

CITY OF PITTSBURG
Redevelopment Agency
October 1, 2001

Mayor Frank Quesada called the meeting of the City Council to order at 6:34 P.M. in the City Council Chambers at City Hall, 65 Civic Avenue, Pittsburg, California, and immediately adjourned into Closed Session for Conference with Legal Counsel – Anticipated Litigation pursuant to Section 54956.9 of the Government Code regarding two cases. Assistant City Attorney Carol Victor advised that there was no reportable action from the Closed Session.

Chair Quesada called the Redevelopment Agency meeting to order at 7:25 P.M.

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

MEMBERS ABSENT: None

STAFF PRESENT: Assistant Executive Director, Nasser Shirazi
Assistant Legal Counsel, Carol Victor
City Clerk, Lillian Pride
Acting Director, Planning & Building, Randy Jerome
Director of Economic Development, Garrett Evans
Director of Finance, Jim Holmes
Director of Personnel Services, Marc Fox
Director of Leisure Services, Paul Flores
Director of Public Services, John Fuller
Assistant City Engineer, Wally Girard
Police Chief, Aaron Baker

PLEDGE OF ALLEGIANCE

Acting Director, Planning & Building Randy Jerome led the Pledge of Allegiance.

CITIZENS REMARKS

There were no citizens' remarks.

MEMBERS REMARKS

Vice Chair Aiello requested consideration of an issue on an urgency basis with respect to the Presidio Village project. Noting that eighteen months had been permitted to commence the project to avoid the loss of the entire \$12 million grant from the U.S. Department of Housing and Urban Development (HUD), he stated that the applicant was already twelve months into the process and significant work had yet to be done before ground could be broken.

Vice Chair Aiello suggested there was an urgent situation where a contract had to be signed immediately to allow it to be forwarded to HUD to allow the project to commence and the grant

money to be secured. He requested that the Agency consider adding an urgency item, Contract for Presidio Village with the Redevelopment Agency, to the current agenda.

On motion by Vice Chair Aiello, seconded by Member Rios to add an urgency item, Contract for Presidio Village with the Redevelopment Agency, to the agenda.

On the motion, Assistant Legal Counsel Victor reported that a finding would have to be made that the matter was an urgent matter that had arisen after the posting of the agenda, which would require a majority of four votes to allow the item to be considered. She did not believe that the information presented met the required finding to be able to consider it as an urgency item.

Vice Chair Aiello stated that he had been informed of the situation on Saturday, September 29 after the agenda had been posted. Given the potential loss of \$12 million for the project, and 104 units for the City's senior citizens, as well as potential jeopardy to the development of the Senior Center, he suggested that the item was indeed urgent. Based on that fact and with all the constraints with respect to timeline, he reiterated his motion to place the item on the current agenda as an urgency matter that had arisen after the posting of the agenda.

Ms. Victor wanted to ensure compliance with the Brown Act and inquired when the information had been made known to those representing Presidio Park.

Chair Quesada emphasized that the loss of the \$12 million would also affect the City's Senior Center and the funds applicable to that project. He supported the request for urgency consideration.

Member Lewis inquired what had been proposed to be done on an emergency basis, particularly since the deadlines had been known to the Redevelopment Agency for some time. He suggested that the item be placed on the meeting agenda for the next meeting on October 15. He otherwise concurred with the concern for a potential loss of \$12 million.

Vice Chair Aiello noted his understanding that the delay was in the language of the contract that the City Council had already approved with respect to the acceptance of all off-site costs, which could jeopardize the project.

Member Lewis noted his understanding that the City Council would be signing the contract, and not staff. If the City Council had expressed its position that it was responsible for all off-site costs, he inquired why that was not being pursued.

FRANK GORDON, Pittsburg, representing the applicant, Pacific Community Services, Inc. (PCSI) stated that PCSI was to have acquired ownership of the property on September 30, 2001.

TOM LaFLEUR of PCSI further explained that funds from both HUD and Contra Costa County, which was providing an \$850,000 home loan, would be needed to meet predevelopment costs. PCSI had devoted \$150,000 of its own money to the project and the necessary funds were not available to pay the architect. He stated that with the home loan, those funds would be available to allow the project to proceed.

Mr. LaFleur added that the County had advised on Friday, September 28, that the language in the loan was insufficient to allow the issuance of the home loan and had requested certification that the \$300,000 that had been identified for off-site improvements would be sufficient. He emphasized that the project could not proceed without the home loan, the architect could not go much farther without payment, and the City would have to stipulate that it would be responsible for the off-site costs potentially over and above the \$300,000 that had been identified.

When asked, Ms. Victor stated that she was now comfortable with the information that had precipitated the need for urgent action.

On motion by Vice Chair Aiello, seconded by Chair Quesada and carried unanimously to consider the item as an urgency item.

Vice Chair Aiello requested that the item be placed after the Consent Calendar as Item 1 on the agenda.

CONSENT

On motion by Member Rios, seconded by Member Beals and carried unanimously to adopt the Consent Calendar, as shown.

a. **MINUTES** Dated: September 17, 2001

Approved Minutes Dated September 17, 2001.

PUBLIC HEARING

1. **MINUTE ACTION** Amendment to Contract for Presidio Village

Vice Chair Aiello suggested that the issue of concern centered around the Contract with Presidio Village, Section IV.4, which limited the off-site improvement costs by the City to \$300,000, although he noted his understanding that the City Council had previously adopted a resolution to remove the reference to \$300,000 and to leave that figure open. When finalized, it was to have returned to the City Council. He inquired how the reference to \$300,000 had remained in that it was to have been removed by Council action.

Vice Chair Aiello recommended the following amendment to Construction of Project under Section IV.4:

Developer shall construct the project upon the site in accordance with construction drawings, working specifications and related documents that are in conformity with the approved drawings. The PUD plan and all conditions and mitigation measures imposed in connection with those approvals. Developer at its expense shall comply with all environmental mitigation measures. The Agency at its expense shall construct all off-site improvements. The extent of off-site improvements are to be determined by the Agency and the developer during the design and construction document phase of the project.

