

**CITY OF PITTSBURG**  
**City Council Minutes**  
**September 17, 2001**

Mayor Frank Quesada called the meeting of the City Council to order at 4:40 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: City Manager, Willis Casey  
Acting Assistant City Manager, Nasser Shirazi  
City Attorney, Linda Daube  
Assistant City Attorney, Carol Victor  
Assistant City Attorney, Russell Townsend  
City Clerk, Lillian Pride  
Acting Director, Planning & Building, Randy Jerome  
Director of Economic Development, Garrett Evans  
Economic/Redevelopment Coordinator, Brad Nail  
Director of Finance, Jim Holmes  
Director of Leisure Services, Paul Flores  
Director of Personnel Services, Marc Fox  
Assistant City Engineer, Wally Girard  
Senior Civil Engineer, Joe Sbranti  
Traffic Engineer, Paul Reinders  
CDBG Coordinator, Annette Landry  
Administrative Assistant I, Tiffany Ashworth  
Harbormaster, Van DePiero  
Police Chief, Aaron Baker

PUBLIC COMMENT

There was no public comment.

ADJOURN TO CLOSED SESSION

Mayor Quesada adjourned the meeting into Closed Session for Conference with Legal Counsel – Existing Litigation pursuant to Section 54956.9 of the Government Code regarding one case Teamsters Local 856 v. City of Pittsburg C01-02481, Superior Court, County of Contra Costa; and Conference with Legal Counsel – Anticipated Litigation pursuant to subdivision (b) of Section 54956.9 regarding two cases.

The City Council reconvened at 6:23 P.M., at which time City Attorney Linda Daube reported that a settlement had been reached with Teamsters Local 856, which settlement agreement stated that the City would recognize the Teamsters as the exclusive representative for its Miscellaneous Unit B and that such recognition be made within two weeks of the settlement.

#### PUBLIC HEARING FOR GENERAL PLAN

1.     RESOLUTION 01-9489     Review and Consideration of the General Plan Update Final Environmental Impact Report, "Pittsburg 2020: A Vision for the 21<sup>st</sup> Century. City of Pittsburg General Plan."(June 2001)
  
2.     RESOLUTION 01-9490     Adoption of the Comprehensive Update of the City's General Plan "Pittsburg 2020: A Vision for the 21<sup>st</sup> Century," August 2001 (Hearing Draft General Plan)

Acting Director Planning & Building Randy Jerome reported that the public hearing for the item had been continued from the September 4, 2001 City Council meeting to allow the presentation of the plan itself.

Mr. Jerome advised that the firm of Dyett & Bhatia had prepared the update of the General Plan, which update had commenced in 1997. Since that time, thirteen public hearings and workshops had been conducted before the Planning Commission on the Environmental Impact Report (EIR), as well as on the draft document itself.

Mr. Jerome reported that on June 26, 2001, the Planning Commission had approved the General Plan. He noted that the Commission had been presented changes brought up subsequent to the recommended adoption by the Commission, where land use changes had been requested, some in the hillside areas as well as a change in the older part of Pittsburg. The Commission had not supported those changes at that time and the General Plan had been adopted as proposed.

RAJEEV BHATIA of Dyett and Bhatia, advised that the process had been long, four years in the making, commencing with an existing conditions report in June 1998, followed by sketch plans/alternatives in November 1998, with a preferred Land Use and Transportation plan in May 1999. A Draft General Plan followed in January 2001 as mandated by State Law. The Final EIR was presented in June 2001, followed by the hearing of the Draft General Plan in August 2001.

Mr. Bhatia noted that the document had emphasized employment growth, downtown and waterfront revitalization, hillside and ridgeline preservation, a jobs/housing balance, a capitalization on regional transportation improvements, enhanced community character and increased linkages between neighborhoods.

Mr. Bhatia reported that there were thirteen elements associated with the General Plan; Introduction, Land Use, Growth Management, Urban Design and Downtown (which were optional elements), Economic Development, Traffic and Circulation, Transportation, Open Space, Youth &

Recreation, Environmental Conservation, Health & Safety, Public Facilities, and Housing.

Mr. Bhatia identified the land use classifications and designations, and detailed land use policies in each of the designations and subareas.

ROSALYN STEWART of Dyett and Bhatia presented the overview on the Open Space, Youth & Recreation, Environmental Conservation, Health & Safety, Public Facilities, and Housing Elements.

Vice Mayor Aiello inquired with respect to Housing needs whether or not the total projected need of 2,513 units identified by the Association of Bay Area Governments (ABAG) could be accommodated by the plan.

Ms. Stewart reported that the General Plan provided enough residential land to accommodate ABAG's projected need. She also commented that the policies included in the City's Housing Element were currently being revised for review by the State Department of Housing and Community Development (HCD).

Mayor Quesada opened the public hearing on Resolutions 01-9489 and 01-9490.

BRUCE OHLSON, Pittsburg, a member of the Board of Directors of the East Bay Bicycle Coalition and a member of the Safety Committee of the Delta Pedalers, reported that he had submitted goals and policies that had been proposed to be included in the General Plan. He characterized most as innocuous and free or very inexpensive to the City. He urged the adoption of those points in the General Plan, when adopted. Referring to Page 7-30 of the General Plan, Goal 7G-16, Mr. Ohlson explained that he had submitted the goal to the consultant a year and a half ago, with the exception of the last clause of the goal included in the document. He commented that as the draft document progressed, someone had added the last clause, which reversed the direction of the intended goal. The City bicycle community suggested that having language in the General Plan that expressly advocated the removal of bicycle facilities from public streets was not good, not just and not an appropriate goal. He stated that the original goal did not preclude the widening of any road in the City, there was a desire only that the General Plan prohibit the removal of existing bicycle lanes and not replace them as part of a congestion management project. As such, he requested that the last clause of Goal 7G-16 be dropped with the adoption of the General Plan.

Mr. Ohlson also noted significant concern with respect to the implementation of the General Plan. He recommended that a City staff member be designated by job title to read the General Plan regularly and often enough to ensure that the concepts of the General Plan were implemented. Specifically, Mr. Ohlson referred to Century Boulevard and the new Auto Mall and stated that in the 1998 General Plan and in the new Draft General Plan, Century Boulevard had been designated as a planned bicycle facility.

Mr. Ohlson commented that it did not appear as if the new construction between Leland Road and the waste drain by the theaters would be wide enough to include bicycle lanes, since confirmed by City planning staff. Mr. Ohlson stated that he had used the presence of Century Boulevard on the General Plan as a planned bicycle facility to convince the project manager of the Highway 4 Widening Project to construct the Century Boulevard underpass wide enough to accept

bicycle lanes. He emphasized the importance of bicycle lanes given that Century Boulevard connected the bicycle lanes on Leland Road with those on Sycamore Drive, which was a bicycle route of regional importance.

Mr. Ohlson urged that the City Council direct that the plans be adjusted to include the General Plan mandated bicycle lanes on Century Boulevard between Leland Road and the waste way by the theaters. He explained that to accept bicycle lanes the right lane would have to be 16 feet in width from the inner lane to the curb.

MICHAEL KEE, Pittsburg, as the former Chair of the Planning Commission, explained that the changes referenced by staff had been submitted to the Planning Commission for approval and had been rejected at that time. He commented that the question was whether the City should determine how things were to be developed in the area or whether a developer should let the City know what it wanted with the City to comply with that request.

GERALD BURRIS, the owner of property on Railroad Avenue, stated that he and his partner, Peter Haas, had recently purchased the old Lucky store at 1160 Railroad Avenue. He urged the adoption of the General Plan, which would change the zoning of that property from High Density Residential to Service Commercial and allow the rehabilitation of the building. He stated that while the plan was under consideration, the rehabilitation efforts had been delayed. He sought an expeditious adoption of the plan to be able to proceed.

CHARLES SMITH, Pittsburg, requested the adoption of the General Plan and stated that the plan contained a number of policies and directional devices that would make the plan flexible enough to allow the future development of Pittsburg. He noted that the three items proposed to be added to the plan should not be added. He commented that the items should be standalone projects that should be presented individually but not be incorporated into the General Plan.

WILLIE MIMS, Pittsburg, concurred with the adoption of the plan, as is, without change to avoid problems later on. Noting that he had originally had problems with the plan, he stated that the preservation of the creeks, the hillsides and the open space pleased him and he was able to support the acceptance of the plan, as is, without change.

Mayor Quesada closed the public hearing.

Vice Mayor Aiello noted the limited Marine Commercial zoning designation and suggested that more of that designation should be provided at the waterfront area, particularly with respect to the City's efforts to pursue a foreign trade zone.

Councilmember Rios commended the consultant and staff for the development of the General Plan, although she had some concern with the comments related to a premature closing of the General Plan public review process. As such, she expressed her discomfort voting on the matter at this time.

