to the Audit Committee. He reported that subsequent to that meeting, he had met with the Audit Committee to review the Investment Policy and Investment Report to clarify what should be included in the future.

Mr. Holmes provided some background to the situation that was an outgrowth of the Orange County bankruptcy a number of years ago.

Mr. Holmes explained that the Investment Policy was developed by the City Treasurer and was intended to affirm the City's fiduciary responsibility to safeguard public assets, with a high priority placed on ensuring the safety of the principal first and then insuring the liquidity needs for the payment of payroll and other City obligations prior to considering yield on the investments.

Mr. Holmes stated that there had been no recommendation for changes to the policy itself. He recommended the adoption of the Agency and City Council resolutions approving the Pittsburg Investment Policy for Fiscal Year 2001-2002.

With respect to the Investment Report, Mr. Holmes noted that Councilmember Rios had also

sought more detail in the distribution of the City's assets and how they were invested. He stated that in speaking with the Audit Committee, it had been agreed that the Investment Report would be modified starting with the period ending December 31, 2001, to include the City's bond funds as well. He presented the Investment Policy for approval, with more detail relative to the Agency and to the General Fund.

On motion by Member Rios, seconded by Vice Chair Aiello and carried unanimously to adopt Resolution 01-800.

2. **REPORT** Investment Report

On motion by Member Rios, seconded by Vice Chair Aiello and carried unanimously to adopt the Investment Report.

For the City Council:

2. **RESOLUTION 01-9513** Annual Investment Policy

On motion by Councilmember Rios, seconded by Mayor Quesada and carried unanimously to adopt Resolution 01-9513.

3. **REPORT** Investment Report

On motion by Councilmember Rios, seconded by Mayor Quesada and carried unanimously to accept the Investment Report.

Mayor Quesada CLOSED THE JOINT CITY COUNCIL/REDEVELOPMENT AGENCY meeting to allow the completion of the Redevelopment Agency agenda.

3. **RESOLUTION 01-801** Approval and Authorization of the Execution of a Lease Agreement Between Messrs. Duong and Nguyen D.B.A. Dockside Market and the Pittsburg Redevelopment Agency for 51 Marina Boulevard #B (APN 085-071-040)

Economic Development Director Garrett Evans presented the staff report dated November 5, 2001 related to the lease of the Dockside Market at 51 Marina Boulevard, #B from Ron Waite to Do Doung and James Nguyen for a five year term with no options. He advised that further negotiations had culminated in proposed modifications to the lease, some of which he delineated at this time.

Mr. Evans advised that the legal entity entering into the lease agreement had been changed from the City of Pittsburg to the Pittsburg Redevelopment Agency since the Agency owned the building and the City owned the land. The use and occupancy of the building was to remain a convenience retail establishment, the tenant could not assign or sublet the building without Agency approval, maintenance and rules had been strengthened with the tenant responsible for the interior of the building while the Agency would be responsible for the exterior shell of the building, there would be one five-year option to extend the lease, the hold over had been decreased from \$2,500 to \$1,500, and the tenant would be forced to surrender the premises with 180 days notice at the option of the Agency.

Mr. Evans recommended that the Agency rescind Resolution 01-9422 and replace it with the currently recommended Resolution 01-801, approve the modified Lease Agreement and direct and

authorize the Executive Director to execute the Agreement.

Member Lewis noted the several changes to the agreement and sought some clarification given his concern that the changes appeared to favor the tenant. He inquired why that was being done given that the rent under the original terms remained basically unchanged and only with the execution of the five-year option would any rent increases be exercised.

In response, Mr. Evans explained that initially the Agency was responsible for interior maintenance, which had been a concern. By shifting that responsibility to the tenant, there was an advantage to the City given that the City would have been responsible for the expensive repair of interior equipment, such as freezers and refrigerators, which had proven to be a serious expense to the City in the past. He added, when asked, that the Economic Development Department was comfortable with the terms of the Agreement.

On motion by Member Rios, seconded by Vice Chair Aiello and carried unanimously to adopt Resolution 01-801.

4. **RESOLUTION 01-802** Adopting Findings that Show That Certain Real Property Located in the Los Medanos Community Development Project ("Project") is Not in Compliance with the Third Amendment to the Community Development Plan ("Plan")

Economic Development Director Evans presented the staff report dated November 5, 2001 and advised that the item related to the Black Diamond projects, the three blocks from Fifth to H Street and Black Diamond to Railroad Avenue, all properties that were not Agency owned.

Mr. Evans stated that would allow the City to either offer owner participation agreements or allow the developers to expand their development and work with the current property owners, as required by California Community Redevelopment Law.

Mr. Evans identified Assessor Parcel Numbers (APNs) 085-165-012, 085-165-009, 085-164-016, and 085-164-005, which were vacant parcels located in the Los Medanos Community Development Project and which were out of compliance with the requirements of the Third Amendment to the Community Development Plan because they were underutilized or the lot sizes needed to be sufficiently larger to permit conformance. He further referenced APNs 085-166-016, 085-165-017, 085-165-016, 085-165-015 and 085-166-009 with improved buildings in the same project, which were out of compliance with the Plan because of economic blight including high turnover rates, high vacancy rates and below market rental rates.

Mr. Evans commented that this was the first step and that preliminary talks had already been initiated with two of the three property owners. He recommended that the Agency authorize and direct the Executive Director to send notification of nonconformity of property and feasibility for owner participation to the appropriate property owners.

On motion by Member Beals-Rogers, seconded by Member Lewis and carried unanimously to adopt Resolution 01-802.