In response, Economic Development Director Garrett Evans clarified that the \$300,000 had been entered into the language. The only thing that was to return was an amendment to the document to identify the costs and what the Agency and City had approved. In discussion with PCSI, it was noted that language was not preferred. As a result, the \$300,000 figure had been left in with the intent that it would accomplish the goals and satisfy HUD and the County, although the County had since indicated its concern for that situation. He commented that the cost of off-site improvements, if significant, could affect other projects.

Vice Chair Aiello commented on the intent to ensure the development of the Senior Center. Given the fact that all off-site work for Stoneman Village I had been paid by the City, he did not believe there would be significant impacts. While he suggested that those improvements would exceed \$300,000, he did not believe those improvements should be overly prohibitive in cost. He further suggested that not getting the project moving could jeopardize the City's reputation with HUD and could jeopardize many other projects.

Vice Chair Aiello inquired whether or not the language he had offered would be acceptable to PCSI and whether or not the amendment he had recommended could be incorporated into an agreement and be signed within the next 48 hours to allow the project to proceed.

Ms. Victor affirmed that the agreement could be amended and executed to allow the project to proceed. She recommended that the item be considered as a public hearing.

Chair Quesada opened the public hearing.

BEN JOHNSON, Pittsburg, wanted to ensure that there was sufficient funding to accommodate the entire project, including the water lines.

Vice Chair Aiello confirmed that the amendment would include the statement, “construct all off-site improvements.”

There being no other speakers, Chair Quesada closed the public hearing.

On motion by Vice Chair Aiello, seconded by Member Rios and carried unanimously to modify Section IV.4 of the Contract between the Redevelopment Agency and Pacific Community Services, Inc. as shown.

CONVENED AS THE CITY COUNCIL AND THE REDEVELOPMENT AGENCY AT 7:49 P.M.

1. **RESOLUTION 01-796** Joint Meeting with City Council – Disposition and Development Agreement with Habitat for Humanity for the Sale and Development of Nine Parcels Located Along Herb White Way (APNs: 085-221-001, 085-221-013, 085-231-022, 085-231-023, 085-231-028, 085-231-029, 085-232-001, 085-232-022, and 085-232-023)

1. **RESOLUTION 01-9497** Joint Meeting with City Council – Disposition and Development Agreement with Habitat for Humanity for the Sale and Development of Nine Parcels Located Along Herb White Way (APNs: 085-221-001, 085-221-013, 085-231-022, 085-231-023, 085-231-028, 085-231-029, 085-232-001, 085-232-022, and 085-232-023)

For the record, Assistant City Attorney Victor noted that the resolution numbers had incorrectly been shown on the agenda. She clarified the resolution number for the Agency's consideration as Resolution 01-796 and for the City Council's consideration as Resolution 01-9497.

Economic Development Director Evans presented the public hearing to solicit public comment on the Agency's entering into a Disposition and Development Agreement (DDA) with Mt. Diablo Habitat for Humanity for the purpose of building affordable housing and offering lower income households the opportunity of home ownership on nine parcels located to the west and east of Herb White way in downtown Pittsburg, which property had been acquired by the Agency in the early to mid-1990's.

Mr. Evans reported that the subject site was located in the Los Medanos Community Development Project, and would consist of eight single-family affordable housing units. He reported that Habitat would purchase the nine lots for \$1 per lot, would design and construct eight affordable housing units, and would restrict the resale of each unit for lower income households for 30 years from the date of the Grant Deed, and include a provision that the units must be owner occupied.

Mr. Evans reported that the Agency would convey all nine parcels of the site to Habitat for \$9 and the Agency would reimburse the City for all development fees estimated in the area of \$104,000.

He identified the cost of the agreement to the Agency, presented the fair market value of the site, advised that the site would be redeveloped as a single family residential project as the highest and best use of the property, explained that the costs of the discounted financing and construction were far greater than the revenue that the project would generate and stated that the cost to develop the project was \$606,171 greater than the total revenue that might be obtained by selling the homes at fair market value to the homebuyers.

The reuse value of the property given the development requirements in the DDA was zero. The development was not finally feasible if Habitat required a payment of fair market value for the subject site. The purchase price of \$9 was symbolic and equivalent to zero and had been established expressly in contemplation of the economics of the project.

Mr. Evans stated that the difference between the purchase price and the fair market value reflected the difference between the highest and best use value of the property and the property reuse value, and resulted from the difference between the applicable land use standards and the net development revenues that could be generated by developing the homes on the subject site. The lots would be developed exclusively for lower income households, as mandated by the DDA on what had remained a vacant site since the Agency's acquisition.

Mr. Evans recommended that the DDA between Habitat for Humanity and the Pittsburg Redevelopment Agency be approved.

Mayor Quesada opened the public hearing for Resolution 01-796 for the Redevelopment Agency and Resolution 01-9497 for the City Council.

JOHN SHANLEY, Lafayette, speaking for Habitat for Humanity, advised that there were identified and qualified purchasers for the homes and Habitat was currently in the process of securing building permits for the homes.

WILLIE MIMS, Black Political Association (BPA) inquired why the purchase fee was such a small amount, reported by Mr. Evans that the \$9 amount had been set over nine months ago when a Request for Proposal (RFP) had been distributed for the project, when Habitat for Humanity was the only one to apply, and for which amount the Agency Subcommittee and the Agency itself had agreed.

BEN JOHNSON, Pittsburg, inquired who would be responsible for the infrastructure, such as the repair of the streets and sidewalks between Eighth and Tenth Streets, reported by Mr. Evans that the Agency, as part of the planned reconstruction of Herb White Way tied into the Olson project, would pay for those improvements.

Mayor Quesada closed the public hearing.

Vice Mayor Aiello supported the affordable units.

On motion by Vice Mayor Aiello, seconded by Councilmember Rios and carried unanimously to adopt Resolution 01-9497.

On motion by Vice Chair Aiello, seconded by Member Rios and carried unanimously to adopt Resolution 01-796.

ADJOURNMENT

There being no further business, the Pittsburg Redevelopment Agency adjourned at 8:01 P.M. to October 15, 2001.