Councilmember Lewis referenced one of the issues under the fire service in the Executive

Summary at Page 1-18, 11-P-26, where it had stated in part "... cooperation with the Contra Costa County Fire Protection District (CCCFPD) in obtaining a site for a new fire station or replacement for Station 86 south of State Route 4 and west of Bailey Road." He recommended that the statement be revised to read: "... *cooperation with the Contra Costa County Fire Protection District in obtaining a site for a new fire station or replacement for Station 86 in the vicinity of or near State Route 4 and Willow Pass Road.*"

Councilmember Lewis also referenced the points related to bicycle access and noted that as traffic continued to worsen, alternate transportation modes would have to be considered. He emphasized the importance of considering bicycles as an alternative mode of transportation. He inquired how much of the document provided by Mr. Ohlson could be conveniently incorporated into the General Plan and inquired whether or not the inclusion of bicycle lanes on Century Boulevard presented an obstacle for that area.

In response to Councilmember Lewis, Mr. Jerome explained that was not an issue dealing with the General Plan in that the document cited a bicycle lane along Century Boulevard. He clarified that Mr. Ohlson's statement was that the design criteria for Century Boulevard should reflect the statement in the General Plan.

Councilmember Lewis also noted the concern for high density housing in the Central Addition and inquired if that situation could be addressed through an overlay district as opposed to a modification to the General Plan.

Mr. Jerome referenced an area along Solari and Central Avenues, noted that the Commission had taken an appeal for an apartment complex on the 5.5 acre site, explained that the current General Plan called for a Medium Density Residential district and that a garden apartment complex had been approved by the Planning Commission and brought to the City Council on appeal and had subsequently been continued. He stated that the Commission had objected to a lower density on that site. Commenting that General Plan densities had changed somewhat from the current General Plan, he identified the changes that would occur with the new General Plan.

As to whether or not the apartment proposal could be accommodated with an overlay zone, Mr. Jerome stated that could be done although it would be best if the General Plan depicted the type of housing philosophy proposed for that particular property.

Councilmember Lewis noted that while the Planning Commission had supported higher density apartments, the City Council preferred lower density and preferably single family developments on the parcel in question.

Mr. Jerome advised that the Planning Commission had considered that item but had rejected it, and as such the City Council could consider the item without referral back to the Planning Commission. He further explained that the range under the Medium Density Residential designation was 7 to 14 units per acre while a Low-Density Residential designation was one to 7 units. He characterized the subject site as small and stated that it was not a big issue. If the land use was changed to Low Density Residential, no apartment complex could be developed on that site, although a High-Density Residential project could be developed. The Council could make that

determination without referral back to the Planning Commission.

Councilmember Beals commended the staff and the Planning Commission for their hard work over the last several months. She supported proceeding with the approval of the General Plan, as is, without the inclusion of the three changes that had been submitted. She suggested that the irony of the density spoke for itself and as a proponent of open space for the ridgelines, she supported the staff recommendation to approve Resolutions 01-9489 and 01-9490.

Vice Mayor Aiello referred to the language requiring "cooperation" with the Mt. Diablo Unified School District (MDUSD) for a school site and supported stronger language to accomplish the actual development of a school site. He emphasized the need to accomplish that school site and he did not support busing to MDHS given the fact that the school site could be accommodated. As such, he could not support the General Plan, as is, given his concern for a lack of Marine Commercial designations along the waterfront and with the language related to the MDUSD's school site.

When asked, Assistant City Attorney Carol Victor noted with respect to the appeal that it was not before the Council at this time and it would not be appropriate to discuss the merits of the appeal. With respect to rezoning the area, she stated that could be done although there would be a legal issue as to whether or not the new designation could be applied to the pending appeal. She emphasized that the application of that zoning to the current application would be questionable.

Councilmember Lewis sought clarification of the General Plan for the future and sought a determination of whether or not a redesignation to a single-family designation was possible on the referenced site. He was concerned with the Council considering the approval of a General Plan related to a parcel that had been proposed for something else in the future.

Ms. Victor stated that the Council would be subject to the zoning of the application at the time it was submitted. She also pointed out, when asked, that for the General Plan to be adopted there would have to be a minimum of four votes of the Council.

On motion by Councilmember Beals, seconded by Councilmember Lewis to adopt Resolutions 01-9489 and 01-9490, with the inclusion of the referenced parcel on Central Avenue/Solari Street separate from the existing appeal, and with the inclusion of language recommended to be included in Policy 11-P-26.

The motion failed by the following vote:

Ayes: Beals, Lewis

Noes: Aiello, Rios, Quesada

Councilmember Rios sought more time to incorporate all of the concerns prior to considering the document.

On motion by Councilmember Rios, seconded by Mayor Quesada to return the General Plan to the Planning Commission to incorporate more of the Marine Commercial designation, the bicycle lanes on Century Boulevard, the language with respect to the fire station for Policy 11-P-26, and consideration of the parcel at Central Avenue/Solari Street, along with any other issues that might be raised. She further requested the involvement of the Community Advisory Commission (CAC) to

solicit more input from the community. The motion carried by the following vote:

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

The public hearing on the General Plan adjourned at 7:25 P.M.

Respectfully submitted,

Lillian Pride, City Clerk

Als

**CITY OF PITTSBURG  
Housing Authority Minutes  
September 17, 2001**

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

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

MEMBERS ABSENT: None

STAFF PRESENT: Executive Director, Willis Casey  
Acting Assistant Executive Director, Nasser Shirazi  
Legal Counsel, Linda Daube  
Assistant Legal Counsel, Carol Victor  
Assistant Legal Counsel, Russell Townsend  
City Clerk, Lillian Pride  
Acting Director, Planning & Building, Randy Jerome  
Director of Economic Development, Garrett Evans  
Economic/Redevelopment Coordinator, Brad Nail  
Director of Finance, Jim Holmes  
Director of Leisure Services, Paul Flores  
Director of Personnel Services, Marc Fox  
Assistant City Engineer, Wally Girard  
Senior Civil Engineer, Joe Sbranti  
Traffic Engineer, Paul Reinders  
CDBG Coordinator, Annette Landry  
Administrative Assistant I, Tiffany Ashworth  
Harbormaster, Van DePiero  
Police Chief, Aaron Baker

PLEDGE OF ALLEGIANCE

Rose Scudero led the Pledge of Allegiance.

Mayor Quesada advised that Planning Commissioner Allan Valentine's sister was among the missing in the tragedy of the World Trade Center. He sought a moment of silence in memory of those lost in the terrorist attacks in New York, Washington, D.C. and Pennsylvania.

CITIZENS REMARKS

There were no citizen remarks.

MEMBERS REMARKS

There were no Members remarks.

CONSENT

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

- a. DISBURSEMENT LIST      Periods Ending: July 31, 2001 and August 31, 2001

Approved Disbursement List Periods Ending July 31, 2001 and August 31, 2001.

b. MINUTES Dated: July 16, 2001

Approved Minutes Dated July 16, 2001.

c. RESOLUTION 01-197 Utility Allowance Annual Update

Adopted Resolution No. 01-197.

ADJOURNMENT

There being no further business, the Pittsburg Housing Authority adjourned at 7:30 P.M. to October 15, 2001.

Respectfully submitted,

Lillian J. Pride, Secretary

als

**CITY OF PITTSBURG**  
**Redevelopment Agency Minutes**  
**September 17, 2001**

Chair Frank Quesada called the meeting of the Redevelopment Agency to order at 7:31 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: Executive Director, Willis Casey  
Acting Assistant Executive Director, Nasser Shirazi  
Legal Counsel, Linda Daube  
Assistant Legal Counsel, Carol Victor  
Assistant Legal Counsel, Russell Townsend  
City Clerk, Lillian Pride  
Acting Director, Planning & Building, Randy Jerome  
Director of Economic Development, Garrett Evans  
Economic/Redevelopment Coordinator, Brad Nail  
Director of Finance, Jim Holmes  
Director of Leisure Services, Paul Flores  
Director of Personnel Services, Marc Fox  
Assistant City Engineer, Wally Girard  
Senior Civil Engineer, Joe Sbranti  
Traffic Engineer, Paul Reinders  
CDBG Coordinator, Annette Landry  
Administrative Assistant I, Tiffany Ashworth  
Harbormaster, Van DePiero  
Police Chief, Aaron Baker

PUBLIC COMMENT

FRANK GORDON, speaking as the President of Pacific Community Services, Inc. (PCSI), advised that PCSI had worked with City staff over the last three months to explore funding sources to renovate the California Theater. He presented a letter dated September 17, 2001 to the City Council and read the letter into the record. He advised that PCSI and the theater had been nominated by State Senator Torlakson for a \$350,000 State Urban Recreational and Cultural Center grant to provide funds to further stabilize the building by undertaking seismic retrofit work. The grant required that PCSI obtain conditional site control of the property for a 20-year period, conditioned on the award of grant and further funds to complete the project.

required to stabilize the structure. He advised that a portion of the stabilization work had been accomplished by the City. A portion of the required work required a seismic retrofit of the building, which portion was the subject of the grant. An update of the stabilization study was required to ensure compliance with the current 1998 California Building Code, which study would be funded by PCSI.

