

CITY OF PITTSBURG
Redevelopment Agency Minutes
April 1, 2002

Chair Frank Aiello called the meeting of the Redevelopment Agency to order at 7:00 P.M. in the City Council Chambers at City Hall, 65 Civic Avenue, Pittsburg, California, after having met at 5:00 P.M. for Community Advisory Commission interviews, and at 5:15 P.M. for Conference with Real Property Negotiator pursuant to Government Code Section 54956.8 Re APN 088-151-008, APN 088-151-012 and APN 088-151-013, Markstein Properties; Conference with Legal Counsel – Existing Litigation pursuant to Section 54956.9 regarding Alves Ranch LLC v. City of Pittsburg, Superior Court No. N02-0401; Conference with Legal Counsel - Anticipated Litigation pursuant to subdivision (b) of Section 54956.9 regarding one case, and Conference with Labor Negotiators pursuant to Section 54957.6. There was nothing to report.

MEMBERS PRESENT: Lewis, Quesada, Rios, Aiello

MEMBERS ABSENT: Beals-Rogers (Excused)

STAFF PRESENT: Executive Director, Willis Casey
Assistant Executive Director, Nasser Shirazi
City Attorney, Linda Daube
Deputy City Attorney, Russ Townsend
Director of Economic Development, Garrett Evans
Economic/Redevelopment Coordinator, Brad Nail
Director of Finance, Jim Holmes
Director of Leisure Services, Paul Flores
Director of Public Services, John Fuller
Director of Planning and Building, Randy Jerome
Director of Personnel Services, Marc Fox
City Engineer, Joe Sbranti
Assistant City Engineer, Wally Girard
Director of Housing, Buck Eklund
CDBG Coordinator, Annette Landry
Police Chief, Aaron Baker
Executive Assistant to the City Manager, Alice Evenson

PLEDGE OF ALLEGIANCE

Darnell Turner led the Pledge of Allegiance.

CITIZEN REMARKS

There were no citizen remarks.

There were no Member remarks

CONSENT

On motion by Member Quesada, seconded by Member Lewis to adopt the following Consent Calendar, carried by the following vote:

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

a. **MINUTES** Dated: March 18, 2002

Approved minutes dated March 18, 2002.

ADJOURNMENT

The meeting of the Redevelopment Agency adjourned at 7:03 P.M. to the next meeting on April 15, 2002.

Respectfully submitted,

Lillian J. Pride, Secretary

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CITY OF PITTSBURG
City Council Minutes
April 1, 2002

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CITIZENS REMARKS

MIKE LENGYEL, Pittsburg, sought a pledge from the Council by individual or by resolution to clean up Pittsburg politics and presented a written statement of his comments for the record. He also urged the Council to pursue an urgent care center at the Pittsburg Health Center.

respect to the status of the parking at the Pittsburg Library given the truck parking on Power Avenue which had created an unsafe situation. He also suggested that taxpayer funds were being used to build a parking lot for the St. Peter Martyr Church and stated if that was the case, the same should be done for all churches in the City. He further expressed his objections to the loan approved for the Auto Mall sign, which he suggested was also an inappropriate use of taxpayer funds.

Mayor Aiello requested that Mr. Sbranti investigate the situation with respect to on-street truck parking on Power Avenue.

In response to Mr. Mims, Councilmember Lewis emphasized that the parking approved in the downtown had not been for the St. Peter Martyr Church in that it had been intended for the linear park on Eighth Street, although if someone from the church wanted to use that parking they could. He added that there would be extensive development in the linear park and the parking would be required as a result.

With respect to the Auto Mall sign, Mayor Aiello explained that the \$625,000 loan was contingent upon the approval of a mall. To date, the City had expended no funds.

COUNCIL REPORTS

Councilmember Quesada reported that he had attended the East County Water Management meeting in Brentwood. He noted that CalFed was using wells in the far East County area to serve East County residents. He characterized CalFed's activities as a smoke screen to create what had previously been known as the peripheral canal where Northern California water would be directed to Southern California. He urged the protection of a year-round water supply for all East County residents.