Respectfully submitted,
Lillian J. Pride, Secretary

CITY OF PITTSBURG
City Council Minutes
October 1, 2001

Mayor Frank Quesada called the meeting of the City Council to order at 8:02 P.M. in the City Council Chambers at City Hall, 65 Civic Avenue, Pittsburg, California.

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

MEMBERS ABSENT: None

STAFF PRESENT: Assistant City Manager, Nasser Shirazi
Assistant City Attorney, Carol Victor
City Clerk, Lillian Pride
Acting Director, Planning & Building, Randy Jerome
Director of Economic Development, Garrett Evans
Director of Finance, Jim Holmes
Director of Personnel Services, Marc Fox
Director of Leisure Services, Paul Flores
Director of Public Services, John Fuller
Assistant City Engineer, Wally Girard
Police Chief, Aaron Baker

CITIZENS REMARKS

DARNELL TURNER, Pittsburg, reported that he had been informed of the City's 2000-2001 Action Plan from the City's web site. He inquired of the status of the Teen Center and when the building would be ready for occupancy. With respect to the Foreign Trade Zone, he suggested that little headway was being made in that regard. He requested a status of the Foreign Trade Zone and inquired whether or not the funding had been secured. Speaking to the Senior Center, he inquired of the current status of the Senior Center and noted that the information in the web site was not current information. He further inquired if the Senior Center project was within budget and he used the City Hall as an example of a project that had not remained within budget.

Mr. Turner also inquired of the status of the After School Program and the expansion of the Leisure Services Department and the Pittsburg Unified School District (PUSD) with respect to additional elementary schools. With respect to street maintenance, he inquired of the status of that project. He also referenced the California Theater and urged the pursuit of funding for that long-overdue project.

Mr. Turner also commented that while differences of opinions were expected, he requested that the conduct and behavior of the City Council with respect to other Councilmembers be improved to offer civility and respect during public meetings.

Mr. Turner referred specifically to Councilmember Beals and stated it appeared as if she was not being given her due respect on the Council. He urged all members to work closely together and

to ensure that differences of opinion not be made so obvious to the members of the public. He urged that the Council work as a team.

Vice Mayor Aiello commented with respect to the Teen Center that it was slated to open in the summer of 2002, that a Memorandum of Understanding (MOU) was being signed with the City of Oakland, which was now working in conjunction with the City of Pittsburg for a Foreign Trade Zone in a more economical manner for the City, and that the City was in the process of seeking more money from the EDA for a Foreign Trade Zone.

Speaking to the Senior Center, Vice Mayor Aiello stated that \$1 million more in appropriation had been made given the increased costs. He also noted that the water lines in El Dorado Heights would soon be complete and the streets would be totally redone. With respect to respecting each member of the Council, he stated that all Councilmembers were on the Council for the same reason, to make the City a better place to live and to improve the quality of life for Pittsburg residents.

Mr. Turner urged that the web site be brought current for the benefit of the residents, and Vice Mayor Aiello concurred that the web site needed to be brought up to date.

Councilmember Rios agreed with the need to upgrade the web site but she also suggested that those involved with the projects needed to provide that information. She emphasized that all members were elected to do his/her job in the best interests of the City.

Councilmember Lewis commented that every project was constructed with a contingency fund that tried to anticipate those items not included in the original budget. With respect to the Civic Center, he noted that a 15 percent contingency fund had been set aside for the Civic Center and only six percent of that fund had been utilized, which he suggested was commendable, particularly since the project had been brought in on time and essentially within budget.

In response to Mr. Turner's comments, Councilmember Beals commented that many of her actions as a Councilmember had been based on policy and not personalities and that she was doing her best to represent the entire community. She commented that more often than not, she had been overlooked, belittled and ignored by the leadership of the Council, and had not been properly recognized to speak when it was her turn to speak, which had become noticeably visible to her and others attending the Council meetings. She expressed her hope that the Council would function as a team and serve as a whole for the benefit of the community.

Chair Quesada emphasized his many years of serving the community as a public servant and being available to the community to assist where needed. Acknowledging that there were differences of opinion at times, he emphasized that he would continue to serve the community as he had these many years.

BISHOP C.A. TIMMONS, Pittsburg, spoke to the intersection at Tenth and Black Diamond Streets and advised that he had consistently appealed for crossing guards and stop signs at that site given speeding vehicles that had jeopardized the life of several students. He noted that the school was the only one in the City that involved high school, middle and elementary school students crossing that street on a daily basis. He again appealed for consideration of the placement of a four

way stop sign and lights at the corner of Tenth and Black Diamond Streets to address safety concerns.

Bishop Timmons noted his understanding that the City paid only \$25,000 per year to the PUSD to assist in the cost of crossing guards, which was the extent of the City's involvement. He stated that some in the community had suggested that it was the responsibility of the City to place guards and to address children's safety when crossing streets to and from school. He requested clarification of that situation and urged that the City do whatever possible to sway the PUSD to address the issue. In the interim, he requested that the crosswalks be painted more clearly, that signs to identify the crossing area be provided pending the placement of crossing guards, and that the City Council assume half of the cost of crossing guards for that site. He also commented that the NAACP had sent a letter with respect to the issue but had yet to receive a response.

Councilmember Beals noted her understanding that a traffic study was to have been conducted and that staff was to have worked with the PUSD to address the concerns.

In response, Assistant City Manager Shirazi advised that he would discuss the matter with the Traffic Engineer and report back to the Council.

Vice Mayor Aiello requested that the crosswalks be painted immediately to protect the children crossing the street and that staff return to the Council with some form of agreement with the PUSD on October 15 to address the matter.

Councilmember Lewis suggested that the item also be addressed through the School Liaison Subcommittee. He emphasized that the City had a long-standing policy of contributing financially to help the PUSD defer the cost of crossing guards and he requested that the item be placed on the Subcommittee's next agenda to attempt to reach some resolution in the immediate future.

BEN JOHNSON, Pittsburg, stated with respect to the web site that it was sometimes quite cumbersome to access and that the minutes had not been posted in a timely manner. He was apprised that the Executive Secretary in the City Manager's office was on medical leave and had not been able to upgrade the minutes on the web site in the last several weeks.