Mr. Gordon requested that the City grant conceptual approval to PCSI for site control under a lease with option to purchase agreement to allow the renovation of the California Theater for use by the community as a performing arts facility. As such, he requested that the item be placed on the agenda of the next Council or Redevelopment Agency meeting to allow sufficient time to prepare the application to the State Department of Parks and Recreation.

Vice Chair Aiello commended the project and concurred with the expediency required to seek the Agency's approval of the retrofit work. He supported the request to place the item on the agenda for consideration at the next meeting of the Agency.

Member Beals concurred and supported the project as an anchor to revitalize the downtown and to continue to support the efforts of the performing arts and create a culture in the downtown. She encouraged the City to move forward to place the item on the next meeting agenda for consideration.

City Attorney Daube advised that there was a minimum of three weeks required to notice the item for hearing, which would place the item for the Council's second meeting in October.

Mr. Gordon clarified that the deadline for the application was November 1, 2001.

City Attorney Daube expressed a willingness to work with staff to ensure that the item be agendaized and addressed prior to the deadline.

Vice Chair Aiello urged consensus from the Agency to direct staff to meet with PCSI to address the issues and to meet the required timeline.

SHAWN JACKSON, a Pittsburg resident, referenced the Safeway store in his community and noted the extreme offensive nature of materials and lewd material being displayed at the store. He advised that he had approached the store manager and had contacted the City Police Department and the Code Enforcement Bureau. He sought some way to address his concern.

As an employee of Safeway, Vice Chair Aiello recommended that Mr. Jackson speak to the Public Affairs Manager for Safeway in Pleasanton as the most appropriate person to address his concerns.

There were no citizen remarks.

MEMBERS REMARKS

There were no Member remarks.

CONSENT

All items were pulled for discussion.

- a. MINUTES Dated: September 4, 2001

On motion by Member Beals, seconded by Member Rios to approve the minutes dated September 4, 2001, carried by the following vote:

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

- b. RESOLUTION 01-793 Awarding Contract 01-05, Neighborhood Center Improvements

WILLIE MIMS, representing the Black Political Association (BPA) inquired of the bidding process for the project and commented that he understood that no bids had been received. He also clarified that the resolution appeared to be in error with one reference to \$350, while another was to \$350,000.

Senior Civil Engineer Joe Sbranti clarified that the correct reference was to \$350,000. He also noted that no bids had been issued although the City advertised through numerous Bay Area bid exchanges, as well as the newspaper. Because of the size of the project and a public contract, he explained that it had been difficult to find bidders. In this case, there had been no success in finding bidders. He characterized the proposal as akin to a small bathroom remodel at the Neighborhood Center to serve a non-profit daycare center that had been in operation for the last 25 years.

In further response to Mr. Mims as to qualified contractors, Mr. Sbranti reported that the State Board determined qualifications by licensing processes, and individuals would have to be able to put forth the required bonds to ensure the work.

On motion by Member Rios, seconded by Member Beals and carried unanimously to adopt Resolution 01-793.

- Redevelopment Agency Minutes Page 3 September 17, 2001  
c. RESOLUTION 01-794 Award of Contract 00-15; Fifth Street Parking Lot to North Bay Construction, Inc.

Member Beals inquired of the scope of the work and expressed concern as to whether or not

the parking lot would include landscaping to ensure an attractive component to the parking lot.

In response, Joe Sbranti advised that the estimate of the parking lot had come in higher than anticipated and the costs were being modified to include some landscaping. Mr. Sbranti explained that would involve a very small change in terms of landscaping. Staff would work with the Public Services Department and Park Planner Joel Summerhill to provide two small areas of landscaping and a landscaping strip.

Member Beals requested to be apprised of the final proposal to include landscaping.

Vice Chair Aiello suggested that the elimination of the L-strip would allow a significant savings and an increase of landscaping.

Mr. Sbranti clarified that two to four parking spaces had been proposed to be eliminated. The savings involved the realignment of the storm drain for the parking lot instead of underground pipe.

In response to Member Rios as to the supposed reduction of cost coupled with the current request for an additional \$27,000, Mr. Sbranti explained that given the increase in the estimated cost for the project, the additional funds had been requested although cost savings were expected to occur with the final development. Any excess would be returned to the fund from which it had been taken.

Member Rios expressed concern with continual increases in projects and could not approve the request at this time.

Vice Chair Aiello inquired what would occur if all nine bids were rejected.

Member Lewis commented that the Agency had sought the development of the parking lot for some time. He expressed confidence in the Department's ability to return to the funds to the General Fund if not expended. He supported the resolution with the prior comments.

Mr. Sbranti advised that if not accepting the current low bid, the project would miss this construction season and there could be some loss with respect to competitive bids and the scheduling aspect of the proposal.

On motion by Vice Chair Aiello, seconded by Member Rios to deny Resolution 01-794, with the item to return to the Engineering Department for a redesign without the L-strip, that all bids be eliminated and that the redesign incorporating the concerns for landscaping be rebid. The motion carried by the following vote:

Ayes: Aiello, Beals, Quesada, Rios

Noes: Lewis



**CITY OF PITTSBURG**  
**City Council Minutes**  
**September 17, 2001**

Mayor Frank Quesada called the meeting of the City Council to order at 8:09 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: City Manager, Willis Casey  
Acting Assistant City Manager, Nasser Shirazi  
City Attorney, Linda Daube  
Assistant City Attorney, Carol Victor  
Assistant City Attorney, Russell Townsend  
City Clerk, Lillian Pride  
Acting Director, Planning & Building, Randy Jerome  
Director of Economic Development, Garrett Evans  
Economic/Redevelopment Coordinator, Brad Nail  
Director of Finance, Jim Holmes  
Director of Leisure Services, Paul Flores  
Director of Personnel Services, Marc Fox  
Assistant City Engineer, Wally Girard  
Senior Civil Engineer, Joe Sbranti  
Traffic Engineer, Paul Reinders  
CDBG Coordinator, Annette Landry  
Administrative Assistant I, Tiffany Ashworth  
Harbormaster, Van DePiero  
Police Chief, Aaron Baker

CITIZENS REMARKS

PHYLLIS GORDON, Pittsburg, noted her understanding that the City Council had formed an Ad Hoc Committee to address issues with respect to the Contra Costa Consolidated Fire Protection District (CCCFPD). She sought two appointments from the applicable quadrant from the Community Advisory Commission (CAC) to that Ac Hoc Committee.

Mayor Quesada advised that he and Councilmember Lewis were members of the Ad Hoc Committee. He sought a written request from the CAC to clarify its request for participation.

she emphasized the need for citizen input into that Committee. She requested that the CAC be included as part of the Ad Hoc Committee.

Councilmember Beals thanked Ms. Gordon for her comments and noted that she shared the concern for input from the CAC on the Ad Hoc Committee.

WILLIE MIMS, Pittsburg, noted that he had recently met with the City Attorney at which time many of his previously expressed concerns had been addressed. He commented that he was otherwise disappointed in the City Council's failure to adopt the General Plan. He expressed his hope that the General Plan could be adopted in the near future. He also expressed his disappointment that the City Council had failed to cooperate fully in the fee proposal by the East Contra Costa Regional Fee and Financing Authority (ECCRFFA).

### COUNCIL REPORTS

Vice Mayor Aiello identified the events that he had attended, including the Seafood Festival and the dedication of the Los Medanos Energy Center. He 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. He reported that Japan had also agreed to sign the same agreement. While Councilmember Rios would travel to Korea in October, paying her own way, he would travel to Japan and pay his own way.

Councilmember Rios stated that she had attended the Zinfandel dinner catered by the Liberty Hotel. With respect to the Seafood Festival, she commended the Pittsburg Police Department and the Public Services Department, which had done an extraordinary job. She 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. She emphasized that members of the Council were part of the community and attended as many events as possible on behalf of the citizenry.

Councilmember Beals congratulated the City of Pittsburg, the Chamber of Commerce, City staff, the City Council, residents and visitors to the Seafood Festival, which had been well done. She 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. She thanked all those for their support, particularly Lillian Pride for her support in that regard.

Councilmember Beals reported that she had also participated in the local ceremony for Pastor Bynum of the True Light Baptist Church, who had passed away on September 11, a day when many others of the United States community had lost their lives. She requested that the meeting be adjourned in memory of Lawrence Bynum of the True Light Baptist Church.