Councilmember Rios advised that she had not been present at the March 18 meeting of the Council because she had been in Canada to evaluate the transit system in Ottawa through the Contra Costa Transportation Authority (CCTA), at which time a light rail, a bus system and a subway system had been visited. She noted that light rail was not what could be characterized as cheap transportation. She advised that the staff from the CCTA and BART would be compiling a report of the trip and presenting it to the TRANSPLAN Committee in the near future. Councilmember Rios reported that she had also attended the recent League of California Cities meetings when legislative updates had been provided. She had attended the Policeman's Appreciation Dinner, expressed her pride for the Pittsburg Police Department and reported that Officer Blazer had received the Outstanding Policeman of the Year Award, with Margaret Stark receiving the Volunteer of the Year Award. She urged the Chief and others to recognize the police clerks and others behind the scenes, which she hoped would be recognized next year. Further reporting her activities, Councilmember Rios stated that she had attended the Youth Commission, which had included a walk through of a potential Teen Center. She commented that some changes to the make-up of the Youth Commission had been discussed to potentially include members who were college freshmen.

Referring specifically to a March 19 forum, Councilmember Rios identified complaints from Community Advisory Commission (CAC) members who had not been allowed to participate in that forum. She noted her understanding that no public notice had been posted for the forum. She explained that City staff had been utilized for the meeting and Council had not been made aware of that situation. She suggested it would be appropriate if using City staff, City facilities and City funds that forums be reported and advertised to the public.

Mayor Aiello noted that he had attended the City's Easter Egg Hunt and that the Kiwanis Club had done an outstanding job with the pancake breakfast. He stated that the Policeman's Ball had been well attended and he expressed his pride of the City police. He had also attended the Preschool Coordinating Council's 30th Anniversary and noted that Frances Green had received letters from State and federal legislators, including the First Lady of the State, in recognition of the work that had been done.

Mayor Aiello otherwise expressed a concern for the removal of political signs from the last election and stated that if not removed, fines would be imposed on those remaining. With respect to AB 81, he stated that the vote had not taken place, as hoped, but that the vote was expected by April 3 or 4 on the Senate floor. He expressed his hope that a positive report could be offered at the April 15 meeting.

PROCLAMATIONS

1. Cesar Chavez Day

Councilmember Quesada read the proclamation for Cesar Chavez Day, explained that Mr. Chavez had visited the City often and had a close relationship with the City, and presented the proclamation to Julia Passmore from the Latin American Women's League, who was present to receive the proclamation in honor of Cesar Chavez Day.

Julia Passmore accepted the proclamation on behalf of the Latin American Women's League. As a follower and fellow marcher with Cesar Chavez, she thanked the Council for the proclamation.

Mayor Aiello commented that all State offices had been closed for Cesar Chavez Day, although all federal and City offices were open. He suggested it was time for the City of Pittsburg to be visionary and to declare Cesar Chavez Day a holiday for the City of Pittsburg.

PRESENTATIONS

1. Contra Costa Water District - Bette Boatmun

Bette Boatmun introduced Jim Freschi with the public information office of the Contra Costa Water District (CCWD), who is also a resident of Pittsburg.

Ms. Boatmun reported that the CCWD had been working closely with the City on its planning for a multi-purpose pipeline project to stretch from the treatment plant in Oakley to Central County, with much to be located in the City of Pittsburg. The project would cost \$115 million. She advised that by supplying treated water to Central County, capacity would be freed up in the Contra Costa Canal to meet the needs of Pittsburg, Antioch, Bay Point and

Martinez into the year 2020. She added that unlike the Canal, which was now 64 years old, the pipeline had been designed to survive a major earthquake.

Ms. Boatmun noted that the Buchanan Road and Highway 4 undercrossing portions of the pipeline had already been completed. A portion of the pipeline was currently being constructed near the City's golf course, to be completed with the least disruption possible. She also explained that the CCWD had been partnering with the City of Pittsburg on conservation, being funded through a \$50,000 grant from the Department of Water Rescues, which would allow valuable services to be provided at little cost to the City or the CCWD. The project would help conserve water, save money and reduce runoff into the Delta.

Speaking to the Contra Loma Reservoir, Ms. Boatmun provided a status of the new swimming lagoon, which would separate the swimmers from the water used for drinking. She reported that the Contra Loma Reservoir stored up to 2,500-acre feet of water and served as a peak supplier for the Pittsburg Water System, particularly during the summer period when the Canal was acting at capacity. She also noted that the Contra Loma Reservoir could provide an emergency supply of water to Pittsburg in the event of an earthquake. The lagoon was expected to be in operation by the end of May 2002, with lifeguards, making swimming much safer. Further, the water was chlorinated and would never be muddy at the bottom. As such, it would be safer for swimmers and for the water given the State regulation that prohibited swimming in reservoirs primarily used for drinking.

Ms. Boatmun also addressed security issues since September 11 and stated that the CCWD had been in contact with every local law enforcement agency in the service area to protect the vital facilities.