Mr. Johnson reported that the crosswalk at Buchanan Road and Suzanne Street needed to be repainted. He also requested that the fence on Buchanan Road that needed repair be repaired as quickly as possible.

Mayor Quesada noted his understanding that the fence should be repaired by the end of November.

WARREN SMITH, Pittsburg, asked that the Council convey his best wishes to Alice Everson who was on medical leave. He otherwise urged the Council's participation in a study that he had presented to the State and offered to volunteer to assist the City, if needed, with respect to an undeveloped corridor that could be utilized to tie Sacramento in with the Bay Area. He urged the development of rail possibilities along I-5 and 505 all the way up to Redding, which he suggested would be cost effective given the fact that the land would not have to be acquired. He further

suggested that solar panels be placed between the rails. He emphasized that now was the time to act in that the space was available to be able to do so.

WILLIE MIMS, Pittsburg, also extended best wishes to Ms. Everson. He supported efforts to update the City's website to make it useful for the public, and he requested to be allowed to speak as was his right and to be treated with respect as was his right.

On another matter, Mr. Mims requested that the web site start including the documents comprising the City Council packets. While he noted that the material had been provided at the local library on Friday nights, he stated that the library was not open long enough to allow public access to those materials.

COUNCIL REPORTS

Vice Mayor Aiello thanked Councilmember Beals for attending the Water Transit Authority meeting and for replacing him on that Authority at her request. He reported that he had attended a meeting at the State Board of Equalization on the Section 905 Rule, which if not amended would mean a loss to the City of over \$5 million annually. He noted that of the representatives of the fourteen cities that had made remarks at that meeting, most spoke to the City of Pittsburg's amendment or to those other amendments that would be beneficial to the City of Pittsburg. He added that a Board of Equalization meeting had been scheduled for October 2, at which time the City would be represented. He expressed his hope that the ruling would be beneficial to the City.

With respect to the East Contra Costa Regional Fee and Financing Authority (ECCRFFA), Vice Mayor Aiello reported that he had met with Senator Torlakson and expected that issue would be resolved in the near future. He also referenced a letter from Assemblyman Canciamilla on the subject, recognized that the letter was part of the public record, and took issue with the Assemblyman's inconsistent positions on the Buchanan Road Bypass.

Vice Mayor Aiello commented with respect to the website and projects not moving quickly enough, that there be consideration of a full time Assistant City Manager to help complete the projects. To that extent, he recommended that Councilmember Beals and Mayor Quesada be appointed to a committee along with Planning Commissioners Leonard and Garcia, CAC members Gordon and Hernandez, along with at large members Raul Rodriguez of Los Medanos College (LMC) and Mary Coniglio, the Director of the Chamber of Commerce, to conduct a full outside search to select the best qualified candidate to help the City move forward.

Vice Mayor Aiello stated that he had also sought a legal opinion on the Keller Canyon mitigation funds and the return of those funds to the control of the City. He referred staff to County Ordinance 89-88, which stated that the City could apply for host mitigation funds to ensure that the impacts to the City could be addressed through its fair share of the mitigation funds intended to address such impacts.

Councilmember Rios concurred with the need to hire a full time Assistant City Manager.

Councilmember Rios reported that she had attended the Child Safety Fair hosted by Lisa's

Closet, at which time the Chief of Police and the Mayor had also attended, as had Senator Torlakson and Kim Schwartz, along with the East County Kids in Motion who had performed at the event. She applauded the event and took this opportunity to thank the Council for waiving some of the fees to allow the affair to occur.

With respect to the Delta 5 meeting, Councilmember Rios reported that cities had taken the opportunity to update the projects that they were working on. She reported that Julie Mason of Junior Achievement had asked the Department Heads to gather a team for Bowl-a-thon and she expressed her hope that would occur. She also reported that she had been advised at the Delta 5 meeting that a Library Meeting had been scheduled for October 25 regarding the expenditure of the money from the Mirant Project.

Vice Mayor Aiello stated with respect to the California Theater, that staff be directed to return on October 15 with an agreement with PCSI for the grant that was being pursued. He recommended that the request be agendized for October 15 and that a letter of full cooperation be submitted in conformance with Public Resources Code Section 5003.

Councilmember Beals reported that she had also attended the Lisa's Closet events, which had been well attended.

Councilmember Beals directed staff with respect to the Youth Commission to apprise the Council, by report, on the interviewing of new students for the Commission, any reorganization efforts of the Commission, and to schedule a presentation by the Youth Commission itself. She requested that the Youth Commission be incorporated into the Council meetings. She referenced the biannual budget where the Commission's role had been defined and she suggested that had not been done.

Councilmember Lewis commented that a meeting of the Pittsburg/Bay Point BART Area Specific Plan had been scheduled for October 4 at the Ambrose Community Center at Willow Pass Road in Bay Point. A report on that meeting would be forthcoming.

Mayor Quesada reported that he had attended the Lisa's Closet affair at which time the Police Department had registered 175 children. He thanked the Department for that effort.

Mayor Quesada also reported that he had attended what was now the Delta 6 meeting in that Supervisor Gerber, now representing Brentwood, had been added to the previous Delta 5.

The Mayor reported that among the issues discussed at Delta 5 was the fact that the City of Antioch had increased its homebuilding by another 4,700 units, although there were 12,000 approved homes that had yet to be completed. As such, he emphasized where the traffic was being generated and he suggested that the destruction of the sound walls in the City of Pittsburg could be attributed to that traffic generated outside of the community.

Mayor Quesada stated that the First Baptist Church Tenth Anniversary had been well attended by Members of the Council. He had also attended the normal City functions. He thanked Vice Mayor Aiello for attending the historical picnic at City Park and he thanked the other members of

the Council who had assisted in attending other events.

PROCLAMATION

1. Hunger Walk (Delta 2000)

Mayor Quesada read the proclamation proclaiming October 6, 2001 as the Fourteenth Annual Hunger Walk coordinated by Delta 2000, which encouraged the public to participate in the worthwhile event to assist in raising funds for the food pantries of East County.