ADJOURNMENT

There being no further business, the Redevelopment Agency adjourned at 7:25 P.M. to November 19, 2001.

Respectfully submitted,

Lillian J. Pride, Secretary

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CITY OF PITTSBURG
City Council
November 5, 2001

Mayor Frank Quesada called the meeting of the City Council to order at 7:26 P.M. in the City Council Chambers at City Hall, 65 Civic Avenue, Pittsburg, California

MEMBERS PRESENT: Aiello, Beals-Rogers, Lewis, Rios, Quesada

MEMBERS ABSENT: None

STAFF PRESENT: City Manager, Willis Casey
Assistant City Manager, Nasser Shirazi
City Attorney, Linda Daube
City Clerk, Lillian Pride
Director of Economic Development, Garrett Evans
Acting Director, Planning & Building, Randy Jerome
Director of Leisure Services, Paul Flores
Director of Public Services, John Fuller
Economic/Redevelopment Coordinator, Brad Nail
Acting City Engineer, Wally Girard
Rebecca Ines, Administrative Analyst I
Police Chief, Aaron Baker

CITIZENS REMARKS

WILLIE MIMS, Pittsburg, representing the Black Political Association (BPA), suggested that it would be more efficient for the City Council to provide some parts of the City Council packet on the City's website given the fact that the period of time that the information was available in the library prior to the meeting was limited. As such, he inquired whether or not there was any effort to update the City's website to address that concern.

Vice Mayor Aiello advised that staff had been directed to update the website. He acknowledged the improvements that would need to be made. He stated that the direction had been offered at the last meeting and the City Council was awaiting the results of that direction.

CHARLES SMITH, Pittsburg, spoke to the City's stormwater program and suggested that the clean up of the creek was being conducted on the north side of Highway 4 only, while the south side had become overgrown with reeds and trash in the area of Diane and California Streets and the Martin Luther King Elementary School. He suggested that the work that had been done was basically incomplete and remained incomplete, which could lead to the flooding of the area.

Mr. Smith requested that Councilmembers visit the site where the water would converge before it crossed under Highway 4 near the area of the Martin Luther King Elementary School to become apprised of his concern for potential flooding. Given that a retention pond had been

proposed in an area surrounded by residential neighborhoods and children, he recommended that the Garcia Industrial Park area, which was more appropriately bounded by industry, would be a more suitable site for a retention pond. He inquired why that area had not been considered and he requested that members of the Council visit the site.

Councilmember Beals-Rogers commented with respect to the intersection of Diane Street and California Avenue where some of the debris had been removed, that there had been a portion of the street marked "Keep Clear" to address the traffic that backed up on that street. Since residents of the area could not get out onto California Avenue, a portion of the area had been cleared to alleviate the obstruction of views for traffic from Diane Street attempting to access California Avenue eastbound.

Mr. Smith reiterated his concern that only 50 feet of work had been done in that area and that the work should have been continued for at least another 500 feet.

Vice Mayor Aiello noted that there was a new retention basin in Highlands Ranch. He stated that Rule 905 would have a much bigger implication on the City.

COUNCIL REPORTS

Councilmember Rios reported on the League of California Cities (LCC) meeting held in the City of Orinda, at which time the main topic was a presentation from PG&E explaining to the LCC how it was reorganizing. She stated that "911" had also been discussed at that meeting.

Councilmember Rios stated that she had also attended the Krispy Kreme ribbon cutting and opening. She reported that the Audit Committee had met and she thanked Mr. Holmes for his work to modify the Investment Report. She stated that the Accountant position had also been discussed at that time, as had the bidding process. She also reported her attendance at the opening of the Non-profit Center and noted that there had been a lot of help from the Community Advisory Commission (CAC), the nonprofit organization and staff. Further, she reported that she had attended the Mayors Conference in Lafayette.

Councilmember Rios also took this opportunity to thank staff for making a whole section of the community happy by placing "Keep Clear" signs on East Leland, Betty, Cecilia, Karen and Pamela Way. She stated that the members of that community were very pleased with the City's efforts to address their concerns.

Vice Mayor Aiello took this opportunity to thank City staff, including Brad Nail, Garrett Evans and the City's attorneys, who had been working long and hard on the issue with respect to the financial impacts to the City of Pittsburg for the item that was being considered by the State Board of Equalization.

Vice Mayor Aiello reported that another meeting had been scheduled for November 28 and that he would be attending that meeting. He explained that staff was working with its Legislators to ensure that the promises made to the City of Pittsburg by Governor Davis and by the California Energy Commission to reward the City for what it had done for the State of California would be honored.

Councilmember Beals-Rogers reported that she had attended a committee meeting on the Library Commission and that efforts were underway to assess priority services for the local libraries. To that end, a survey of service users and other interested parties would be conducted. The committee would reconvene the first week of December to assess those priorities and report early next year on the priority of services that had been identified.

With respect to the issue of school crossing guards, Councilmember Beals-Rogers clarified that issue had been placed on the next meeting agenda.

Councilmember Beals-Rogers requested that the transcript of the October 2, 2001 Planning Commission meeting be placed on the next City Council agenda for consideration to allow an opportunity for the Commissioner in question to respond, and to address the inconsistencies that she had found in the minutes that reflected the direction of the City Council at its September 17 meeting. She requested a verbatim transcription of the portion of that meeting that had addressed the City Council's direction to staff related to the General Plan. She noted that the minutes of that meeting had not reflected the direct comments that she had made and the specific comments related to the direction to the Planning Commission.