Councilmember Beals also took this opportunity to request that the City assist Concerted Services that had served the community for over thirty years and which might have to close its doors due to a lack of funding. Councilmember Beals stated that Concerted Services had requested that

the City provide six months of funding to allow them to provide food and other services to homeless people for the next six months while other funding sources were being pursued. She recommended that \$500 per month for at least six months be provided to allow Concerted Services to continue to serve the community.

Councilmember Lewis noted that he had attended the Seafood Festival. He commended all those involved with the smooth running festival, which was one of the most successful festivals in the Bay Area.

Councilmember Lewis reported that he had also attended the dedication ceremonies for the plaque at the Police Department in memory of Taylor Davis. He complimented Councilmember Beals for hosting that event.

Councilmember Lewis commended the opening of the Los Medanos Energy Center and expressed concern that one of the bills that was to have been adopted by the Legislature, AB 81, had been tabled and that the funds in that legislation might be reallocated to the County. Having spoken with State Senator Torlakson, Assemblyman Canciamilla and Supervisor Glover, he stated that those elected officials pledged to work tirelessly to ensure that the property taxes would accrue to the City in which the power companies were located and not to the County. He noted that would represent the difference of the City receiving \$7 million as opposed to \$300,000 per year. He sought the return of the property taxes to the City as originally intended.

Speaking to the issue of the CCCFPD, Councilmember Lewis stated that he had been the Council liaison to the Fire District for the last eight years. He stated that a full presentation by the CCCFPD was expected at the October 1 meeting, at which time more information would be provided.

Mayor Quesada stated that he had attended some or all of the events mentioned, including the candlelight vigil on Friday in response to the terrorist attacks on September 11. He commented that because the City was an industrial area, the City was prepared and the City's emergency contingencies were in place.

Speaking to the Seafood Festival, the Mayor stated that the festival had been well-attended. He added that the contingency from Korea had been pleased to attend the dinner. He commended the City staff who had made the Korean contingency feel at home. He also complimented the commemoration of the plaque at the Police Department in memory of Taylor Davis.

Mayor Quesada further referenced the ceremony in memory of Pastor Perkins, the rededication of the Los Medanos Energy Plant, and the YMI and YLI picnic, among other events.

1. National Hispanic Month

Councilmember Rios read the proclamation for National Hispanic Month.

2. Roseanne and George Harris 50<sup>th</sup> Wedding Anniversary

A proclamation was issued to commemorate Roseanne and George Harris' 50<sup>th</sup> Wedding Anniversary.

PRESENTATION

1. Los Medanos Health Care Clinic

Supervisor District 5 Federal Glover noted the concerns for the Los Medanos Health Care Clinic and introduced Dr. William Walker to address the concerns.

DR. WILLIAM WALKER, Director of Health Services from Contra Costa County, commented that he had been a physician at the Civic Avenue site for the Health Center, which had moved to School Street and which would now move to the Los Medanos site. He defined health care in three categories; the true emergent care where life threatening emergencies had to be addressed, routine primary care where appointments could be made with the applicable physicians, and the County's urgent care program currently being operated throughout the system for same day appointments.

Dr. Walker reported that clinic hours would be six days a week, 9:00 A.M. to 5:00 P.M. with some overflow appointments to accommodate heavy appointment loads. He commented that the care to be provided would be consistent with the type of care provided by other health care providers.

DR. STEVEN TREMAIN stated that a wide range of services would be provided at the site including primary care services, pediatric medicine, family medicine, a wide variety of specialty clinics, and the development of a Women's Health Center within the Los Medanos Health Care Clinic.

Dr. Tremain noted that there were three other systems of support for the services to be provided at the Los Medanos Health Care site, which would be a delivery system where emergency medical conditions could be identified and where the clinic would be able to supplement the support of the County Hospital in Martinez. He noted that all those arrangements would be developed prior to the opening of the health center, where 24/7 support would be provided by advice nurse phone coverage.

MARY ERBEZ, Pittsburg, reported that she had met with Dr. Walker on several occasions when urgent care on a 24/7 basis had been proposed, particularly to address the uninsured residents of the community. She expressed concern for the reduced hours, supported the retention of urgent care, and noted that copies of the original agreements had stipulated that urgent care would be provided while the lease agreement had indicated that urgent care "may be provided."

Ms. Erbez complimented the County for bringing the building up to date, but was otherwise concerned with the lack of urgent care to be offered. She added that she would approach the Board of Supervisors to express her concerns for the commitments that had been made to the community. While she understood that emergency services could not be provided, she emphasized the need for urgent care services to accommodate the residents, particularly those with children, where the urgent care would be critical.

Ms. Erbez urged the Council to advise the County of the commitment that had been made to the City of Pittsburg many years ago to provide a 24/7 urgent care operation at the Los Medanos Hospital.

Councilmember Lewis concurred with the need to expand urgent care hours to accommodate the late afternoon early evening periods when urgent medical situations typically arose. He commented on a rumor that he had heard related to a move of the Mental Health facility to the Los Medanos site. He expressed concern with that possibility given the close proximity of schools to the site. He expressed his hope that the County would hold true to its commitment not to move the mental health facility to the site. He stated that he had heard that other mental health facilities would instead be located at the site and he sought a commitment from the Board of Supervisors that drop in psychiatric care would not be allowed at the Los Medanos Health Care site.

Vice Mayor Aiello inquired with respect to transport to the Martinez facility what type of transport would be involved, to which Dr. Tremain explained that the transport service would be dictated by the medical acuity of the patient. He stated that many times the transport would be by ambulance.

Vice Mayor Aiello inquired whether or not the Los Medanos Healthcare District had been approached to set up a special fund to help those who could not fund the required transport, although Dr. Tremain clarified that the decision to transport would be a medical decision and not a financial decision.

Vice Mayor Aiello urged some funding approach to help those who could not afford the transport costs.

With respect to potential psychiatric treatment at the facility as rumored, Vice Mayor Aiello also sought some commitment from the County that would not occur. Further with respect to the bankruptcy documents, he inquired if urgent care was required as part of the bankruptcy settlement.

In response, Dr. Walker stated that the bankruptcy settlement had not referenced urgent care, although the Memorandum of Understanding (MOU) had addressed urgent care where the County would be willing to entertain a lease arrangement with any medical group that approached it wishing to establish an urgent care center at the facility. If that were not to occur, the County would develop its own urgent care program, which had been done with advice nurses, same day appointments and transport to the Martinez facility if and when the need should occur.

Dr. Walker added if it became evident that there was an increased demand for more urgent care services and same day appointments, that offering could be expanded. He commented that after hours cases were primarily emergent care cases where a visit to an emergency room in a hospital was required.

With respect to mental health, Dr. Walker stated that he had participated in the hearings in Pittsburg regarding mental health facilities, all of which had to do with the question of whether or not the County would move in-patient mental health clients from Martinez to Pittsburg.

Dr. Walker stated that the County had clearly heard from the community that an in-patient mental health facility was not desired although it had never been stipulated that mental health patients would not be seen at the clinic. He stated that the mental health clinic could not be contained in the old School Street facility for perpetuity and a move of that facility was being considered. He emphasized that in-patient cases were not being considered at the site.

Vice Mayor Aiello explained that there was to be a resolution of the move of the mental health facility from the School Street site. He urged meetings to commence the process to address that concern.

Supervisor Glover stated that he too had worked on those issues. He advised that a meeting had already been scheduled with City staff to address those issues in partnership between the City and the County to address that facility, understanding that the School Street site was an area of health care that might need to be continued in some way and at some point. He emphasized that dialogues were continuing to find solutions to other than a vacant lot.

Councilmember Rios commented that she had also attended many of the meetings with respect to the use of the Los Medanos Hospital. She 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.

Supervisor Glover stated that the previous Council had worked hard with the County to resolve a number of issues. He urged a continued partnership to address the outstanding issues. He stated that a commitment had been made with respect to the provision of urgent care and he pledged to address the feasibility of how that would be addressed, particularly whether or not an extension of hours might be required. He expressed a willingness to work with the City in relation to the health care facility.

Mayor Quesada advised that the Council would support a letter to be offered by Mary Erbez, as noted.

MICHAEL LENGYEL, a member of the District Liaison Committee with the Los Medanos Health Care District emphasized that the District needed support. He stressed that the Health Care District and the County needed to work together to address some of the issues. He commented, for instance, that a no-fee service with no cost to the patient was to be provided. He urged that the City also work with the District Liaison Committee to address the issues.

## 2. Historical Society

ROSE SCUDERO, President of the Pittsburg Historical Society, commented that the Society had been offered a grant from the State.

Ms. Scudero stated that there were concerns with the use of the money and there was a need for an appropriation of funds to address unbudgeted items, such as the failure of the building façade. Given the concern and the lack of funds, she requested that the City's loan be converted to a grant to allow the Society to address its needs. She added that once the museum had opened, the funds could be generated to address the need.