With respect to the CalFed expansion studies, potentially at Los Vaqueros, Ms. Boatmun stated that she had also attended the meeting that Councilmember Quesada had attended. She stated that the CCWD was involved in the study by CalFed with the possibility of increasing the size of the Los Vaqueros Reservoir. She noted that people from this area were on the committee for oversight and many decisions needed to be made in the future. She did not know nor was there any commitment from the CCWD that Los Vaqueros would be expanding. If it were to expand, the water quality would remain and the water would be retained in the north, as originally intended to be used for Livermore, potentially Alameda and potentially the East Bay Municipal Utility District (EBMUD). She emphasized that the water would not be sent south. She added that before anything occurred there would have to be a vote for approval.

Ms. Boatmun commented on the number of benefits that an expansion could involve, such as reimbursing current customers for the commitment to Los Vaqueros, improving the water quality and reliability for the CCWD, improving wildlife and environmental conditions,

and could increase recreation at Los Vaqueros. She stated that the CCWD needed to control whatever happened at Los Vaqueros and not give that away to either the federal or the State government. She took this opportunity to thank the City of Pittsburg and its staff for its support. She presented handouts to the Council at this time.

Councilmember Quesada expressed appreciation for Ms. Boatmun's assurances that there was no intent to allow water to be sent to Southern California. He remained concerned

that some of the water could be lost and he urged diligence in that regard.

Mayor Aiello acknowledged William Lee's desire to speak to the item but explained that the item was a presentation only. He urged Mr. Lee to speak with Ms. Boatman directly.

CONSENT CALENDAR

On motion by Councilmember Rios, seconded by Councilmember Quesada and carried unanimously to approve the Consent Calendar with the removal of Items b, f, g, h, j and k.

- a. **DISBURSEMENT LIST** Period Ending: March 27, 2002

Approved Disbursement List period ending March 27, 2002.

- c. **CLAIMS** #1438 John Calderoni

Denied Claim #1438, John Calderoni.

- d. **RESOLUTION 02-9579** Authorizing Enforcement Assistance Grant Application for 2002-2003 and 2003-2004

Adopted Resolution 02-9579.

- e. **RESOLUTION 02-9580** Authorize Two (2) Full Time Golf Shop Attendance Positions in the Leisure Services Department

Adopted Resolution 02-9580.

- i. **MINUTE ORDER** Approval of Letter of Support for SB 1509

Approved Letter of Support for SB 1509.

- l. **ORDINANCE 02-1194** Amending Municipal Code Section 2.50.020 - Filling Vacancies on the Community Advisory Commission

The following items were removed from the Consent Calendar for discussion:

Councilmember Rios had pulled Item b. given her absence from the last meeting.

On motion by Councilmember Quesada, seconded by Councilmember Lewis to approve the minutes dated March 18, 2002. The motion carried by the following vote:

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

Absent:Beals-Rogers

Councilmember Rios had pulled Item f. to inquire as to the amount of the drainage fee that was returned as revenue, where it would be directed, how much was received on a yearly basis and how much represented administrative costs.

- f. **RESOLUTION 02-9581** Stormwater Utility Area Equivalent Runoff Units (ERU=s) for the 2002-2003 Fiscal Year

With respect to the resolution establishing the rate per Equivalent Runoff Unit for FY 2002-2003 and requesting the Contra Costa County Flood Control and Water Conservation District to adopt an annual parcel assessment for drainage maintenance and the National Pollutant Discharge Elimination System (NPDES) Program, Director of Planning and Building Randy Jerome advised that the City received \$643,650.

That amount would be returned to the City from the Contra Costa Flood Control District, to be placed in a separate account, the NPDES account, to be used as salary for staff and other fees related to the NDES program, such as maintenance, materials, and the like. The funds could not be spent on any non-storm water related activities. From that total, fees for group program costs and the County for certain administration functions were involved. Ten to 15 percent of the funds would be used for administration.

On motion by Councilmember Rios, seconded by Councilmember Lewis and carried unanimously to adopt Resolution 02-9581.

Mayor Aiello stated that a number of residents had requested the removal of Item g. for discussion. He acknowledged the receipt of a letter from Ken Gray with four questions regarding CalPERS, which letter had earlier been submitted to the Council.

- g. **RESOLUTION 02-9582** Notice of Intent to Adopt a Tier I Supplemental Retirement Plan

The City of Pittsburg desired to provide a supplemental retirement benefit to former Contra Costa County Employees Retirement Association (CCCERA) non-safety tier one retirement plan participants (eligible employees). This supplemental retirement benefit is for those eligible employees who concurrently retire from the City of Pittsburg and the California Public Employees Retirement System (CalPERS).