Councilmember Beals-Rogers commended staff for their reports, although she expressed concern with the timely receipt of City Council meeting packets. While Thursdays had initially been the deadline, she stated that recently the packets had been distributed on Friday, which offered little time to review the information prior to the meeting. She therefore requested that Councilmembers receive packets no later than Thursday prior to the City Council meeting.

Mayor Quesada advised that he had attended the Mayors Conference in Lafayette with Councilmember Rios, the opening of the non-profit organizations on Stoneman Plaza, was able to visit the Krispy Kreme facility prior to its official opening, the meeting of the Pittsburg Historical Society, and the 51st Anniversary celebration of the Solomon Temple Missionary Baptist Church. He also took this opportunity to thank Jim Homes and the Audit Committee for the fruitful meeting with the City Treasurer. He also thanked the Vice-Mayor for representing him at the grand opening of the Krispy Kreme facility.

CONSENT CALENDAR

Councilmember Rios requested that Item b. be removed from the Consent Calendar.

On motion by Councilmember Beals-Rogers, seconded by Councilmember Lewis and carried unanimously to approve the Consent Calendar Items a. and c.

a. **DISBURSEMENT LIST** Period Ending: October 31, 2001

Approved Disbursement List period ending October 31, 2001.

c. **CLAIMS** #1410 Neno Aiello; #1411 Lauren Davis

Denied Claims #1410 Neno Aiello and #1411 Laureen Davis.

The following item was removed from the Consent Calendar:

b. **MINUTES** Dated: October 15, 2001

On motion by Councilmember Lewis, seconded by Councilmember Beals-Rogers to approve the minutes dated October 15, 2001, carried by the following vote:

Ayes: Aiello, Beals-Rogers, Lewis, Quesada
Noes: None
Abstain: Rios

CONSIDERATION

1. **RESOLUTION 01-9512** Consideration of Tenant Electric Fee Surcharge and Additional Fee for Liveboards in Pittsburg Municipal Marina

Economic/Redevelopment Coordinator Brad Nail presented the staff report dated November 5, 2001, and reported that he and Harbormaster Van DePiero had been working to clean up the Marina, to eliminate derelict boats, and to address the liveboard situation. He suggested that many of the problems in the Marina with respect to derelict boats, violations of the rules and police problems were caused by some of the liveboards. He stated that the current policy was to charge liveboards an additional fee of \$40 per month in addition to the berth rental, which was the lowest in the region and which did not cover the actual costs involved.

Mr. Nail reported that a survey had been completed of area marinas to determine the fee to charge liveboards. After an analysis of that survey, he recommended that the Pittsburg Marina liveboard fee be raised to \$150 per month for any new liveboards following a thirty-day notice after the City Council's approval. He added that existing approved liveboards would be given a three-year period to phase in the new liveboard fee.

In addition to the increased liveboard fee, Mr. Nail reported that there was also an issue with respect to the cost of electricity and power at the Marina. Historically, the Marina's cost of electricity to the tenants had been included in the monthly rental fee. Given the power crises, he noted that the rates charged by PG&E had dramatically increased 25 percent, resulting in a \$20,000 shortfall.

As such, Mr. Nail requested that a one-time five percent increase in fees be imposed on all tenants of the Marina to cover that additional expense. That proposal would average a \$10 monthly increase.

BEN JOHNSON, Pittsburg, as a tenant in the Marina for the past ten years, commented that at least the area was being cleaned up. He suggested that part of the City's responsibility that would save the City a lot more money would be to fix the lights in the shed because half of them did not

come on or work properly. He recommended that the increases not be imposed until the electrical fixtures in need of repair had been repaired. He also commented that some of the plugs for the boats didn't even work.

Vice Mayor Aiello expressed his understanding that many boat owners left a light on in the cabin of a boat to keep it dry, and he suggested that higher electricity bills would result if that were done. He therefore suggested that not only raising the rates but that more cost efficient bulbing be considered and that there be a potential for metering of potential aisles and then go from that point on. He supported the staff recommendation.

On motion by Councilmember Lewis, seconded by Councilmember Rios and carried unanimously to adopt Resolution 01-9512.

2. **RESOLUTION 01-9513** Annual Investment Policy

3. **REPORT** Investment Report

The Annual Investment Policy and Investment Report were unanimously adopted during a Joint Session with the Redevelopment Agency.

4. **APPOINTMENT** Appointment of Leisure Services Commission Members
(Three Vacancies)

City Attorney Daube reported that in accordance with the new rules adopted by the City Council, appointments to Commissions were to be made at a subsequent meeting after the interviews. She therefore recommended that the item be continued to the November 19 meeting.

On motion by Vice Mayor Aiello, seconded by Councilmember Rios and carried unanimously to continue the appointment of Leisure Services Commission Members to the November 19, 2001 meeting.

5. **RESOLUTION 01-9514** Concerted Services Project Funding

Leisure Services Director Paul Flores presented the staff report dated November 5, 2001 and reported that the Concerted Services Project was a non-profit community agency that had provided social services to the disadvantaged of Pittsburg and East County since 1965, with operational revenue provided by federal grants and private contributions.

Mr. Flores stated that to date, the Concerted Services Project was facing a funding reduction that would impact its ability to provide services to the community. The funding setback was approximately \$3,000, which was slated for payment of the facility's rent and utility costs for the next six months. The Project had requested that the City fund that amount to allow the operation to continue.