Mayor Quesada stated that such a request would have to be addressed as an agenda item at a future meeting.

Councilmember Lewis commended the volunteers working to open the museum. He sought some way for staff to be able to address the request as soon as possible to allow the Society to apply the funds to the mortgage. As a strong supporter of the Historical Society, he expressed support for the request.

Councilmember Rios concurred and requested that staff determine if and how the City's loan could be converted to a grant, as requested.

## 3. Pittsburg Marina Report

BRAD NAIL, the Economic and Redevelopment Coordinator for the City presented a ninety-day update on the activities of the Marina. He noted that Van DePiero had been hired as the City's Harbormaster, that the permit to dredge the Marina, specifically the George Lowey basin, was anticipated by the end of the year with the six to nine month dredging process to commence in the Spring of 2002, and that much-needed improvements to the marina had been proposed.

Harbormaster Van DePiero presented a status report of the boats in the harbor and explained that he had cleared the George Lowey basin to accommodate dredging. He noted the status of boats in the harbor, some which were derelict. He stated that he had vacated the basin without a loss of revenue. He also reported that the rental agreement process had been revamped to require a picture of the boat, to require proof of Department of Motor Vehicle (DMV) registration and to require proof of insurance to avoid the derelict boat problem.

Mr. DePiero advised of a security problem with the River View Harbor where the gates would be rekeyed to improve security in that area and where a very high police presence was being established. He further noted the storage area provided to address storage concerns, stated that

repairs were being handled immediately, explained that past due accounts were being addressed in a more aggressive manner, and added that the dredging permit process was on schedule. He further described the status of the marina equipment, the docks and other areas of the marina, and the office files, among other improvements.

Councilmember Rios commended Mr. DePiero for his outstanding work. She also referred to the development of the marina and sought Council consideration of that item to encourage the use of the marina and the increased revenues that would result to allow improvements to the marina. As such, she requested that item be placed on a future Council agenda to discuss the enhancement of the area of the marina.

### CONSENT CALENDAR

On motion by Councilmember Lewis, seconded by Councilmember Rios and carried unanimously to adopt the Consent Calendar, Items a, c, e, f, g, h, j, k, m and n, with Items b, d, i, l and o pulled for discussion.

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

Approved Disbursement List Periods Ending September 4, 2001 and September 15, 2001.

- c. RESOLUTION 01-9476            Reimbursement Agreement Between City of Pittsburg and Praxair Inc. for Relocation of Nitrogen and Oxygen Pipelines for Kirker Creek Flood Control Project

Adopted Resolution 01-9476.

- e. RESOLUTION 01-9478            BID Chamber of Commerce

Adopted Resolution 01-9478.

City Council Minutes

Page 8

September 17, 2001

- f. RESOLUTION 01-9479            Contract for Legal Services with Sherman & Feller

Adopted Resolution 01-9479.

- g. RESOLUTION 01-9480            Authorizing the Purchase of Ornamental Streetlight Poles from NCS of Auburn, California

Adopted Resolution 01-9480.

- h. RESOLUTION 01-9481            Acceptance of Grants of Easement for the Delta Energy Center

Adopted Resolution 01-9481.

- j. RESOLUTION 01-9483 Approving the East Contra Costa Bikeway Plan

Adopted Resolution 01-9483

- k. RESOLUTION 01-9484 Redevelopment Plan Amendment Publication and Notice of Joint Public Hearing

Adopted Resolution 01-9484.

- m. RESOLUTION 01-9486 Subdivision 8392; San Marco Unit 3 Approval of Final Map, Improvement Plans and Subdivision Improvement Agreement

Adopted Resolution 01-9486.

- n. RESOLUTION 01-9487 Subdivision 8393; San Marco Unit 4 Approval of Final Map, Improvement Plans and Subdivision Improvement Agreement

Adopted Resolution 01-9487.

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

- b. MINUTES Dated: September 4, 2001

Councilmember Rios requested the following amendment to the second vote on Page 16 of 17, as follows:

*Council Member Rios seconded.*

City Council Minutes Page 9 September 17, 2001

On motion by Councilmember Rios, seconded by Mayor Quesada to approve the minutes dated September 4, 2001, as amended, carried by the following vote:

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

- d. RESOLUTION 01-9477 Reallocation of Budgeted Positions with Various Departments

Councilmember Rios stated that she had requested that the item be pulled with respect to one position only, the Housing Authority position from Accounting Tech to Accountant I. She inquired if the position required an accounting background or degree.

Marc Fox, Director of Personnel Services, explained that when staff had made a classification

analysis of the position, a further review had found that the position required a higher level of accounting skills, and the Department of Housing and Urban Development (HUD) had recommended that the person performing the duties be an accountant.

Mr. Fox affirmed that the person doing the work did have a degree in accounting and was performing the functions at an accounting level. He explained that in this case, the item involved additional regulations in particular to HUD requirements. He added that if there was a request by an employee or by a Department whether or not those functions would be broader or outside the traditional role of what the Finance Department provided would be addressed. In this case, the role of the position was outside the essential functions of the Finance Department.

Councilmember Rios requested that the one Housing Authority position be referred to the Audit Committee because she wanted to see something across the board for those types of positions to report to the Finance Director and not to the Director of the Department.

On motion by Councilmember Rios, seconded by Mayor Quesada to accept the positions related to the Leisure Services and Economic Development Departments and to postpone the position related to the Housing Authority until the Audit Committee had an opportunity to address the details. The motion carried by the following vote:

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

- i. RESOLUTION 01-9482 Approving the East-Central Traffic Management Study and the Preferred Alternative for Control Point Metering in East County

On motion by Vice Mayor Aiello, seconded by Councilmember Rios and carried unanimously to adopt Resolution 01-9482.

City Council Minutes

Page 10

September 17, 2001

- 1. RESOLUTION 01-9485

Approval of Memorandum of Understanding between USS Posco Industries and the City of Pittsburg

CHARLES SMITH, Pittsburg, referred to the approval of the MOU between USS POSCO Industries and the City of Pittsburg. With respect to the recommendation for approval, he noted that USS POSCO was the largest employer in the City. He suggested that the feasibility study was a great idea and was needed, although some assumptions had been a concern given the feasibility study and the possibility of creating high paying jobs. He requested that the MOU be referred to staff, noted that USS POSCO had requested a lot from the City and that USS POSCO was not obligated to spend any portion of the amount of the study. He opposed that situation and suggested that USS POSCO should also commit to some degree with the funding or otherwise provide a greater degree of commitment.

Economic and Development Director Evans reported that USS POSCO had and would be putting up a great deal of money. He referenced environmental and other studies, including two

different market studies where the City was trying to provide off-site studies to get the businesses in and to develop the 170-acre site. In partnership, the City was working with USS POSCO to develop the largest vacant parcel in the City.

WILLIE MIMS, Pittsburg, also had a concern with the MOU with USS POSCO and what appeared to be a lack of commitment and obligation from USS POSCO. He inquired, for instance, who would fund the Environmental Impact Report (EIR), the environmental remediation plans and other components.

Councilmember Lewis noted the statement where each party was to commit to its portion of the MOU and suggested that the resolution had awkward wording, but that USS POSCO would also commit to spending funds on the proposal.

On motion by Councilmember Lewis, seconded by Councilmember Rios and carried unanimously to adopt Resolution 01-9485.

- o. RESOLUTION 01-9488            Subdivision 8423; San Marco Unit 5 Approval of Final Map, Improvement Plans and Subdivision Improvement

Acting Assistant City Manager Nasser Shirazi reported that staff had requested that the approval of the Final Map for San Marco Unit 5 be removed from the agenda given that there were some issues with the park and land considered to be dedicated to the City. He noted staff's belief that the land to be considered required filling and there was a question of related financial responsibility. As such, it was recommended that the item be removed from the agenda.

MARILYN CLEVELAND, with the law firm of Miller, Brown and Dannis, 71 Stevenson Street, Nineteenth Floor, San Francisco, speaking on behalf of the Mt. Diablo Unified School District (MDUSD), stated that the MDUSD agreed with the recommendation for continuance so

City Council Minutes

Page 11

September 17, 2001

that the issues with respect to the grading of the school site and the fill of the park site could be resolved prior to final Council action. She noted that the applicant had agreed to provide the district a school site, which was only 6.3 acres and would only be a suitable school site if the adjacent park was developed and if an agreement with the City could be reached to allow the use of the park as a playground during the day.

At this point, Ms. Cleveland reported that the site was a large hole in the ground, which needed to be filled, and there was an issue as to how the park site could be filled. She stated that the school could not be developed without the park and she urged some delay of the approval of the final map until that issue could be resolved. She commented that the other issue was the sequence of the park development, which should be developed along with the school site.