NANCY KAISER, Executive Director of Delta 2000 advised that \$15,000 or more was being offered to food closets from Bay Point to Brentwood each year. She thanked the Council for its support and she offered tee shirts to each member of the Council.

2. Teen Read Week (County Library)

Mayor Quesada advised that the proclamation for Teen Read Week by the Pittsburg Library had been recommended to be continued to the October 15 meeting.

MARIAN PARTRIDGE of the Pittsburg Library advised that the item would be more appropriately addressed at the next meeting.

PRESENTATION

1. Concerted Services Project

ALICE LATIMER, Pittsburg, took this opportunity to thank Councilmember Beals for introducing the item at the last meeting. She stated that Concerted Services had been feeding the hungry citizens and children of the community since 1965. As a long-time volunteer for the Concerted Services Project, she urged some action on the item and emphasized the importance of the work being done. She urged the Council's assistance in helping the Concerted Services Project given that Concerted Services had been looked over this year for funding.

Councilmember Beals clarified her understanding that the Concerted Services Project was facing closure and that the monthly expenses to keep its doors open and the lights on was approximately \$500.

Councilmember Beals commented that when she had brought the matter to the Council, she had sought support until Concerted Services could find other grant avenues and other sources of funding. Given the upcoming winter, she recommended granting Concerted Services \$500 per month for a period of six months, for a total of \$3,000.

Vice Mayor Aiello commented that the item was listed under Presentations and would have to be returned to the Council as an action item. He also recommended that Ms. Latimer approach the Calpine Community Grant Board in that grant funding was still available and might be possible.

Ms. Latimer sought food and clothes and stated that she would not close the door on the hungry.

Councilmember Beals recommended that the item be placed on the next meeting agenda for consideration of funding.

Councilmember Rios inquired whether or not Ms. Latimer had approached Delta 2000, and Ms. Latimer stated that they would also approach Delta 2000 to seek available funds.

Councilmember Rios noted that the Concerted Services Project had not met all the required criteria to qualify for funding this year, although Ms. Latimer stated that the Concerted Services Project had sought funding each year and had received funding each year, with the exception of this year.

DARNELL TURNER, NAACP, supported the recommendation of support for the Concerted Services Project, to include funds and assistance in seeking grants to address the concern.

ALICE GREEN, Pittsburg, one of the Board of Directors of the Concerted Services Project, clarified that Ms. Latimer offered her time gratis and because there was no paid staff working for the Concerted Services Project, no funding had been offered for the project. She emphasized that the staff were volunteers from the community. She added that without Ms. Latimer, there would be no Concerted Services.

Mayor Quesada declared a recess at 9:25 P.M. The Council reconvened with all Councilmembers present at 9:43 P.M.

CONSENT CALENDAR

Vice Mayor Aiello requested that Item a be pulled from the Consent Calendar, and Councilmember Rios requested that Item b be pulled for discussion.

On motion by Councilmember Lewis, seconded by Vice Mayor Aiello and carried unanimously to adopt Item c. on the Consent Calendar.

c. **CLAIMS** #1409 Steve B. Mandell

Denied Claim #1409 for Steve B. Mandell.

The following items had been removed by the Consent Calendar for discussion.

a. **DISBURSEMENT LIST** Periods Ending: September 4, 2001 and September 15, 2001

With respect to Item a., Vice Mayor Aiello clarified with respect to the \$55,000 disbursement to J. Robert Griego Studios for the statute proposed for Heritage Plaza that the matter was now resolved.

On motion by Vice Mayor Aiello, seconded by Councilmember Rios and carried unanimously to approve the Disbursement Lists periods ending September 4 and September 15, 2001.

b. **MINUTES**

Dated: September 17, 2001

Vice Mayor Aiello requested the following amendment to the second sentence under Council Reports:

He [Vice Mayor Aiello] also noted his attendance at the dinner with the Korean delegation and reported that Korea had agreed to conduct economic development in the City of Pittsburg in the next two years.

Councilmember Rios requested the following amendments.

To the last sentence in the first paragraph under Council Reports:

While Councilmember Rios would travel to Korea in October, paying her own way, he [Vice Mayor Aiello] would travel to Japan and pay his own way.

To the second sentence in the second paragraph under Council Reports:

She [Councilmember Rios] had attended the dedication ceremony for the late Taylor Davis and had also attended the meeting of the ECCRFFA and others, including the anniversary for Pastor and Mrs. Perkins.

To the second sentence in the sixth paragraph on Page 6:

She [Councilmember Rios] emphasized that the County would have to comply with its commitment and she objected to a play of words with respect to urgent care and mental health in-patients as opposed to mental health drop-in patients.

To the last paragraph on Page 22:

On motion by Councilmember Rios, seconded by Mayor Quesada and carried unanimously to reject the proposal submitted by the ECCRFFA to the City of Pittsburg as being parochial and non cooperative in regional cooperation.

Councilmember Beals requested the following correction to the second sentence in the third paragraph under Council Reports:

She [Councilmember Beals] had also attended the Zinfandel dinner catered by the Liberty Hotel, the tenth anniversary of Pastor Perkins of her church, and the dedication ceremony for the late Taylor Davis, which had been well-represented and well-attended.

Councilmember Beals reported that change was also applicable to the first sentence in the second paragraph under that same heading.

Councilmember Rios stated that she had attended the Zinfandel dinner catered by the Liberty Hotel.

On motion by Vice Mayor Aiello, seconded by Councilmember Rios and carried unanimously to approve the minutes of the September 17, 2001 meeting, as amended.

PUBLIC HEARING

1. **RESOLUTION 01-9497** Joint Meeting with City Council – Disposition and Development Agreement with Habitat for Humanity for the Sale and Development of Nine Parcels Located Along Herb White Way (APNs: 085-221-001, 085-221-013, 085-231-022, 085-231-023, 085-231-028, 085-231-029, 085-232-001, 085-232-022, and 085-232-023)

The resolution had been approved in Joint Session with the Redevelopment Agency.