Mr. Flores emphasized that the Concerted Services Project had provided social services to the community for a number of years to the disadvantaged, providing food and clothing to the homeless

and referral/counseling services to those who wished to improve their status.

Mr. Flores recommended that the Council adopt Resolution No. 9514 to provide a one time \$3,000 contribution from the City of Pittsburg to the Concerted Services Project.

On motion by Councilmember Beals-Rogers, seconded by Vice Mayor Aiello and carried unanimously to adopt Resolution 01-9514.

6. **RESOLUTION 01-9515** Awarding of Contract or Rejection of Bids for Buchanan Road Soundwall Repair

Public Services Director John Fuller presented the staff report dated November 5, 2001 and reported that a portion of the Buchanan Road sound wall, a pre-cast wall, had collapsed six months ago due to the failure in the anchoring plates and the construction of the wall. It had subsequently been determined that the wall could not be salvaged and a temporary wall had been erected to protect the property owners. While it was the intent to have the wall approved at this time, he stated that staff had not been able to garner much support and the only bid received was at a price that was double what the project was worth. He explained that a wall of that type should cost in the \$75,000 to \$90,000 range, although the one bid received was from A.J. Vasconi General Engineering in Concord at a price of \$180,000, double what the project was worth. While acknowledging the concerns of the affected residents, Mr. Fuller stated that because of the astronomical cost of the wall he recommended that the bid be rejected and that the work either be done with City forces, which he did not believe had the staff or knowledge to do the work, or the situation could be negotiated with the contractor to attempt to attain a lower price.

Two resolutions were provided for Council consideration, to award the project at the price of the single bid received or to reject the single bid as not being in the best interest of the City given its high price, and authorizing staff to attempt to negotiate a contract with another contractor, or with A.J. Vasconi at a lower price. Mr. Fuller explained that a rejection of the bid to allow a rebid or a renegotiation, would take more time and leave the homeowners with their backyards exposed. If it was the desire of the City to solicit a lower price on the project, he stated that the Public Services Department could install a wooden fence immediately until the block wall had been started.

Vice Mayor Aiello noted that if nothing was done, there would be no construction and no start on the project until spring. As such, he inquired how much exposure to erosion those property owners would face, to which Mr. Fuller stated that there was a small embankment behind the houses and while the slope would be exposed to some erosion, he did not anticipate any damage as a result.

As to the cost of a retaining wall to hold the backyards and the temporary fence in place in response to Vice Mayor Aiello, Mr. Fuller estimated the cost of a wooden retention wall and temporary fencing for privacy at \$15,000. He commented that although the economy had softened, there were a number of projects already in process and if rebid in 45 days there could still be little interest in the project and a lower price. He suggested that a rebid would have to be delayed until Spring. He explained that a \$15,000 temporary fix would not require the bid process. Staff could install the fence prior to Thanksgiving.

Vice Mayor Aiello did not want the property owners to be impacted any more than they

already had.

Mayor Quesada emphasized that Mr. Fuller had previously assured him and the City Council that the wall would have been installed prior to Thanksgiving. He stated that was the responsibility of the City and should be completed as promised.

Councilmember Lewis clarified with Mr. Fuller that if the contract was awarded this date, the wall would have to be installed by the contractor within 30 days. He otherwise commented that staff had no control over the bid amounts or the number of bids received and he did not believe it was fair to have staff held accountable for the market. He stated that if the Council wanted the wall to be installed prior to Thanksgiving or near Thanksgiving, the contract, however large, should be awarded. He therefore supported the award of contract at this time to allow the work to be done, noting that there would have been a cost for the temporary fence installation and removal. He did not believe it was fair to hold the residents hostage for the City's unfavorable bid.

WILLIE MIMS, Pittsburg, urged some caution in addressing the sound wall given that the prior wall had failed due to shoddy work. He urged care in rushing the installation of the work. He also inquired what kind of warranty would be involved so that the City would not be responsible if the wall were to fail again.

Mr. Mims also referenced the staff report and noted that it had been reported that a formal public bid could not be conducted until October. Commenting that this was the second time that a contract put out to bid had been unsuccessful, he objected to the excessive bid and while he understood the homeowners' need for privacy he urged the City to act with caution.

Vice Mayor Aiello commented that every day the project was delayed offered the potential for a disaster. He could not justify the delay.

On motion by Councilmember Lewis, seconded by Vice Mayor Aiello and carried unanimously to adopt Resolution 01-9515 to award the project to the sole bidder at the bid price received.

7. **RESOLUTION 01-9516** Award of City Hall Janitorial Maintenance Contract

Public Services Director Fuller presented the staff report dated November 5, 2001 and stated that when the City Hall had been constructed and prior to its construction, the vast majority of the janitorial services provided to the City were provided by seasonal employees working for the City under the supervision of the Corporation Yard. When the City Hall had been constructed, it had been determined not to be cost effective to use seasonal employees for the work given the number of employees required to handle the large building. The use of a custodial contract firm had been deemed to be the best way to maintain the building. As a result, the City had contracted with Unlimited Janitorial Services to provide month to month janitorial services for the non-Police Department portion of City Hall. The staff that had previously maintained the old City Hall and the Police Department continued to provide custodial services to the Police Department. As a result of a changeover in purchasing agents and a delay in getting a contract out to bid, Unlimited Janitorial Services had provided month to month janitorial services for the last eighteen months.

Mr. Fuller stated that bids had now been received. The low bid from Universal Building Services at a rate of \$193,000 annually would represent a \$50,000 savings from the combined services to City Hall, including the Police Department.