KEITH URIARTE, Organizing Director for the American Federation of State, County and Municipal Employees (AFSCME) Local 512, noted his understanding that no action would be taken at this time with regards to the Tier 1 Supplemental Plan, in that the item was to have been submitted for information only.

Mr. Uriarte reported that he had been asked to represent employees of Local 512 representing the clerical and technical employees of the City of Pittsburg and a petition filed to represent the management, professional and confidential employees of the City. He stated that Local 512 had represented the clerical employees this year and at no time had they been

told that the supplemental plan was in process.

Stating that he had submitted a letter to the City's Director of Personnel Services last week seeking some information with respect to the supplemental plan, Mr. Uriarte stated that he and the Personnel Services Director had communicated regarding the issue. He had been advised that the item on the agenda would be for information only but had since come to understand that action had been proposed at this time. He inquired if the adoption of the resolution would limit their ability to negotiate the terms and conditions of the plan.

Mr. Uriarte added that a meeting had been set up with the City on April 16. He referred to a letter from the City Manager and noted that City staff had solicited feedback from eligible employees, which he suggested was not the case in that none of the employees had an opportunity to review the documents.

WALLY GIRARD stated that the City had currently embarked on one of the finest things to happen for employees in a long time. He noted that the City had been part of the County Retirement System in two tiers. Tier 1 represented primarily transfers from CalPERS, who had five percent of their salary deducted. He commented that Tier 2 employees did not have the same retirement benefits as Tier 1 employees. The PERS system, similar to what was offered by other cities, had now been proposed. Mr. Girard commended the City for its efforts, but otherwise requested that the Council consider and address the situation where Tier 1 employees had 5 percent of their salary deducted and would only receive those funds if and when they retired from the City of Pittsburg, while Tier 2 employees were able to retain 4.5 percent more of their salary than Tier 1 employees.

Mayor Aiello referenced the list of questions from Mr. Gray and agreed that there needed to be answers to those questions. As such, he moved to table the resolution to attain more information to address the letter and to address the comments that had been offered.

On motion by Mayor Aiello, seconded by Councilmember Rios and carried unanimously to table Resolution 02-9582 for more information.

Councilmember Quesada had requested the removal of Item h. for discussion.

- h. **MINUTE ORDER** Policies and Procedures for City Council Appointed Commissioners and Committee Members: Interaction with City Staff/Officials

In accordance with the City of Pittsburg Municipal Code and its Policies and Procedures for the City Council adopted by the City Council on September 4, 2001 by Resolution No. 01-9475, the City Council shall adopt rules and procedures regarding the appointment of citizens to serve on the City's various standing commissions and special purpose committees. Further, the City Council may adopt guidelines for the conduct of business of the various commissions and committees including procedures for the interaction between commissioners and committee members and City staff. Accordingly, the City Council desires to adopt procedures concerning City staff/official interactions.

Councilmember Quesada referred to interaction between committee members and City staff and requested that the item be reworded to clarify the committees, which could be

council committees, and worded as such to understand that sometimes members of the Council sat on special committees and would have to report back to the Council. He suggested that what had been submitted for approval was too general to accept.

Mayor Aiello suggested that a text change to all "commissioners" instead of Councilmembers, could clarify the situation.

Councilmember Rios agreed.

Councilmember Lewis inquired how that language would change the adopted policies and procedures, to which City Attorney Daube explained that the policy would be very similar to the dealings with department heads.

On whether or not a change from Councilmembers to commissioners would address Councilmember Quesada's concern, City Attorney Daube explained that the recommended change could be made as requested.

Councilmember Quesada remained concerned.

City Attorney Daube explained that the title of the item and the intent related to City Council appointed commissioners and committee members, those who were appointed by the Council in accordance with the approved Rules and Procedures and who reported to the Council.

Given the appointed positions of commissioners and appointed committee members who might not be commissioners who were appointed at large, Mayor Aiello suggested that the way the policy had been written exempted the Council.

Councilmember Quesada wanted clarification that Councilmembers who might be serving at the discretion of the Mayor and the Council on the committees, who would have to report back to the full Council, would not be restricted by that portion of the Policies and Procedures.

On the discussion of whether or not the item could be approved at this time, as amended to address Councilmember Quesada's concern, City Attorney Daube suggested that

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the clarification to the letter that would be distributed to commissioners and committee members who reported to and/or were selected by the Council, could allow the adoption of the minute order, as amended.