CONSIDERATION

1. **RESOLUTION 01-9498** Agreement to Amend the Contract Between the Board of Administration of the California Public Employees Retirement System (PERS) and the City of Pittsburg – Second Reading and Adoption

Director of Personnel Services Marc Fox reported that on September 4, the Council had adopted Resolution 01-9469 and had passed the first reading of Ordinance 01-1186. He stated that Resolution 01-9469 was a Resolution of Intent to amend the PERS contract and Ordinance 01-1186 was the first reading to enact that amendment.

Mr. Fox reported that according to PERS law an election was required with the transfer of service credit from the County Retirement Plan to PERS. Of 249 eligible employees for that election, 221 voted yes and zero employees voted no.

Mr. Fox recommended the adoption of the ordinance amending the contract with PERS, the adoption of the resolution agreeing to report the value of the employer-paid member contributions to PERS as additional compensation in accordance with the collective bargaining agreements between the City and the various employee associations, and the agreement to pull the 1959 Survivor Benefits, a provision provided in the two police collective bargaining agreements, consistent with prior actions of the City Council.

On motion by Vice Mayor Aiello, seconded by Councilmember Rios and carried unanimously to adopt Resolution 01-9498.

Mr. Fox clarified that two other actions would be required, including the second reading of Ordinance 01-1186 and an unnumbered resolution agreeing to pull the 1959 Survivor Benefits. On

the resultant determination that the other two items had not been included on the agenda, he noted that the items had been included and listed in the staff report.

Assistant City Attorney Victor explained that the three matters attached to the staff report had not all been included on the agenda. She recommended that the second reading and adoption of the Ordinance 01-1186 could be addressed at this time, although the unnumbered resolution should be returned to the Council at the October 15 meeting. It was noted that would not result in any delays of process.

On motion by Vice Mayor Aiello, seconded by Councilmember Rios and carried unanimously to waive the full second reading of the text and to Adopt Ordinance No. 01-1186, An Agreement to Amend the Contract Between the Board of Administration of the California Public Employees Retirement System (PERS) and the City Council of the City of Pittsburg.

2. **RESOLUTION 01-9499** Modification to Resolution 09-9452 Accepting a Payment of \$58,322.00 from Calpine in Lieu of Sound Wall Install at West End Transition Structure

Assistant City Engineer Wally Girard reported that Calpine was in the process of finishing its transmission and power generation project. One of the conditions of that item related to the station near the Delta Diablo Sanitation District (DDSD) pump station west of Herb White Way and north of Eighth Street was the requirement for an eight-foot sound wall. The lot was currently vacant and the wall was not necessary at this time. Further, until developed, the final elevation of the lot would be unknown.

Given those issues, Mr. Girard suggested that the installation of the sound wall at this time would represent a waste of time, energy and money in that the land would have to be regraded to the proper elevation.

Calpine had requested a payment in lieu of the wall, estimated at \$51,000. An additional \$7,322 had been negotiated by the City for a total Calpine contribution of \$58,322.

While the item had been submitted to the Council for consideration on August 8, it had been continued by the Council for a clarification of the expected cost if more than the \$58,322. After being approached, Calpine had determined to pay the \$58,322 and anything over that as long as it did not exceed \$10,000, with the sound wall to be completed within the year. The City would have to pay no additional funds. When developed, the land would be developed by a private developer and the developer would have to install the wall. The \$58,322 would be offered to assist in that regard.

Mr. Girard recommended approval of the revised resolution and acceptance of payment under the conditions requested by Calpine.

Vice Mayor Aiello did not agree with the proposal because Calpine was obligated to pay for everything, no matter what the cost. He noted that Calpine had stated in its counter proposal that they would not be responsible for extra costs associated with unforeseen underground obstructions

or any other conditions that could have been anticipated. He stated that the Council had initially determined that Calpine would pay the entire amount. He clarified with Mr. Girard that if the cost was \$200,000 to build the wall because of unforeseen developments that the developer would have to pay the difference.

Mr. Girard stated that if the developer had a requirement to install the sound wall, the developer would have to pay for it.

Vice Mayor Aiello suggested that the direction from the Council at the last meeting was that Calpine pay anything and everything in excess of \$58,322. He would agree to nothing else. He noted that Calpine and the City had created a partnership and it was time that Calpine lived up to its part of the partnership.

In response to the Mayor as to the cost of the sound wall that Calpine had installed as part of the bypass, Mr. Girard reported that the estimate was \$80 to \$85 per linear foot for that type of sound wall, with no unforeseen problems in that case.

BEN JOHNSON, Pittsburg, advised that he had originally raised the issue. He suggested that Calpine be held responsible to do the work now or place in reserve at least a minimum of \$200,000 to cover the item. Any excess could be returned. He wanted to make certain that the City would accept no increased expense in that case.

Vice Mayor Aiello suggested that something would have to be worked out.

Councilmember Lewis noted his understanding that it was not Calpine that did not want to build the wall at this time, it was the City given the unclear future development plans which affected where the wall would be placed.

Councilmember Lewis suggested that Calpine could easily comply with their requirements by simply building the wall where it had ultimately been proposed. He was uncomfortable rejecting the Calpine proposal outright and suggested that Calpine be approached as to the alternatives to build the wall from where it had been proposed at this time.

Vice Mayor Aiello reminded the Council that the City had been through one mistake with Calpine with respect to a tower that had to be addressed. He did not want another mistake.

In response to the Vice-Mayor, Mr. Evans clarified that staff's negotiations with the Olson Company had not been fruitful and discussions had developed with another developer for that site. When a site plan had been identified, the placement of the sound wall could be identified. He anticipated something within the next ninety days.

On motion by Vice Mayor Aiello, seconded by Mayor Quesada and carried unanimously to table Resolution 01-9499 and take no action on the item for a period of ninety days.

3. **ORDINANCE 01-1187** San Marco Development Agreement First Amendment.
Amendment to the "Development Agreement Between the

City of Pittsburg and Seecon Financial and Construction Company”, PD (Planned Development) Zone: APN 097-130-002, 097-130-001, 097-150-002, 097-150-006, 097-150-007, 097-190-001 and 097-180-001 – Second Reading and Adoption

Associate Planner Chris Bekiaris advised that Ordinance 01-1187 had been introduced at the last meeting to extend the agreement between the City and Seecon Financial and Construction Company by 18 years to 2020. He recommended approval of the extension.