Mr. Fuller recommended the award of the annual City Hall janitorial services contract to Universal Building Services, authorizing the City Manager to execute the contract on behalf of the City.

PASTOR WILLIE JONES, Pittsburg, representing Unlimited Janitorial Exchange, presented an original contract and inquired who had determined the policy to implement the contract. He commented that the original contract had not been signed and he stated that Unlimited had provided services at the site for the last two years and had never missed one day. He emphasized that the firm was already on the job, already established, and there was only a \$3,000 difference in service costs. As such, he inquired why Unlimited had not been awarded the contract. He added that he had the staff who were all from the City and who spent their money in the City.

DARNELL TURNER, Pittsburg, commented that there were some discrepancies in the current agreement. He noted that the basis for wanting to send the bid out at this time had not been made clear to Reverend Jones. He inquired of the steps taken to identify the dissatisfaction of Reverend Jones' work and performance, if any, noted with respect to the low bid that there had been a cost with supplies and a cost without supplies, and stated that there was a \$3,000 difference between the two, and that the firm was a local business offering local workers.

Mr. Turner inquired of the bid instructions in response to the comment that the bid was not appropriate and noted that there was a reference to a Janitorial Worksheet that had not been provided.

Mr. Turner suggested that there were discrepancies in the current arrangement with a month to month agreement with no assurance to the current party, that the City had not established that there was any signed document from the time that the relationship had been established, and that Reverend Jones had satisfactorily complied with the terms of the contract. He stated that to approach Reverend Jones two weeks before the bid process started was inappropriate. He also noted that the law did not require the approval of the actual lowest bid. He requested that the Council reconsider the established contract to make the language clear and specific, and allow that contractor the ability to continue to serve as had occurred over the last two years.

WILLIE MIMS, Pittsburg, suggested that it had to be determined why the current janitorial service had not been working under a contract for the last eighteen months. He questioned the City's true commitment to its minority contractors.

In response to the comments, Mr. Fuller explained that the only agreement that staff had been able to find was the original agreement Reverend Jones had signed when the building had initially been occupied, which was intended to be a month to month agreement given the City's intent to put the janitorial service out to bid. He stated that if binding the City to anything long term would require Council action. He reiterated that it was never intended that the relationship with the current janitorial contractor was a long-term commitment.

Councilmember Beals-Rogers commented that the contract did stipulate a month-to-month relationship. Evaluating the tabulation of the bid process, she noted that there had been 15 applicants, six of whom had returned with bids. Five out of the six had not been in compliance with instructions to bidders, which was a concern to her given that the instructions might not have been clear to the bidders. She suggested that the inconsistencies with five out of the six bidders could mean that there were some flaws in the process.

In response, Mr. Fuller stated that he had not reviewed the non-compliance issues and had been advised that the discrepancies were relatively minor, such as inadequate references or other minor issues. He noted that the discrepancies were minor to the degree that the Council had the discretion to waive those discrepancies.

Councilmember Beals-Rogers inquired whether or not the low bidder was a local firm and Mr. Fuller advised that he did not know where the low bidder had originated.

Councilmember Lewis noted his understanding that the City Council had instituted a one-percent credit for local bidders, which Mr. Fuller clarified was based on sales tax only.

Vice Mayor Aiello commented that the bid had referenced the Janitorial Worksheet, which had not been provided. He inquired whether or not the five individuals had been contacted to explain the lack of compliance.

In response, Mr. Holmes noted that could not be done unless the bids were opened up again. With respect to non-compliance, he stated that a bid worksheet was to be written out in numbers and required signatures, which was the most common discrepancy. He stated that the point was that there were valid bids in terms of the amount and the non-compliance issues were minor to a degree. He also noted that if the Council wanted to approve a bid with a minor discrepancy that could be done.

Vice Mayor Aiello inquired who had been present during the bid opening. He was advised that primarily Finance Department staff were present at that time. The Vice-Mayor suggested that the City Clerk would also have to be present at bid openings, although Mr. Holmes disagreed that the presence of the City Clerk would be required.

In response to comments, Mr. Fuller stated that the Purchasing Agent was probably not aware of the existing contract.

Councilmember Rios noted that the City had a separate purchasing policy and if any bid over \$25,000 was supposed to go to the City Council, she inquired why the City Clerk was not present when the bids were opened. She therefore questioned the bidding process.

Vice Mayor Aiello stated with respect to fairness, equity and the discrepancies involved, that he was not inclined to award any bid at this time.

On motion by Vice Mayor Aiello, seconded by Councilmember Beals-Rogers to reject the

bids and to continue the month to month arrangement with the current janitorial provider to then allow everyone the opportunity to rebid the contract in a fair and equitable practice consistent with the City's policies and procedures, with the City Clerk to be present at the opening of bids, and that the instructions in the bidding process be clarified and include the Janitorial Worksheet, with costs with and without supplies. The motion carried by the following vote:

Ayes: Aiello, Beals-Rogers, Lewis, Rios
Noes: Quesada

8. **MINUTE ORDER** East-Central Traffic Management Study Final Report and Approve Exhibit A - Letter to CCTA and Exhibit B - Letter to Citizens of Pittsburg

Assistant City Manager Nasser Shirazi presented the staff report dated November 5, 2001 with respect to traffic metering, which situation had been ongoing for some time. He noted that Walnut Creek had metered its traffic at Oak Grove and Ygnacio Valley Roads, particularly during the AM peak, for the last ten years and that the City of Concord had recently decided to do the same on Kirker Pass Road, at which time the City of Pittsburg was very concerned that would impact the City of Pittsburg's traffic flow. He stated that situation had raised the issue of metering in Pittsburg, which had been considered by the TRANSPLAN Committee which had referred the item to the Contra Costa Transportation Authority (CCTA).