On motion by Councilmember Quesada, seconded by Councilmember Rios and carried unanimously to adopt the Policies and Procedures for City Council Appointed Commissioners and Committee Members Interaction with City Staff/Officials, as amended to exempt members of the City Council.

Willie Mims had requested the removal of Item j. for discussion.

- j. **ORDINANCE 02-1192** Adding Municipal Code Section 2.40.080, Relating to Powers and Responsibilities of the Mayor and City Council

Adoption of the ordinance introduced by the City Council on March 18, 2002, to codify Section III, APowers and Responsibilities@ of the Policy and Procedures for City Council adopted by Resolution No. 01-9475 on September 4, 2001.

WILLIE MIMS, Pittsburg, referred to Page 4, section 2, paragraph f. of Ordinance 02-1192 where it was stated that the City Manager shall be an employee of the City and be evaluated on an annual basis. He inquired whether or not that was a policy across the board.

Mayor Aiello noted that the Council had not been evaluating the City Manager on an annual basis and the reason for the modification to the Ordinance was to make certain that both the City Manager and the City Attorney were being evaluated on an annual basis.

City Manager Casey explained that all City employees were evaluated on an annual basis.

On motion by Councilmember Rios, seconded by Councilmember Lewis and carried unanimously to adopt Ordinance 02-1192.

Willie Mims had requested the removal of Item k. for discussion.

- k. **ORDINANCE 02-1193** Amending the Schedule of Permitted Uses and Development Regulations of an Existing CS-O Zone (Service Commercial with a Limited Overlay, Ordinance No. 92-1043), for Mill Creek Development RZ-01-02

The adoption of the ordinance introduced by the City Council on March 18, 2002, in response to a request by John Tomasello, Mill Creek Development LLC, to amend zoning regulations of the existing CS-O zone (Ordinance 92-1043) to allow construction of a Limited Warehousing and Storage facility with reduced parking, and a three-story extended stay hotel on a 16.23 acre, undeveloped site located on the north side of California Avenue and west of Loveridge Road.

WILLIE MIMS, Pittsburg, commented that there was some language in the staff findings, particularly on Page 4 of the staff report, section 2, Findings, paragraph 2, stating that the project will not have a significant effect on the environment. He was concerned with that statement, suggested that the project itself might not have a significant impact on the environment but suggested that with the expansion of Praxair, with the construction of the storage facility and with the construction of a service station toward the adjoining community, a significant traffic impact would be imposed on that community, particularly given that California Avenue would serve as the main thoroughfare to that site.

Mr. Mims therefore requested the rejection of the ordinance.

Mayor Aiello stated that he had asked the City Manager to consider the installation of a stop sign at Benjamin and California Avenue.

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

unanimously to adopt Ordinance 02-1193.

CONSIDERATION

1. **RESOLUTION 02-9583** Foreign Trade Zone International Marketing

City Manager Casey reported that on July 2, 2001, the City of Pittsburg passed a resolution to collaborate with Oakland's Foreign Trade Zone (FTZ). The Bay Area Foreign Trade Center (BAWTC) is the grantee of Oakland's FTZ. As such, BAWTC is the legal entity with which the City will conduct business. This collaboration is a win-win proposal for everyone concerned. The City may advertise FTZ services as one of Pittsburg's economic development incentives; cost effectively serving the existing business community by identifying programs that increase profits. The BAWTC proposal will continue strengthening this process of global commerce for local companies by creating a stronger network of economic and political resources with our sister cities and by leveraging the relationships BAWTC had built regionally, domestically and internationally.

Mr. Casey recommended the approval of a \$25,000 purchase order for the consultant contract with BAWTC necessary for the development of the Foreign Trade Zone International Marketing Strategy and Plan.

JOSE DUENAS, the President of the Bay Area World Trade Center, stated that they had been in discussion for a year to determine how to pursue the Foreign Trade Zone. He noted that the recommendation that they had made was to engage in an international strategy. He stated that one of the things that they had found in terms of providing those types of services was that they really had to develop an international strategy encompassing the whole city, which would place the City of Pittsburg on the map. Mr. Duenas stated that they were part of 300 world trade centers around the world in 100 different countries. He expressed his pleasure at working with the City on the program and expressed his hope that the benefits would be forthcoming.

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Councilmember Rios stated that she had been working with Mr. Duenas on the project, as had the Mayor. She supported the project.