WILLIE MIMS, Pittsburg, representing the BPA, noted that staff had recommended the adoption of Ordinance 01-1187 to allow the continued construction of the project. He advised that the project had received a Notice of Suspension from the Department of Fish and Game, and as such suggested that the City Council did not have the power to authorize anything at this time.

Mr. Mims referred to Page 4 of the staff report and the statement that “Recent developments concerning a Notice of Suspension under a Streambed Alteration Agreement issued by the California Department of Fish and Game need not be addressed in connection with the extension of the Development Agreement.” He disagreed with that statement and suggested that the project could not move forward until the Notice of Suspension had been removed. He also referred to Page 2, Item 2, which stated that the proposed extension of the development was exempt from the regulations of the California Environmental Quality Act (CEQA). He requested a clarification of that issue.

In response, Randy Jerome reported that the item was exempt under CEQA because it was a simple continuation of an existing agreement, with no changes of any substance to the existing Development Agreement. He stated that the City was relying on the previous CEQA documentation that had been prepared in 1990, which had included a Negative Declaration based on a previous Environmental Impact Report (EIR). He stated that the subject matter was categorically exempt based on that reasoning and a Notice of Exemption would be filed with Contra Costa County with respect to the project.

Mr. Mims suggested that one of the problems with a Categorical Exemption was that certain categories did not apply. He suggested that the project did not apply in that a reasonable possibility existed in that the project would have a significant environmental impact given that a part of the creek would be destroyed. He disagreed with the staff interpretation of exemption in this case.

In addition, Mr. Mims referred to Page 2, No. 9 and noted that the Development Agreement specified that the contemplated development would be completed by 2020. He inquired why the extension had been proposed for such an extended period.

Mr. Jerome stated further with respect to the streambed alteration that was covered under the conditions of approval of the Tentative Map and was not relative to the extension agreement, although it was relative to the project itself. He stated that the extension was for 18 years at the request of the developer. It was initially intended that the project would take only 12 years to complete but had only recently been commenced. The extension had been requested to satisfy a

realistic scenario of the expected timeline for development.

Mr. Mims referred to CEQA categories of exemption and disagreed with the staff interpretation that the project fit under the rule of Categorical Exemptions.

Ms. Victor clarified that the exemption had been made under Public Resources Code Section 21083.3, which had been included in the findings in the ordinance. She stated that the basis for the exempt was that the extension of the Development Agreement was consistent with the General Plan, the certified EIR, the City's sphere of influence and the Southwest Hills Annexation and General Plan Amendment.

Vice Mayor Aiello thanked Mr. Mims for his comments. Having dealt with the State Department of Fish and Game for many years with respect to the Keller Canyon Landfill, he commented that the California Red Legged Frog, which the Notice of Suspension had referenced and which was not known to exist ten years ago, was currently abundant. He stated that the Council had no jurisdiction over the Department of Fish and Game and the issue was between that Department and the developer. He emphasized that the Department had the final word. As such, he had no problem with the approval of the ordinance at this time.

Councilmember Beals commented that there were outstanding issues regarding the potential development that could be incorporated into the overall twenty-year plan that remained unresolved. For those reasons, she would vote no on the ordinance.

On motion by Vice Mayor Aiello, seconded by Councilmember Rios to waive the second reading and adopt Ordinance 01-1187, carried by the following vote:

Ayes: Aiello, Lewis, Rios, Quesada

Noes: Beals

4. **RESOLUTION 01-9488** Continued from September 17 – Subdivision 8423; San Marco Unit 5 Approval of Final Map, Improvement Plans and Subdivision Improvement

Assistant City Attorney Victor acknowledged a letter from the law firm of Miller Brown & Danna, attorneys for the Mt. Diablo Unified School District (MDUSD), which letter had been incorporated as part of the record. The receipt of a letter from Dick Sustero, the Project Manager for Seecon, requesting that the matter be deferred to the November 19 meeting was also acknowledged. As such, she recommended that the matter be continued to November 19, 2001.

On motion by Vice Mayor Aiello, seconded by Councilmember Rios and carried unanimously to continue Resolution 01-9488 to November 19, 2001.

5. **RESOLUTION 01-9500** Pittsburg Historical Society Loan/Grant Status

Economic Development Director Evans advised that the Pittsburg Historical Society (PHS) and the City of Pittsburg had partnered to facilitate the opening of a museum in the downtown. He

stated that the PHS volunteers had secured the former Ledger Dispatch Building located at 515 Railroad Avenue with the goal of rehabilitating and renovating the structure for use as a museum, and had secured funding from a wide variety of sources totaling \$727,251 in grants and/or loans. Of that total, the City via the Community Development Block Grant (CDBG) Program, Redevelopment Agency and General Fund commitments had appropriated \$411,376 to that effort.

Noting that the grants received by the PHS were for renovation and remodeling only, Mr. Evans stated that there was a major concern for the cost of the mortgage held on the building and for the ongoing monthly expenses. Until the museum was opened, he stated it would be difficult for the PHS to raise operational revenues.

As such, the PHS had requested of the City the conversion of a \$75,776 loan made in October of 1999 to a grant. To date the PHS had never drawn funds from the loan. In addition, the PHS had \$48,115 remaining in a Redevelopment Agency grant that had been approved in February of 2000. In consideration of converting the \$75,776 loan to a grant, staff had recommended options and opportunities to resolve some of the ongoing challenges and issues of monthly maintenance and other items.

Mr. Evans recommended that the City Manager be directed to utilize the funding change of the \$75,776 loan to a grant and enter into partnership discussions with the PHS after which staff would return to the Council with any final implementations.

Vice Mayor Aiello clarified that staff would return after the loan had been converted to a grant and that it was staff's intent to discuss several options where the money could be channeled directly to reduce the mortgage. He also sought clarification of the status of the PHS' Leshner loan, reported by a member of the PHS that there remained \$131,880.75 as of the seventh month of this year with a payment of approximately \$1,080 each month.