Mr. Shirazi reported that the CCTA had hired the firm of DKS Associates to study the overall traffic metering in East County. DKS Associates had produced a report that had ultimately been approved by all applicable jurisdictions, with the exception of the City of Antioch, which had essentially then placed the project on hold.

Mr. Shirazi stated that the item had been submitted for consideration in light of several disturbing comments made by City of Antioch Councilmembers, which were a concern because the factual validity of the comments was questionable. He noted that the City of Antioch was concerned with the cost of the project, the final cost of which had been estimated at \$600,000, most of which would be spent on the Nortonville/Kirker Pass signal. The signal at Meadows was already intact and would require a timing change only, along with queue improvements.

Mr. Shirazi explained that the metering had been requested by the City of Pittsburg to control the traffic through the City of Pittsburg. He noted that the concept of the traffic modeling was to improve the flow of traffic and allow more efficient movements through the City of Pittsburg, as Walnut Creek and Concord had previously done.

Of the two letters submitted for consideration, one was to the CCTA to state that the action taken by the City of Antioch should not impact the priorities of the East County projects, and the second was to the citizens of the City of Pittsburg, to be included with water bills, to explain the issues that had been covered by the media.

WILLIE MIMS, Pittsburg, suggested that one of the problems had to do with traffic fees that the surrounding communities felt that the City of Pittsburg was not charging. Because of that, he

stated that the City would not be getting any support. He questioned what method the City had proposed to pay the \$600,000 cost of the project.

JOHN GARCIA, Pittsburg, suggested that the City of Antioch did not, contrary to comments, support a regional approach. He suggested that stop signs be placed all the way down Leland Road, Buchanan Road and the Central Addition so that the residents of the Pittsburg community could get out of their neighborhoods. He emphasized that all of the traffic was being generated in Antioch.

Vice Mayor Aiello stated that had had provided the City Council with a traffic study prepared by DKS Associates hired by the CCTA, which had reported that through 2020 traffic would increase to the west and would not increase to the east. He referred to the traffic counts and recited some of the particulars of the report, such as where 68 percent of the traffic patterns in the City of Antioch alone headed west while 10 percent went east, and where traffic from Pittsburg going to the east would be 4 percent, and by 2020 was expected to be only 5 percent.

Vice Mayor Aiello emphasized that contrary to the comments that Pittsburg would be creating the traffic, that was not true in that the independent consultant funded by the CCTA reflect that everyone else was creating the traffic. He stated that the City of Pittsburg should continue to regionally cooperate and would regionally cooperate.

Councilmember Beals-Rogers requested a modification to Exhibit A, the letter to Bob McCleary in the last sentence of the third paragraph on the first page to read: *Our proposal would have increased our regional fee by \$2,500 per single family dwelling unit.* She noted that her recommendation to eliminate a reference to the "last" proposal was misleading in that while three proposals had been offered, only one had been approved by the City Council.

Mayor Quesada commented that while that would be acceptable, he clarified that the City had offered a proposal at the meeting held at Freedom High, which had also been rejected.

With respect to the second letter to be sent to all the residents, Councilmember Beals-Rogers suggested that a graph be included with the letter to show what other cities were paying in comparison to the City of Pittsburg. She commented that the letter had been proposed for distribution to current residents while the fee impacted new residents. She therefore suggested that a significant cost would be involved to send the letter with the water bill to people who would not be affected. While there was a potential of \$22.5 million as a result of the \$7,500 fee from 3,000 potential homes, an increase of \$7.5 million would be expected with an increased fee of \$2,500. She suggested that the letter offered only a half-truth and she disagreed with the use of public funds to do that. She did not support the submittal of the second letter to the citizenry through the water bills.

Vice Mayor Aiello referred to Page 2 of the City of Antioch staff report, which noted that the non-acceptance, rejection or modification of the preferred alternative would not preclude individual cities from proceeding with traffic metering on their own, although it would significantly reduce the possibility of obtaining non-City funding for the implementation of the metering. He stated that would preclude the regional cooperation.

Councilmember Lewis recommended a modification to the fourth paragraph of Exhibit B given the statement that the Pittsburg City Council had presented three different proposals when

only one proposal had been presented, although he acknowledged that several different members had made suggestions at workshops. He requested that clarification in the second letter as follows: *The Pittsburg City Council has presented one proposal and participated in several workshops in an attempt to reach a mutually acceptable agreement regarding the amount of the regional fee increase.*

Mayor Quesada emphasized the need for solidarity on the Council for the preferred direction. He stated that the City was prepared to pay its share and to do what had to be done to react in a regional matter, but the City did not want to be taken advantage of. He supported the submittal of the second letter to clarify the situation and to explain why the City had refused to pay the recommended increase.

Linda Daube noted that given the discussion, a separate vote on Exhibit A and Exhibit B was recommended.

On motion by Vice Mayor Aiello, seconded by Mayor Quesada and carried unanimously to approve Exhibit A, with the amendment to the last sentence of the third paragraph on the first page to read: *Our proposal would have increased our regional fee by \$2,500 per single family dwelling unit.*

Councilmember Rios requested a modification to the last sentence in the fourth paragraph of Exhibit B, to read: *Obviously this was unacceptable to the City Council.* She supported the letter and expressed her belief that the current City residents cared and could bring to the City potential homeowners. She did not want the current homeowners to be excluded.