Mayor Aiello noted that the project had been long in coming. He was eager to work with Oakland and with Mr. Duenas and his organization. He stated that the City of Pittsburg had taken the necessary steps to establish Memorandums of Understanding (MOU) for economic development with its sister cities in Japan and Korea to allow the City to go global for international economic trade with its partners. He urged the formation of an international budget given that the City was on the brink of bringing a global economy to Pittsburg.

On motion by Councilmember Rios, seconded by Councilmember Quesada and carried unanimously to adopt Resolution 02-9583.

2. **REPORT** East-Central Traffic Management Study Update

City Manager Casey advised that all participating jurisdictions had now approved the

East-Central Traffic Management Study prepared by DKS Associates under the direction of multi-jurisdictional Policy Advisory, and Technical Advisory Committees. The study had recommended a preferred alternative for control point metering of eastbound, morning commute traffic at Buchanan Rd./Meadows Ave. and at Kirker Pass Rd./Nortonville Rd. City staff would work with the CCTA to come up with a schedule for implementation.

Mr. Casey recommended that the City Council accept and file the staff report.

Councilmember Quesada took this opportunity to thank the CCTA and DKS Associates making certain that the East-Central Traffic Management Study had been concluded and to now schedule the two intersections to be able to address the City's traffic needs.

On motion by Councilmember Quesada, seconded by Councilmember Rios and carried unanimously to accept the East-Central Traffic Management Study Update.

PUBLIC HEARING

1. **RESOLUTION 02-9585** Consideration and Approval of the Preliminary 2002-2003 Community Development Block Grant Annual Action Plan

City Manager Casey reported that the Department of Housing and Urban Development (HUD) requires the City Council to review and approve the 2002-2003 Community Development Block Grant Annual Action Plan. The preliminary Annual Action Plan is being presented to the City Council for approval. This Plan includes the preliminary CDBG funding recommendations for the 2002-2003 program year that the Council approved on March 18, 2002. HUD also requires a public hearing and public comment period before submitting the Annual Action Plan to HUD.

Mr. Casey recommended that the City Council open the public hearing, receive testimony, close the public hearing and adopt the resolution approving the preliminary 2002-

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2003 Community Development Block Grant Annual Action Plan and open the public comment period on the Action Plan that would extend to May 6, 2002.

Mayor Aiello opened the public hearing for Resolution 02-9585.

WILLIE MIMS, Pittsburg, representing the BPA, stated that he had spoken with staff to express some concern for the target areas that had been listed this year in comparison with last year, which had been expanded from 3 to 7. He noted that one of his questions related to the applications that had been recommended by the CAC. He was also concerned that thirty programs were being funded with such a limited amount of money. Mr. Mims referred to a letter sent to the City in July 2001 from the HUD Office in San Francisco pertaining to the grant, which letter had expressed some concern providing such a small amount of funds to such a large number of non-profits, which was not cost effective and which could create a management burden to City staff. He noted his understanding that only two people were working on the program and he inquired whether or not the City was planning to provide more staff to address the need of the programs. He encouraged the Council to hire more staff so that the programs could be run effectively and to change the number of programs being funded. Mr. Mims also suggested that there should be some kind of running data on

programs that were claiming to service residents of the City. He urged a record of who the programs were serving.

DARNELL TURNER, Pittsburg, noted that he had nine years of experience reading CDBG proposals. He commented that many of the programs recommended for funding categories were City Departments. He suggested from the outside looking in there appeared to be an insufficient balance between a community based organization and a public agency. He suggested that a greater balance of helping some of the community based organizations needed to be addressed.

Mr. Turner further suggested that it appeared as if the programs did not address some of the most blighted areas of the community, and the fairly large portion of the community that was without curbs, gutters, sidewalk replacements and other needed infrastructure. Mr. Turner suggested that some of the funds involved should be used to allocate to the Public Services Department to increase the number of curb cuts and sidewalk replacements that would be needed to meet Americans with Disabilities Act (ADA) requirements, along with sewer line replacement to offer some assistance in that area. Mr. Turner referred to the Carpino Street area and stated that the only new sewer connections in the old residential area had occurred with the construction of those developments fifty years ago. Given the serious flooding problems in the area, he stated that those issues would have to be addressed. Speaking to the housing and code enforcement category, he questioned the amount of housing, counseling and education code enforcement provided in that category.

Further, Mr. Turner commented that some of the CDBG funds proposed for distribution this year could be freed up to allow their distribution to those agencies that had a greater impact on the residents of the community. He stated that he would share his comments in that regard with staff prior to the next hearing on May 6.

