

CITY OF PITTSBURG
Housing Authority Minutes
June 17, 2002

Chair Frank Aiello called the meeting of the Housing Authority to order at 7:00 P.M. in the City Council Chambers at City Hall, 65 Civic Avenue, Pittsburg, California.

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

MEMBERS ABSENT: None

STAFF PRESENT: Executive Director, Willis Casey
Assistant Executive Director, Nasser Shirazi
Legal Counsel, Linda Daube
Director of Economic Development, Garrett Evans
Economic/Redevelopment Coordinator, Brad Nail
Director of Public Services, John Fuller
Director of Leisure Services, Paul Flores
Director of Planning and Building, Randy Jerome
Director of Personnel Services, Marc Fox
Interim Director of Finance, Peter Kolf
City Engineer, Joe Sbranti
Director of Housing, Buck Eklund
Associate Planner, Chris Bekiaris
Associate Planner, Ken Strelo
CDBG Coordinator, Annette Landry
Police Chief, Aaron Baker
Executive Assistant to the City Manager, Alice Evenson

PLEDGE OF ALLEGIANCE

Phyllis Gordon led the Pledge of Allegiance.

CITIZENS REMARKS

There were no citizens remarks.

MEMBERS REMARKS

There were no Members remarks.

CONSENT

On motion by Member Rios, seconded by Member Beals-Rogers and carried unanimously to approve the Consent Calendar, as follows:

- a. **DISBURSEMENT LIST** Period Ending: May 31, 2002

Approved Disbursement List period ending May 31, 2002.

- b. **MINUTES** Dated: May 20, 2002

Approved Minutes dated May 20, 2002.

- c. **RESOLUTION 02-201** Adoption of the Records Management Program

Adopted Resolution 02-201.

PUBLIC HEARING

1. **RESOLUTION 02-202** Budget Adoption

On June 10, 2002, the Housing Authority held a budget workshop to review the proposed budget for FY 2002/2003 for the Housing Authority of the City of Pittsburgh. The budget must be adopted to provide ongoing financing for Housing Authority activities in the next fiscal year.

Chair Aiello moved the public hearing to the end of the combined agenda to allow a JOINT PUBLIC HEARING.

In JOINT PUBLIC HEARING at 10:19 P.M. with the HOUSING AUTHORITY, the REDEVELOPMENT AGENCY, the CITY COUNCIL and the PITTSBURG POWER COMPANY, the following motion was made:

On motion by Chair Aiello, seconded by Member Quesada to continue the **Housing Authority** (Resolution 02-202) Budget to the June 24 meeting for an enabling resolution to authorize the Executive Director to continue spending through July and to the August 5, 2002 meeting for the adoption of the Budget when the City Council would have an opportunity to identify the impacts from the State.

The motion carried by the following vote:

Ayes: Quesada, Rios, Wallen, Aiello

Noes: Beals-Rogers, Lewis

Absent:None

ADJOURNMENT

The meeting adjourned at 7:02 P.M. to the meeting set for July 15, 2002.

Respectfully submitted,

Lillian J. Pride, Secretary

CITY OF PITTSBURG
Redevelopment Agency Minutes
June 17, 2002

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

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

MEMBERS ABSENT: None

STAFF PRESENT: Executive Director, Willis Casey
Assistant Executive Director, Nasser Shirazi
Legal Counsel, Linda Daube
Director of Economic Development, Garrett Evans
Economic/Redevelopment Coordinator, Brad Nail
Director of Public Services, John Fuller
Director of Leisure Services, Paul Flores
Director of Planning and Building, Randy Jerome
Director of Personnel Services, Marc Fox
Interim Director of Finance, Peter Kolf
City Engineer, Joe Sbranti
Director of Housing, Buck Eklund
Associate Planner, Chris Bekiaris
Associate Planner, Ken Strelo
CDBG Coordinator, Annette Landry
Police Chief, Aaron Baker
Executive Assistant to the City Manager, Alice Evenson

CITIZENS REMARKS

There were no citizens remarks.

MEMBERS REMARKS

There were no Members remarks.

CONSENT

On motion by Vice Chair Beals-Rogers, seconded by Member Quesada and carried unanimously to approve the Consent Calendar, as follows:

a. **MINUTES** Dated: June 3, 2002

Approved Minutes dated June 3, 2002.

- b. **RESOLUTION 02-827** Adoption of the Records Management Program

Adopted Resolution 02-827.

- c. **RESOLUTION 02-828** Resolution to Extend CIP Appropriations

Adopted Resolution 02-828.

CONSIDERATION

1. **RESOLUTION 02-829** Approving Authorization to Bid Contract for the County Library Restroom Remodel and Amend Consultant Agreement in Relation to the Library Expansion Project, Contract 00-12

Executive Director Willis Casey reported that the Redevelopment Agency approved and set aside \$1 million in funding for the County Library Project in 1999. The City was currently engaged in an ongoing process to identify Library options available to the City. The process would continue in order to determine the best alternative for the community considering need and future growth. However, it had been determined that upgrading the restroom facilities to meet Americans with Disabilities Act (ADA) standards was an immediate need. Consultant Noll & Tam, Architect and Planners had developed biddable construction documents to address the restroom remodel.

Mr. Casey recommended that the Redevelopment Agency approve and authorize the Executive Director to execute an Amendment to Consultant Agreement with Noll & Tam and authorize the City Engineer to proceed with the Library Restroom Remodel Bid Process shown as Exhibit A to the staff report dated June 17, 2002.