Vice Mayor Aiello commented that there were actually four proposals by individual members. He suggested that be clarified as well in the letter.

Councilmember Beals-Rogers clarified her comments that the residents would care to know about the issues related to the fact that decisions were being governed by the protection of development fees as opposed to their really true concerns. She suggested that the City was getting nothing from the arrangement and City residents had to live with the traffic every day.

Vice Mayor Aiello commented that was the point, that the residents had to live with the traffic every day and that the City would have to live with the fee every day.

On motion by Councilmember Rios, seconded by Vice Mayor Aiello to approve Exhibit B with the change to the first sentence in the fourth paragraph that *The Pittsburg City Council has presented one proposal and participated in several workshops in an attempt to reach a mutually acceptable agreement regarding the amount of the regional fee increase*, and to the last sentence in the fourth paragraph *Obviously this was unacceptable to the City Council.* The motion carried by the following vote:

Ayes:	Aiello, Lewis, Rios, Quesada
Noes:	Beals-Rogers

9. **MINUTE ORDER** Appointment and Formation of a Committee for the Purpose of Forming a Partnership Between the City of Pittsburg and Pacific Community Services, Inc. (PCSI)

City Attorney Linda Daube noted that JPAs under the government code could only be formed by public entities and PCSI could not qualify as a public entity. She stated that normally those situations would be addressed through a working operational agreement or an operational Memorandum of Understanding (MOU).

Councilmember Rios noted her understanding that Councilmembers Beals-Rogers and Lewis were interested in comprising the Committee.

On motion by Councilmember Rios, seconded by Mayor Quesada and carried unanimously to appoint Councilmembers Beals-Rogers and Lewis to the Committee for the Purpose of Forming a Partnership Between the City of Pittsburg and Pacific Community Services Inc.

10. **RESOLUTION 01-9517** Acceptance of Contract 95-05; Oak Hills Zone IV Reservoir and Pump Station

Acting City Engineer Wally Girard presented the staff report dated November 5, 2001, reported that the work on the Oak Hills Zone IV Reservoir and Pump Station had been completed satisfactorily, that there were three entities involved, and that the initial price of \$3,068,000 had been altered by change orders with an agreed price of \$79,145 for those change orders. He added that total represented less than three percent over the amount of the construction cost.

Mr. Girard stated that the City had agreed and resolved its differences with Albay Construction Company. He recommended approval of Contract 95-05 as complete, authorizing the City Engineer to execute a Notice of Completion.

On motion by Councilmember Lewis, seconded by Vice Chair Aiello and carried unanimously to adopt Resolution 01-9517.

PUBLIC HEARING

1. **RESOLUTION 01-9518** Resolution of Necessity Finding and Determining the Public Interest, Convenience and Necessity Require the Acquisition of Certain Property for Public Purposes, in Connection with the Century Boulevard, California Avenue and the North Park Connector Road

Administrative Analyst I Rebecca Ines presented the staff report dated November 5, 2001 for the proposed Resolution of Necessity to authorize the commencement of eminent domain for proceedings involving PG&E in the construction of the North Park Connector Road, Century Boulevard and California Avenue.

Ms. Ines presented a video to present the background to the connector road, noted the

importance of the project, stated that it had been identified as a high priority project by the Redevelopment Agency, was on the City's Capital Improvement Program (CIP) and had been listed on the City's General Plan as one of the traffic mitigation fee improvement projects.

Ms. Ines reported that the connector road would reduce the number of vehicles traveling on State Route 4 and the Pittsburg/Antioch Highway and address the traffic impact due to the increase of current merchant development and future development, as well as address safety and serve a projected 600 vehicles during the PM peak hours.

Ms. Ines also described some of the projects proposed for the site that would further impact the roadway, require the relocation of PG&E utilities, noted that there had been no opposition from PG&E and stated that the legal descriptions and the offers to PG&E had been included in the packet to the City Clerk, along with any information on environmental, geotechnical and the traffic study.

Ms. Ines recommended that the City Council adopt Resolution 01-9518 finding and determining that the public interest, necessity and convenience require the acquisition of interest in real property, and directing the City Attorney's office to proceed with all necessary actions to carry out the acquisition.

City Attorney Linda Daube advised as part of the public hearing, that the documents included would be Exhibit 1, the Resolution of Necessity and supporting documentation attached to the staff report, as well as Exhibits 2 through 12, which had been filed with the City Clerk's office.

Mayor Quesada opened the public hearing for Resolution 01-9518.

BRUCE OHLSON, Pittsburg, representing the East Bay Bicycle Coalition and the Delta Pedalers Bicycle Club stated that the bicycle community had no problem with the North Park Connector but had a problem with Century Boulevard as part of the construction of Auto Row and the North Park Connector intersection. He stated that the entire length of Century Boulevard was on the 1988 General Plan as a future bicycle facility. Contrary to that, the new construction on the west end of the road would only be as wide as the existing four lanes. He stated that 12 foot lanes were not considered to be sharable by Caltrans. He therefore expressed the concern of the bicycle community with respect to that situation.

BEN JOHNSON, Pittsburg, stated that he had no problem with the proposal, although he inquired of the timeframe and inquired whether or not the condemnation process had commenced. He also inquired of the total cost of the project and how it would be funded.

City Attorney Daube stated that the condemnation process would start now, that there was tentative agreement with the other property owners to acquire easement, and that PG&E had directed that the proceedings be commenced now.