Councilmember Rios commended staff and stated that staff had worked very hard in the process. She characterized the task as extremely difficult for the subcommittee with not only the CAC but the two Councilmembers on that committee who had also been involved in the process. She added that the issues raised by Mr. Turner had also been discussed by the subcommittee.

On motion by Councilmember Rios, seconded by Councilmember Quesada, and carried unanimously to adopt Resolution 02-9585.

2. **RESOLUTION 02-9586** A Resolution of Necessity Finding and Determining the Public Interest, Convenience and Necessity Require the Acquisition of Certain Pittsburg Unified School District Property for Public Purposes in Connection with the Kirker Creek Flood Control Project

City Attorney Linda Daube stated that staff had submitted to the City Council for consideration proposed Resolution of Necessity authorizing the commencement of eminent domain proceedings involving the Pittsburg Unified School District (PUSD) to acquire certain

interests in land necessary to achieve certain public purposes in connection with the Kirker Creek Flood Control Project. The legal descriptions of these real property interests are attached to the Resolution No. 02-9586, included as Exhibit 1 to the staff report.

City Attorney Daube advised that there had been major redesign issues with respect to the easements in part based on input from the community when the item had first been submitted to the City Council for consideration last summer.

City Attorney Daube recommended that the City Council conduct the public hearing noticed on the agenda and adopt a Resolution finding and determining that the public interest, necessity and convenience require the acquisition of interest in real property along Kirker Creek Watershed between State Route 4/California Avenue to New York Slough, described in the Resolution. It was further recommended that the City Attorney's office be directed to proceed with all necessary action to carry out the acquisition.

For purposes of preparing the administrative record, City Attorney Daube identified the attachments applicable to the proposal represented by sixteen exhibits that had been available all week in the City Clerk's office, to be included as part of the public record.

In addition, City Attorney Daube reported that a document dated April 1, 2002 and entitled "Objections to Hearing and Consideration of Resolution of Necessity" had also been received from the attorneys representing the PUSD, Miller Brown & Dannis, which letter had included the PUSD's objections and had been included as part of the administrative record. Exhibits and posters displayed in the Council Chambers were identified by Deputy City Attorney, Russ Townsend. The exhibits were identified as Exhibit A: the original design of the

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creek as it ran along the westerly boundary line of the PUSD property and backing up against a residential area, along with Exhibit C: an overview of the entire project that had been in various aspects before the Council for the last four years or so.

With respect to the request for a Resolution of Necessity on the acquisition of the property, Mr. Townsend stated that staff had worked closely with the PUSD, and had invited the PUSD to almost all meetings regarding the request.

Mr. Townsend explained that there had been several problems with the design shown as Exhibit A. The redesign, in response to comments received, would add substantial expense to the project and would underground the entire creek along the PUSD property to alleviate all of the concerns as to the impact of the open channel, reducing the size from 70 to 80 feet down to 30 and 35 feet, and allowing the use of the entire surface area.

For the record, Exhibit D was described by Mr. Townsend as an indication of the temporary construction easements and Exhibit E the actual grant of easement area.

At this point in the proceeding, City Attorney Daube explained that an issue had been raised by the attorneys for the PUSD concerning the fact that the Mayor was married to a Board member of the PUSD, Barbara Aiello. She stated that the Mayor would have no conflict in this matter provided that he would acknowledge that he was married to Barbara Aiello, that the marriage or relationship would not impact his decision and that the decision to be made

would be made without any influence with the Board Members of the PUSD.

Mayor Aiello stated that it would absolutely not impact his decision.

Mr. Townsend referred to the objections that had been raised by the PUSD and stated that he had met with PUSD counsel prior to the hearing and that counsel for the PUSD had represented to him that although the letter indicated some strong language in opposition to the motion, he wanted the City Council to understand that was for the matter of making the record but that the PUSD did not want to stand in the way of what the Council felt it needed to do in order to progress with the project.

Mr. Townsend stated that four points had basically been raised by counsel for the PUSD. The first was that there was insufficient notice. He stated that both the offer to purchase as well as the notice of a hearing on the Resolution of Necessity had been provided in accordance with law, which was in addition to over two years of directly working with the PUSD on all of the issues related to the Resolution of Necessity.

Noting the second point, which was that the offer to purchase was not supported with the proper calculations, Mr. Townsend stated that the idea of the offer to purchase was not only that it represented the fair market value but that it was something that could be understood by the recipient. He stated that the offer to purchase had been made in accordance with code but that a supplemental had been provided through the assistance of an appraiser. The supplemental had offered a detailed breakdown of square footage and the application of the per square foot value. That had been done on March 18, 2002.