On motion by Vice Mayor Aiello, seconded by Councilmember Rios and carried unanimously to continue Resolution 01-9488 to the meeting scheduled for October 1, 2001.

PUBLIC HEARING

Mayor Quesada advised that the next two items would be considered concurrently with separate actions for each.

3.     RESOLUTION 01-9491           Consideration and Approval of Program Year 2000-2001 Consolidated Annual Performance and Evaluation Report (CAPER)
  
4.     RESOLUTION 01-9492           Consideration and Approval of the 2001 CDBG Action Plan Revisions

Community Development Block Grant (CDBG) Coordinator Annette Landry requested the approval of the 2000-2001 Consolidated Annual Performance and Evaluation Report. She took this opportunity to thank her staff for their hard work and explained that the CAPER was an annual report required by HUD to report to HUD on the activities approved by the City Council from July 1, 2000 to June 30, 2001.

Ms. Landry reported that the CAPER provided statistical data as to who had received assistance during the reporting period and advised that during that time the City had received \$714,000 in CDBG funds. Combined with other unexpected funds, estimated program income and Redevelopment Agency funds, there was a total operating budget of \$1,349,800. Annual expenditures totaled \$1,030,802.29. The balance of unexpended funds would either be returned to the CDBG program for reprogramming or be carried over to the next program year. Approval of the CAPER was recommended.

With respect to the revisions to the CDBG Action Plan, Ms. Landry reported that the City Council had approved the 2001 CDBG Action Plan on May 7, 2001 and had forwarded the approved Action Plan to HUD for its approval. In HUD's review of that plan, a few changes had been recommended.

Those changes had included a reduction of the program year 2001/2002 funding allocation from \$743,000 to \$741,000. No projects had been affected in that the reduction had been made to the planning and administration budget. Other changes involved an incorrect categorization and a change of two projects to the Public Service Category, the use of program income from a Revolving Loan Fund (RLF), the reallocation of \$13,000 from the Pittsburg Historical Society and reason for its ineligibility, and various minor changes related to HUD matrix codes. Approval of the revisions to the Action Plan with the HUD required changes were recommended.

Mayor Quesada opened the public hearing for Resolutions 01-9491 and 01-9492. There were no comments for or against the resolutions. Mayor Quesada closed the public hearing.

On motion by Councilmember Rios, seconded by Councilmember Beals and carried

unanimously to adopt Resolution 01-9491.

On motion by Councilmember Lewis, seconded by Councilmember Rios, and carried unanimously to adopt Resolution 01-9492, with the reallocated \$13,000 to be applied to the City's Code Enforcement Division, as recommended by the CAC.

5     ORDINANCE 01-1187             San Marco Development Agreement First Amendment

Associate Planner Chris Bekiaris reported on the agreement for the San Marco Development, which agreement currently had a duration of October 2002 with a clause to extend the agreement, if so desired. The Planning Commission on September 11 had referred the agreement to the City Council for approval, which agreement had been extended to October 2020 at the request of the applicant.

Mr. Bekiaris noted that San Marco was under construction, models were open, and 2,938 homes on 639 acres had been approved as part of the agreement. He identified a correction in the Ordinance on Page 3 of 4 for a condition that had been amended by the Commission. The last sentence under Section 2. Findings, 13, should have read that *The Planning Commission recommends that the agreement extending the Development Agreement include a provision directing the staff to assist in resolving the issue.*

Mr. Bekiaris stated that the Commission had raised four issues, which issues had been included as amendments to the agreement and which were identified as Conditions 11, 12, 13 and 14 in the Ordinance. Those issues involved the creation of a number of small parks into one larger, more functional park with fewer maintenance requirements; the park adjacent to the school

City Council Minutes

Page 13

September 17, 2001

site was to be dedicated to the City and Seecon would receive full Quimby fee credits for that dedication; that the suspension notice from the State Department of Fish and Game given the discovery of a red legged frog and salamander habitat in the school site had been deemed as an issue between the Department of Fish and Game and the developer and not the City; and the issue of the filling of the school site basin was also an issue that would have to be addressed.

The Commission had recommended the extension of the agreement to 2020.

Mayor Quesada opened the public hearing on Ordinance 01-1187.

MARILYN CLEVELAND, MDUSD requested that the issues of the park site adjacent to the school be resolved prior to the amendment to the Development Agreement. Until that issue had been resolved, she suggested that there was no school site meeting the MDUSD or the school requirements.

ALBERT SEENO, Seecon, the applicant, explained that Seecon had owned the property for 14.5 years. He explained that the Bay Point landfill had been proposed on the site. The purchase of the site had been recommended and had been completed in 1990. A Development Agreement had

been approved after the purchase of the property. To date, two homes had been delivered, sixty homes were under construction and an extension of the Development Agreement had been requested to pursue the completion of the proposal.

Mr. Seeno suggested in light of the comments from the MDUSD that all issues had been resolved. He noted that the MDUSD had tried to impose fees in a declining enrollment, that issue had been challenged and Seecon had prevailed and there had been mutual agreement to stop an appeal, and a 6 acre site had been provided. He commented that the previous administration of the MDUSD had selected the site, that were no and are no flat sites in the area that qualified for a school, and that the flat sites that could qualify were either too close to transmission lines or the freeway, or were too close to previous gas well heads. He commented that there was a landfill on the west side of the property. He emphasized that the MDUSD had selected the site.

Mr. Seeno stated that a letter from the MDUSD had indicated that the State Architect had approved the site for the development of a school. He stated that the site had been purchased as requested. He noted that Seecon had voluntarily entered into an Implementation Agreement that had been approved by the MDUSD Board of Directors and by Seecon. He further noted the cure provision in the agreement and the judicial administration process that Seecon and the MDUSD had entered, which meant that the issue would be adjudicated by a judge and be outside of the purview of the City Council.

There was no one else to speak. Mayor Quesada closed the public hearing.

Councilmember Beals questioned which General Plan would be applicable to the Development Agreement proposed to be extended to 2020 given the current process to update the General Plan.

In response, Mr. Jerome explained that the Development Agreement had been approved in 1990 for the current General Plan. He explained that the proposed General Plan did not follow some of the land uses in the current General Plan and what would be required to ensure compliance with the new General Plan would be a further modification to the Development Agreement. The development now occurring was consistent with the Development Plan.

Mr. Jerome otherwise noted that the San Marco development should be developed in accordance with the approved plan. He reiterated that the Development Agreement would have to return with respect to some changes in the new General Plan.

With respect to the school in response to Councilmember Beals and how further discussions of the school site would apply to those discussions, Mr. Jerome expressed his understanding that those discussions would be ongoing independent of the Council's discussion.

Vice Mayor Aiello urged the MDUSD to settle the issue to permit the construction of the

school for the benefit of the children in the area. He did not believe that the developer was a hundred percent wrong. He noted that the trustees of the MDUSD had previously appeared before the Council representing false facts. He recommended that the MDUSD meet with the developer to work out the differences to allow the project to proceed.

On motion by Vice Mayor Aiello, seconded by Councilmember Rios and carried unanimously to introduce Ordinance 01-1187, as amended, by title only and to waive further reading.

6. RESOLUTION 01-9493 Approving the Application to the Bureau of Justice Assistance for Funding Under the Local Law Enforcement Block Grant Program and Authorization of the City Manager to Act on Behalf of the City in this Application

Police Chief Aaron Baker presented the annual application for the Local Law Enforcement Block Grant Program for \$73,688 through the Federal Bureau of Justice Administration. He reported that he had met with the Advisory Board established to review the proposal, and had recommended that the funds be spent on technology and equipment. Approval of that recommendation was requested.

Mayor Quesada opened the public hearing for Resolution 01-9493. There was no one to speak for or against the resolution. Mayor Quesada closed the public hearing.

City Council Minutes

Page 15

September 17, 2001

On motion by Councilmember Rios, seconded by Councilmember Beals and carried unanimously to adopt Resolution 01-9493.

7. RESOLUTION 01-9494 Resolution of Necessity for Delta Energy Center Overhead Wires at Loveridge Road

Assistant City Attorney Russell Townsend presented the staff report for the adoption of a Resolution of Necessity authorizing the commencement of eminent domain proceedings with respect to a particular strip of property necessary for the Delta Energy Center.

Mr. Townsend advised that on August 11, 2000, the Pittsburg Power Company had entered into a Transmission Line and Development Agreement with Calpine Corporation for the benefit of the Delta Energy Center. In the process of acquiring the necessary easements for the transmission lines, he noted that the ownership of one 20 foot strip under Loveridge Road was unknown and a Resolution of Necessity was required to allow the Council to condemn the property in the public interest given that the land was required and necessary for the project.