Mr. Johnson also inquired how the proposal would affect the future highway widening. He was advised that there had been discussions with Caltrans as to that future alignment, which final proposal would be presented when available.

Mayor Quesada closed the public hearing.

For Mr. Ohlson's benefit, Vice Mayor Aiello advised that his concern for the width of the roadway was not applicable to the current item.

Councilmember Lewis commented that while the current proposal had nothing to do with the width of the roadway, he suggested that the Council would have to ensure that the road conformed to the General Plan and addressed the non-motorized types of transportation.

On motion by Vice Mayor Aiello, seconded by Councilmember Lewis and carried unanimously to adopt Resolution 01-9518.

2. **ORDINANCE 01-1188** Consideration of Sewer System Maintenance Ordinance Amendments

Public Services Director Fuller reported that in response to the City Council's interest in the City's responsibility of sewer lateral maintenance and maintenance of the sewer lateral within the public right-of-way, he had presented a survey as to how other cities had undertaken that effort at the October 1, 2001 City Council meeting. At that time, the Council had directed staff to return with revised language in the Municipal Code for a Sewer Lateral Maintenance Program where the City would assume responsibility for maintenance, repair and replacement, if necessary, of sewer laterals located within the public right-of-way. Mr. Fuller recommended the introduction of Ordinance No. 01-1188, which modified the City's Municipal Code, and recommended that the first reading be waived.

Mayor Quesada thanked City staff, Mr. Shirazi, the City Attorney and the City Manager for the cooperation and help on the interpretation of the ordinance change and to the assistance offered by the Council and the public. He opened the public hearing for Ordinance 01-1188. There was no one to speak. Mayor Quesada closed the public hearing.

Councilmember Lewis clarified for the record that he had been a member of the City Council when the rule had been changed to limit the City's responsibility for sewer lateral maintenance. He remained concerned with the question of liability and continued his position taken in 1991. Since he originally supported the change in 1991, he continued to support that position.

Vice Mayor Aiello stated that the proposal would help address possible prohibitive costs for damage, such as from the roots of trees that the City had encouraged be planted. He objected to the impact that could be imposed on some homeowners, such as those on a fixed income, and he suggested that the proposal would help alleviate the potential disastrous costs that could impact a homeowner.

On motion by Councilmember Rios, seconded by Vice Chair Aiello to introduce Ordinance 01-1188 by title only and waive further reading, carried by the following vote:

Ayes: Aiello, Beals-Rogers, Rios, Quesada
Noes: Lewis

ADJOURNMENT

There being no further business, the City Council adjourned at 9:55 P.M. to a Special Meeting on November 16, 2001 and then to the Regular Meeting on November 19, 2001.

Respectfully submitted,

Lillian J. Pride, City Clerk

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CITY OF PITTSBURG
Pittsburg Power Company
November 5, 2001

Chair Frank Quesada called the meeting of the Pittsburg Power Company to order at 9:56 P.M. in the City Council Chambers at City Hall, 65 Civic Avenue, Pittsburg, California.

MEMBERS PRESENT: Aiello, Beals-Rogers, Lewis, Rios, Quesada

MEMBERS ABSENT: None

STAFF PRESENT: Executive Director, Willis Casey
Assistant Executive Director, Nasser Shirazi
Legal Counsel, Linda Daube
City Clerk, Lillian Pride
Director of Economic Development, Garrett Evans
Acting Director, Planning & Building, Randy Jerome
Director of Leisure Services, Paul Flores
Director of Public Services, John Fuller
Economic/Redevelopment Coordinator, Brad Nail
Acting City Engineer, Wally Girard
Rebecca Ines, Administrative Analyst I
Police Chief, Aaron Baker

CITIZENS REMARKS

There were no comments from the public.

MEMBERS REMARKS

There were no Members' remarks.

CONSENT

On motion by Member Beals-Rogers, seconded by Chair Quesada to adopt the Consent Calendar. The motion carried by the following vote:

Ayes: Beals-Rogers, Lewis, Rios, Quesada
Noes: None
Abstain: Aiello

a. **MINUTES** Dated: September 4, 2001

Approved Minutes dated September 4, 2001.

CONSIDERATION

1. **RESOLUTION 01-063**

Approve and Authorize the Executive Director to Execute a Liability Insurance Policy Between Pittsburg Power Company dba Island Energy and Associated Electric & Gas Insurance Services Limited (Aegis) Through Liberty Mutual

Economic Development Director Garrett Evans presented the staff report dated November 5, 2001 and reported that Island Energy's Insurance Policy was currently with the Contra Costa Municipal Risk Authority. He stated that there was an agreement that upon conveyance from the US Navy to Island Energy and the City of Pittsburg, that insurance would be moved to a private insurer. He stated that bid proposals had been submitted, that staff had worked with the Municipal Risk Adviser, and had set up a proposal from Associated Electric & Gas Insurance Services Limited (AEGIS) to provide the insurance. He stated that the Risk Manager had reviewed the policy and it was strongly recommended that the City act quickly to avoid even higher rates as a result of the September 11 terrorist attacks.

Mr. Evans reported that the policy was recommended with a \$70,680 premium. He recommended that the Pittsburg Power Company move forward with that policy.

On motion by Vice Chair Aiello, seconded by Member Lewis and carried unanimously to adopt Resolution 01-063.

ADJOURNMENT

There being no further business, the Pittsburg Power Company adjourned at 9:58 P.M. to November 19, 2001.

Respectfully submitted,

Lillian J. Pride, Secretary

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