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Mr. Townsend stated that another issue that had been raised was that the Environmental Impact Report (EIR) had not been fully considered or that the PUSD did not have an opportunity to fully consider the report. He suggested that the comment had to do with the fact that there was a new attorney representing the PUSD who had not been involved to the extent that the last attorney had been. He emphasized that the EIR had been available for some time, was in the City Clerk's office, was available for inspection and had been a matter of public record for a long period of time.

With respect to the fourth point that had been raised, Mr. Townsend stated that the PUSD had asserted that there was no sufficient opportunity to review the offer to purchase in conjunction with the City's proposal. Mr. Townsend suggested that related to the fact that a new attorney for the PUSD was involved who had not been previously aware of the fact that the project had been fully discussed at all times, including the new revisions which would entirely underground the creek. Mr. Townsend added that he had personally worked with the PUSD for at least a year in the hopes of working out an arrangement. At the same time that the City would like to proceed with the condemnation proceedings, he stated that there was a desire to continue to work out an agreement, which he suggested the PUSD was interested in obtaining.

Stating that the schedule was tight in this case in that the funds would have to be dedicated by July 31, 2002, Mr. Townsend noted that aside from the bidding involved, it would take Caltrans two to two and a half months to complete their review. As part of that review, he noted that Caltrans required a certification that the necessary property rights had been acquired. He explained that this was the last component of the necessary acquisitions. Mr.

Townsend urged moving forward with the resolution given its importance to the entire project.

Councilmember Lewis requested in the future that when staff reports had been compiled for the Council that the measurements be presented in square feet and not in square meters.

Mayor Aiello opened the public hearing on Resolution 02-9586.

WILLIE MIMS, Pittsburg, expressed his support for the changes that had been made in the creek, by covering the creek. He was happy to see that and to know that the City was really concerned about the health and safety of the children attending Martin Luther King, Jr. School. His concern was with the destruction of the trees along that line at California and Diane Avenues and at the Pittsburg-Antioch Highway, which trees had provided an environmental filter for the adjacent community and for the school.

If covering the creek, destroying the trees and stripping the neighborhood and the school of environmental protection, particularly to protect from the Praxair and other industrial sites, Mr. Mims suggested that the trees needed to be retained, particularly since Pittsburg had received an award as Tree City USA. If destroying those trees, he suggested that the award should be returned.

CHARLES SMITH, Pittsburg, noted his understanding that there would be a retention pond to the south of State Route 4, to which City Engineer Sbranti advised that the detention basin as part of the project was located immediately south of the Pittsburg-Antioch Highway, immediately south of the Union Pacific Railroad.

Mr. Smith noted his understanding that nothing had been done south of Highway 4 in that the project had been centered around Martin Luther King, Jr. School and the El Pueblo area. He had a problem in that that area had been found to be the most critical to the whole project. He suggested that the detention ponds could be placed south of Highway 4 and suggested that it could be placed south of the Pittsburg-Antioch Highway given that highway fronted the steel mill and was another flood zone area. Mr. Smith thanked the City for covering the creek and for the fact that supposedly the channelization would follow the lines of the creek, which was good since the trees along the creek were old, waterlogged and dead. He urged that as many native trees be retained as possible to ensure an ecologically sensitive proposal. He expressed a preference for perforated piping inside the canals.

Further, Mr. Smith stated that while he understood the time constraints involved, he did not support an eminent domain approach. He noted that the PUSD from the beginning wanted to work with the Council, and he suggested in that case the Council should understand that the value of the land was probably higher than any other segment of the project, which he suggested was an important point to consider in the negotiations with the PUSD.

WILLIAM LEE, Pittsburg, stated that the project was located close to his home. He noted his understanding that one of the contractors involved was from Southern California and would be utilizing Southern California workers. He sought a resolution similar to what had been done in 1993 with respect to hiring locals. He sought a mandatory requirement to

implement the City's ordinance to hire locally to put to work those who would be most affected by the proposal and to get local workers off the welfare rolls. He urged that be done for the benefit of Pittsburg citizens.

Mayor Aiello closed the public hearing on Resolution 02-9586.

On motion by Councilmember Rios, seconded by Councilmember Quesada and carried unanimously to adopt Resolution 02-9586.

ADJOURNMENT

The meeting adjourned at 8:59 P.M. to the next meeting scheduled for April 15, 2002.

Respectfully submitted,

Lillian J. Pride, City Clerk

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