Councilmember Lewis supported the approval of the request to convert the loan to a grant. He noted the need to maximize and fully leverage the opportunities to provide more funds to the PHS to allow the opening of the museum at which time the PHS would have an opportunity to raise funds.

Councilmember Beals expressed concern for any restrictions related to the loan, an identification of those restrictions, and whether or not those restrictions would disappear once the loan was turned into a grant.

Mr. Evans reported that the loan was specifically for renovation purposes and if turned into a grant, staff would have to reevaluate the next six to twelve month renovation items. He expressed staff's desire that the funds be used to reduce the mortgage.

On motion by Councilmember Lewis, seconded by Councilmember Rios to adopt Resolution 01-9500.

Assistant City Attorney Victor noted her conversation with Mr. Evans and the suggestion that the resolution be clarified. She recommended that Section 2, Approval and Authorization of the resolution be amended to read: *To evaluate the opportunities for a partnership between the City of*

Pittsburg and the Pittsburg Historical Society, the City Manager is directed to take the necessary steps to convert the \$75,776 loan to a grant as a tool to assist the Historical Society and return to the Council for implementation.

BEN JOHNSON, Pittsburg, supported the conversion and reported that the PHS had worked every month to meet its obligation. He characterized the PHS as a strong asset to the community and stated that the museum would be able to identify what the City was all about. He supported the proposal to relieve the PHS' debt load.

On motion by Councilmember Lewis, seconded by Councilmember Rios and carried unanimously to adopt Resolution 01-9500.

6. **REPORT** Sewer Lateral Maintenance History

Public Services Director John Fuller explained that the report had been presented to clarify the desire of the Council assuming some portion of sewer lateral maintenance. He offered a video presentation to explain that the Director of Public Services was already in the process of reviewing the sewer maintenance services of surrounding cities.

Mr. Fuller reported that most surrounding cities were like the City of Pittsburg and did not perform maintenance of anything other than sewer mains. A much smaller number provided partial sewer lateral maintenance in addition to sewer main maintenance if a property line clean out was installed on the sewer lateral. He characterized that as significant and commented that was where the greatest expense was involved. He commented that some routine sewer lateral cleaning was required in that there could be exposure to liability costs for backed up sewers that could back up into the home creating significant property damage.

Mr. Fuller noted why some communities had chosen to augment their services by cleaning laterals under public property, to provide enhanced service to customers, to spread out the individual customer's cost for repairing sewer laterals when they failed, to ensure a more consistent quality of sewer lateral and sewer operations and for maintenance and repair as part of the overall collection system standard, and to maintain consistency in repairs to sidewalks and roadways.

With respect to cost and liability issues for cities related to lateral services, Mr. Fuller stated that the provision of plumbing services by a public agency presented a variety of problems, increased competition with private businesses, increased potential of liability exposure with backups into homes, and increased maintenance costs for the Public Services Department given 14,000 to 16,000 connections in the City, resulting in potential additional costs of \$232,500.

Mr. Fuller explained that the City's current fee of \$10 per month covered the maintenance of the sewer mains, sewage treatment fees to the DDS, and a small capital improvement reserve in case a major sewer main had to be repaired. To assume the additional cost would require additional revenue of \$1 to \$2 per ratepayer, representing a 10 to 20 percent increase. Due to the certainty of a significant fee increase, he recommended against changing the current City code at this time. Alternatively, if an increased service was desired, he recommended the adoption of a policy that only the portion of the sewer lateral that resided within the public right of way be maintained, and

only with a provision for a property line clean-out.

Vice Mayor Aiello inquired of the amount of the capital reserve and whether or not it was capped, to which Mr. Fuller stated that information would have to be returned to the Council for consideration.

Mr. Fuller suggested that the City's reserve was relatively modest.

Councilmember Rios did not concur with the staff recommendation and supported a possible partnership. She noted that she had met with the Public Services Director on the issue and had spoken with the Finance Director with respect to potential cost. While she understood that the City might be able to absorb the cost for the first two years, she understood that the increase would cost ratepayers an extra \$1 to \$2 per month. She suggested that the ratepayers would have no problem with such an increase if they were to understand that they would be responsible to repair the sewer lateral in the public right-of-way, particularly since the streets were utilized by many more than the ratepayers themselves.

TOM LaFLEUR, Pittsburg, commented that the cost of repairing sewer lines was an important issue to him. He noted that the ordinance adopted in 1991/92 was inequitable and commented that those who lived in the oldest houses were the most challenged financially. He suggested that the sewer system was a basic public benefit, he noted a tremendous variance in cost, and he commented that if the City were to assume the responsibility, everyone would benefit. He suggested that \$1 monthly service charge was good insurance for a potential prohibitive expenditure.

GEORGE HARRIS, Pittsburg, speaking as a private citizen, commented that the state of the art 40 to 50 years ago for sewer lines was terra cota and when subdivisions were developed, the streets became accepted right of way. He stated that the public right of way in subdivisions had then been accepted by the City. The citizens had paid property taxes to cover those kinds of costs. In 1991, the then City Manager had placed the burden of the sewer from the curb to the main line on the homeowner. He stated it would be very expensive for some citizens, particularly older citizens, to have to pay for the replacement of those lines, especially the older terra cota lines. He supported the proposal to ensure that the City was responsible for that portion of the sewer. He further suggested that the ordinance that had been adopted in 1991 be rescinded.

On motion by Councilmember Beals, seconded by Vice Mayor Aiello to direct staff to develop one or more alternative policies for shared sewer lateral maintenance, with the City to clearly be responsible for the maintenance of the lines from the curb all the way to the main and to develop draft language for the Pittsburg Municipal Code to establish a shared sewer lateral maintenance policy, with those alternatives to be returned to the City Council for consideration no later than November 19, 2001. The motion carried by the following vote:

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

Mayor Quesada reported that as of September 25 thanks to staff, the Island Energy gas lines and power lines belonged to the City of Pittsburg and negotiations with the City of Vallejo were no

longer required. He thanked the City staff for all the work that had been done to allow that to occur.

ADJOURNMENT

There being no further business, the Pittsburg City Council adjourned at 11:01 P.M. to October 15, 2001.

Respectfully submitted,

Lillian J. Pride, City Clerk

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