Mr. Townsend recommended the adoption of the Resolution of Necessity with the finding that the Council was justified in concluding that the condemnation project would serve the public interest and necessity and that the land be acquired as necessary for the project and that the condemnation project would be compatible with the greatest public good and the least private injury.

Mayor Quesada opened the public hearing for Resolution 01-9494. There was no one to speak for or against the resolution. Mayor Quesada closed the public hearing.

On motion by Councilmember Lewis, seconded by Councilmember Rios and carried unanimously to adopt Resolution 01-9494.

8. RESOLUTION 01-9495 Appeal of Planning Commission Decision regarding the  
Pittsburg Marine Terminal Architectural Plans

Mr. Bekiaris reported that on March 27, 2001 the Planning Commission had on a 7-0 vote approved the construction of a 123,450 square foot building to be used for petroleum coke at the site known as Pittsburg Marine Terminal, located adjacent to the former Diablo Services Corp, now known as Diamond Ultramar. Subsequent to the Planning Commission's approval, two letters of appeal had been received, from George Harris and Mike Lengyel. Mr. Harris' appeal was based on safety, health and hazardous materials, and Mr. Lengyel's appeal had alleged that insufficient information had been provided to the Commission and the public and that a permit from the Bay Area Air Quality Management District (BAAQMD) was lacking.

Mr. Bekiaris presented the background to the approval of a full EIR for the project in 1990, which approval was to permit seven domes to store petroleum coke. To date, three domes had

City Council Minutes

Page 16

September 17, 2001

been built. The applicant had proposed a storage building for an additional three domes, which had been done to allow more efficient storage for grades of coke and to concentrate the material in one, as opposed to three, separate areas. The storage barn to be built had been proposed to be built on Diablo Services property.

Mr. Bekiaris referred to Condition No. 2 on Page 2 of 5 of the resolution and recommended that condition be modified to read that *Applicant shall not proceed with construction of the bulk storage building, truck dump structure and conveyance equipment as defined in this application until Applicant presents acknowledgment of written contract with the owner of what is commonly referred to as Diablo Services for the handling of petroleum coke.*

Mr. Bekiaris stated that this was a de novo hearing and the Council was operating not just on the hearing but on the application in total. He briefly described the architectural features of the site and noted that the building was very large, although consistent with the industrial uses in the area and would fit in with the site. He pointed out that nine domes had been approved for the site and if the shed was not approved, the applicant could build the remaining domes under its current application.

As to the appeals, the issue of safety, health and hazardous materials, Mr. Bekiaris advised that a permit was required under the BAAQMD. As to the assertion of the submittal of incomplete material, he stated that the design review application was for the design issues only and no issues related to the use permit were required. He pointed out that hearings had already been held on the use permit and the design review. All information had been provided to the Planning Commission

and to the public and there was no basis for the appeal. The approval of the project and the denial of the appeals was therefore recommended.

Mayor Quesada opened the public hearing for Resolution 01-9495.

GEORGE HARRIS, Pittsburg, the appellant, suggested that the applicant had not made a good presentation to the Planning Commission of the plan from the Pittsburg Marine Terminal. He had appealed the application based on his concerns and commented that if no contract could be obtained, he sought the termination of the use of the terminal site. He noted that the domes had been approved and that the warehouse had been proposed in lieu of the domes. While he realized that was a cost-effective measure, he inquired whether or not there were other phases associated with the proposal. Mr. Harris sought a condition with a written contract that the domes would not be built. With the presentation of that written contract, he stated that he would withdraw his appeal. He also requested a clarification of Condition No. 19 related to the application.

City Attorney Daube reported that Condition No. 19 stipulated that "All conditions of approval of Planning Commission Resolution No. 8896 approving UP 95-05 shall apply. Applicant does not waive its rights to construct further facilities as defined in the previously approved Planning Commission Resolution Nos. 8896, 8897 and 8898."

City Council Minutes

Page 17

September 17, 2001

Mr. Harris expressed his objection to a potential phasing of the project, to the number of trucks that would be involved, how those trucks would be washed and handled with respect to safety, and the impacts to the adjoining residential neighborhoods.

Vice Mayor Aiello referenced Condition No. 2 and suggested it was obvious to the community that the reason for the appeal was that Diablo Services did not run a clean operation and the coke carbon dust was a concern and a nuisance. He inquired if Condition No. 2 was amended to read that *The applicant shall not pull a permit until a signed contract was submitted to the Economic Development Department with a written contract with the owner, commonly referred to as Diablo Services*, whether or not that would be acceptable to the parties involved.

Mr. Harris concurred with such a scenario to ensure that a written contract was presented.

MICHAEL LENGYEL, Pittsburg, the second appellant, stated that there were several problems with the proposal. He suggested that the application was incomplete without data from relevant agencies, the coke barn was oversized, the barn was 60 feet from the river and was open at both ends, the health effects of the coke dust had not been mentioned in that coke dust could cause many ill effects, such as cancer, and that the site plan was only partial leaving out areas that had been identified in 1995. He suggested that the project would require a use permit and that the proposal would involve more than the 160 trucks that had been associated with the site. He urged that the item be returned to the Planning Commission for a use permit

City Attorney Daube responded to some of the issues raised by Mr. Lengyel and explained that some of his comments were not relevant to the discussion.

An unidentified man representing Koch Carbon advised that the site had been approved for nine domes and the storage building would replace six of those domes. He stated that the second group of three would be traded for the barn. He commented that he was just one of the tenants at the Pittsburg Marine Terminal and could not speak to the future plans of some of the occupants of the site. He stated that they were working on a solution to address the coke dust and any potential health impacts.

The representative offered some background to the site, explained that the site had been cited as being well run, and noted that they now had an opportunity for the indoor storage of the coke material in a cost efficient solution while providing inventory flexibility. He stated that the site met the requirements of the EIR and the City approved project.

It was noted that the site was originally permitted for a mixture of domes and warehouses to meet customer needs and it was the intent of Pittsburg Marine Terminal to pursue the warehouse concept. No other changes were requested or proposed. Simply, three of the domes would be exchanged for the storage building. He added that they would be willing to conform to the condition that had been recommended for a written contract prior to pulling the construction permit.

City Council Minutes

Page 18

September 17, 2001

FRANK GORDON, Pittsburg, presented packets of information and noted that the downtown neighbors had attempted to require that the former Diablo Services Corp. clean up the operation and the site. When the project had been approved, it was the hope that the site would be cleaned up or shut down. He clarified the proposal to trade three domes for one building and he noted that the Pittsburg Marine Terminal was “not the bad guy.” He reported that there was a lawsuit currently in federal court based on the amount of coke entering the river.

Referencing the packet of information provided, Mr. Gordon referenced a letter from the BAAQMD from Diablo Services Corp. with respect to the discharge of any amount of coke dust into any waters of the State was unacceptable. He noted that based on a prior court action, coke dust was not considered to be a hazardous material according to the Environmental Protection Agency (EPA).

Mr. Gordon reiterated that Pittsburg Marine Terminal had used modern technology and best management practices and that Pittsburg Marine Terminal had met with adjoining neighbors to address concerns. He offered statistics of the particulate matter permitted to be released and emphasized that the particulate matter from Pittsburg Marine Terminal was minor compared with what had been released by Diablo Services Corp. and some of the other industrial users in the area.

Mr. Gordon requested that PMT be allowed the ability to negotiate a contract with the new owner of Diablo Services Corp. by allowing the design permit. He stated that PMT had already been permitted with more domes and did not need additional trucks. He also noted that Diablo Services was not restricted to the number of trucks to be used and that there were no conditions to the Diablo Service Use.

ROSS DUBOIS, Pittsburg, representing Bay Harbor Park Homeowners Association, located adjacent to the PMT, supported the warehouse in place of the additional domes and emphasized the

attempts to beautify the downtown. He supported the approval of the project because the homeowners were tired of the coke dust, which was not being emitted by PMT.

TOM LaFLEUR, speaking as a resident of Pittsburg and familiar with Diablo Services and the problems it had caused, noted the long-standing efforts to force Diablo Services to operate under best management practices, although he acknowledged that had never occurred. He suggested it was incumbent upon the City to clean up the area, and he urged that be done. He urged the approval of the project and the attempt to build on the direction of addressing the issues to the benefit of the adjacent neighbors and to the City as a whole.

Mr. Harris reiterated his request for a written contract to indicate that the three domes would be replaced by the warehouse.

City Council Minutes

Page 19

September 17, 2001

PHYLLIS GORDON, Pittsburg, stated that she had been asked by the CAC to speak in favor of the PMT. She supported the addition of the \$13,000 to the Code Enforcement Bureau and noted that some of the industrial users had added to the urban blight in the community and that Diablo Services contributed to the blight and to the health issues in the community.

Ms. Gordon emphasized that the particulates were visible to her that she had photographed the operation, the trucks, taken samples, and requested that the concerns be addressed. She suggested that the PMT be allowed the opportunity to build as being the right thing to do.

Mayor Quesada closed the public hearing.

Councilmember Lewis suggested that the warehouse represented a good tradeoff to three domes and that the warehouse would enclose the open coke pile. He sought an agreement that the building permit for the warehouse be tied to a signed contract to ensure that the business of Diablo Services be taken indoors, which he suggested would represent a good trade-off.

Vice Mayor Aiello clarified with Mr. Harris in Item 2 that PMT shall not receive a building permit contingent upon a signed contract with Diablo Services, which would be acceptable to him. With respect to Item 19, he suggested that there would be three domes left either way, although he emphasized that the cost effectiveness of a warehouse could replace the other three domes.

Given others who wished to speak in response to the Council, Mayor Quesada reopened the public hearing.

JOHN BASS, General Manager of PMT, in response to the Vice-Mayor's suggestion that a warehouse in place of the other three terms would be preferred, noted that the building had been proposed in place of the three domes. He commented that domes were not inexpensive and the issue with respect to the second three domes was how to present their best proposal to the owner of Diablo Services. Mr. Bass explained that the third set of three domes, domes 7,8 and 9, were not in the

same vicinity. One was by the six domes, one was by GWF and the ninth dome was across the street adjacent to the power plant. As such, trading those tree domes for a warehouse facility would not be possible, although a trade-off of separate warehouse facilities might be preferable. Currently he had no specific interest from clients to place material into those domes. If the City had a preference for a warehouse over domes, as the project moved forward, he could request a conversion at that time.

As to whether he would eliminate those three domes from the application and consider other options in response to the Vice Mayor, Mr. Bass stated that they could not eliminate those domes at this point given that the domes were designated for other users, although he would be willing to work with the City to determine whether a dome or a warehouse would be constructed. As to how close PMT was to signing a contract with Diablo Services, Mr. Bass stated that he was not involved, although he was familiar with the proposal from Koch Carbon to move the Diablo Services Corp. material from a pile to their storage units.

City Council Minutes

Page 20

September 17, 2001

Mr. Bass emphasized that the health issues to petroleum coke were greater when stored outside as opposed to being stored inside in a state of the art controlled facility. As such, he suggested that the proposal would be a step in that direction.

In response to Councilmember Lewis, Mr. Bekiaris advised that the plans submitted to the Council were the same plans that had been submitted to the Planning Commission. He also noted that the nine domes had been approved.

Mayor Quesada reclosed the public hearing.

On motion by Councilmember Lewis, seconded by Councilmember Rios, and carried unanimously to approve Resolution 01-9495 with an amendment to Condition No. 2 that there be a signed contract in place before any building permit could be issued to commence the construction of the warehouse.

## CONSIDERATION

### 1. MINUTE ORDER Consideration of ECCRFFA Fee Proposal

Mayor Quesada presented the statement from Federal Glover and Brad Nix, who comprised a Committee from the East Contra Costa Regional Fee and Financing Authority (ECCRFFA), which had met with the Pittsburg City Council twice in open session. He read the statement from the Committee, noted that the Committee had tried to get the City to agree on an equal fee with the other members of the ECCRFFA, and as a result of those meetings, had made the following package offer to the ECCRFFA.

1. To accept the offer from the City of Pittsburg for a fee increase of \$2,500 per residential dwelling unit with the removal of arterial projects from the project list.
2. The remaining members of the ECCRFFA to raise their fees to \$7,500 per residential dwelling unit and \$1.00 per square foot for non-residential fees, with the addition to the funded

ECCRFFA project list of State Route 4/Main Street improvements from one eighth mile west of Vintage Park Way to Lone Tree Way, at a total cost of \$26 million, which would help to alleviate a strong disparity in the information provided by Fehr and Peers regarding the contribution to the various cities.

3. Staff to report back to the ECCRFFA as soon as practicable to study the feasibility of AB 1012 as a means of implementing all of the projects as soon as possible, including the State Route 4/Main Street improvement project, with the adjustments to the project list as required.

Vice Mayor Aiello presented a memorandum to identify his Proposal #3, which was submitted to the City Council at this time. He read the memo into the record and concurred that

City Council Minutes

Page 21

September 17, 2001

members of the Council had held numerous meetings with members of the ECCRFFA. As a third proposal for the fee program, he suggested that Pittsburg consider a \$3,000 fee and add to the list of projects as already discussed for improvements to West Leland and Mirant to Willow Pass Road. He suggested the consideration of a position to allow the private sector to engineer and build projects, which could be done more timely and with less cost to the public, as evidenced by the water tower currently serving the Highlands Ranch.

The Vice-Mayor suggested that the Council must review the process that implemented fees that drove up the cost of housing. He further recommended a discussion with State lawmakers on the issue of funding for counties and cities in an attempt to meet the expectation of the current and future residents. Noting that the ECCRFFA had accepted the prior Pittsburg proposals, Vice Mayor Aiello stated that within those proposals was the statement that Pittsburg had always been at the forefront of regional road construction by requiring the construction of major arterial roads in advance of or concurrent with new development. He stated that the only thing not accepted by the ECCRFFA was the priority given to the new RTMF projects in Pittsburg, which must have been acceptable to Pittsburg.

Vice Mayor Aiello suggested that the ECCRFFA wanted Pittsburg's money but did not want to conduct any Pittsburg projects and had not considered any proposals that would have enhanced the quality of life for Pittsburg residents.

Councilmember Beals commented that having just received the proposal, she had no time to evaluate it. Referencing the second paragraph of Proposal #3 where it was suggested that Supervisor Glover had closed the door, she stated that Pittsburg had also shut the door and while there were several representatives at the last ECCRFFA meeting, no comments had been offered at that time. She questioned where the process would proceed from this point. She looked forward to a discussion of how best to preserve the participation in the ECCRFFA to ensure the transportation opportunities for the City's residents.

Vice Mayor Aiello stated that at the first ECCRFFA meeting, he had recommended the project for improvements to West Leland and Mirant to Willow Pass Road and the preference for that project had been known for some time. He also expressed his objections to the fact that the City of

Pittsburg was not a member of the State Route 4 Bypass Authority.

Councilmember Rios continued to support the second proposal from the Mayor and the Vice-Mayor. She also commented that a question had arisen as to whether or not new projects would apply and she had been advised that no new projects would apply, although the existing projects of West Leland Road, California Avenue widening and the Pittsburg-Antioch Highway, regional projects that complied with the list, should still apply. She did not support the \$3,000 increase and supported only \$2,500, as earlier recommended.

Assistant City Attorney Victor pointed out that there would be another Council meeting before the next ECCRFFA meeting.

City Council Minutes

Page 22

September 17, 2001

WILLIE MIMS, Pittsburg, expressed his disappointment with the City's lack of participation in the ECCRFFA and the fee program. He questioned why the City Council would not participate in the fee program consistent with other jurisdictions. He stated that the citizens did not want the City to be a pariah to the County. He supported the City's payment of its fair share to that being paid by the other applicable jurisdictions.

Vice Mayor Aiello commented that the report from the ECCRFFA showed that 92 percent of the traffic was generated from east of the City of Pittsburg and he objected to the City's requirement to pay the same fee as other jurisdictions as a result.

Councilmember Beals requested that staff address the new proposal with the ECCRFFA to see what could be done.

Mayor Quesada suggested that any discussions or communications should be conducted through the City Manager and not with the members of the ECCRFFA.

Councilmember Lewis inquired whether or not it was necessary to take any action given the current offer on the table.

Assistant City Attorney Victor commented that the process had not been well spelled out. The proposal had been submitted to all of the city councils for acceptance or rejection. If accepted, there was an understanding that it would need to go with staff and that Fehr and Peers would have to evaluate the report.

On motion by Council Member 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.

JACK GARCIA, Pittsburg, explained that initially Pittsburg projects had been designated, such as the Buchanan Road Bypass project, which he stated was the project that had been the impetus for the establishment of the Joint Exercise of Powers Authority (JEPA). With the development of the State Route 4 Bypass, a separate organization had been established.

Mr. Garcia suggested that the first proposal submitted to the ECCRFFA was the best proposal and he did not believe that any other proposal would be necessary. He commented that the developers did not pay the fees, they were simply added to the price of the homes. He supported the proposal that had already been submitted and noted that Leland Road had been added because at the time that Measure C had been passed the designation of Leland Road as an arterial road had been unknown.

City Council Minutes

Page 23

September 21, 2001

ADJOURNMENT

There being no further business, the Pittsburg City Council adjourned at 12:21 A.M. in *Memory of Pastor Lawrence Bynum of the True Light Baptist Church*, to October 1, 2001.

Respectfully submitted,

Lillian J. Pride, City Clerk