WILLIE MIMS, Pittsburg, representing the Black Political Association (BPA) objected to the deferred upgrades to the Library that had been approved in 1999. If that was not the case, he suggested that the money was being misused. He questioned the City's commitment to build a library.

Chair Aiello explained that the library would be expanded beyond the \$1 million commitment to a state of the art facility costing in the neighborhood of \$5 to \$6 million. By waiting and obtaining the additional funds, he suggested that the library could be completed right the first time to attain a state of the art facility. As to a timeline, he stated that the timeline related to the City's funding probabilities.

Vice Chair Beals-Rogers stated that the City was absolutely committed to building a new library and she and Member Rios were representatives of the Library Commission Subcommittee. She stated that their priorities were to develop a quality library and with Proposition 14 and AB 81, the City was in a position sooner rather than later to enhance the City's library, which enhancement was a priority to her.

Member Rios concurred.

On motion by Vice Chair Beals-Rogers, seconded by Member Rios and carried unanimously to adopt Resolution 02-829.

2. **RESOLUTION 02-830** Exclusive Negotiation Agreement for Development of the Pittsburg Municipal Marina

Executive Director Casey advised that the City of Pittsburg was the owner of the Pittsburg Municipal Marina. The Marina was underdeveloped and Millcreek Development was interested in developing a commercial project at the Marina. An Exclusive Negotiating Agreement would provide necessary objectives to provide successful negotiations to result in a Disposition and Development Agreement (DDA) between Millcreek Development and the Redevelopment Agency of the City of Pittsburg.

Mr. Casey recommended that the Exclusive Negotiating Agreement be approved and the Executive Director be authorized and directed to execute the Agreement on behalf of the Agency, to return to the Agency upon the completion of the DDA.

RON WAITE, Pittsburg, questioned why the development of the Marina, as proposed, had not been put out to bid as had occurred with other City agreements and developments.

JOHN DARCY, Millcreek Development, 52 Madrid Place, Pleasanton, stated that he and his partner had worked with the City and staff and would like to proceed on the project and would like to work something out with the Elks Club, which had requested to be located in the Marina.

Chair Aiello turned the meeting over to the Vice Chair at this time in that he had a conflict of interest with the Millcreek Development based on a donation to his campaign in excess of \$250. He stepped down from the dais at this time.

Member Lewis commented that the City had been looking for a long time to get some business interested in making a proposal for the area surrounding the Marina and the Agency was doing nothing other than giving Millcreek, which had already shown an interest in developing and investing in the City, an opportunity to make a proposal in and around the Marina. He stated that any proposal would return for final approval and there would be an opportunity during the process to direct that development.

Member Rios supported a process that involved other bidders in a bidding process consistent with the Agency's policy.

When asked, Director of Economic Development Garrett Evans reported that the Agency had sent out bid packages. Seven responses had been received. The average response was that it would cost the Agency over \$350,000 to conduct a study and nine more months in time to find a developer. After weighing all the proposals, he stated that

staff had recommended Millcreek Development, which had agreed to pay for the necessary studies themselves, which would also reduce the timeline. He concurred, when asked, that there had been an opportunity for others to participate in the project and so far Millcreek was the only company with a track record willing to expend the necessary funds to pursue a proposal. He added that the City and staff would work actively with the Redevelopment Subcommittee throughout the process.

Member Rios reiterated her desire that the item be continued to allow a list of those who had also bid on the project.

Member Quesada noted that the developer had been asked to solicit financing within 180 days. He wanted to make certain that other developers were treated justly and fairly and that all were treated the same. He noted that there had been more stringent requests under the Black Diamond Mixed Use process. He supported a continuance to verify that all possibilities had been pursued.

Member Lewis had no problem returning the proposal to the July 15 meeting for consideration. He added that a 180 day exclusive period was nothing different from what had been done in other cases, such as with the Griego proposal. In this case, the company already had its financing to develop a proposal that was acceptable to the City. He had no problem waiting until July 15 to be apprised of the bids from the other parties.

Vice Chair Beals-Rogers commented that the City was in a fortunate position where developers were approaching the City with projects to develop with vision and with proposals to enhance the City. She did not see that the item needed to be put out to bid, particularly given that had occurred unsuccessfully on the property in the past. She emphasized the need to take advantage of the plan.

Although a motion and second had been made by Vice Chair Beals-Rogers and Member Lewis to adopt the resolution at this time, both withdrew their motions to allow another motion to be made.

Member Lewis inquired of the City Attorney what would occur if a motion to approve failed, to which City Attorney Daube explained that the item would have to be returned to the Agency for reconsideration subject to a good reason to do so.

Member Lewis suggested that the ARCO project at Loveridge and Leland Roads had not involved a Request for Proposal (RFP) process and he urged consistency across the board.

Member Quesada suggested that the Agency had been consistent in considering all those who wanted to do business in the City.

Member Rios emphasized the difference in the project under discussion, which was a public project and the ARCO project, which was a private project. She stated that anything under the auspices of the Agency would require a public process.

On motion by Member Rios, seconded by Member Lewis to continue Resolution 02-830 to the July 15 meeting to consider all those who had bid on the proposal, carried by the following vote:

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

Chair Aiello returned to the dais at this time and chaired the meeting.

3. **RESOLUTION 02-831** Black Diamond Mixed Use Project

Mr. Casey reported that the Agency had awarded an Exclusive Right to Negotiate for the Black Diamond Mixed Use Project to Griego Designs on February 4, 2002. The 180-day negotiating period allowed for Griego Designs to create a team of financial and development partners as well as finalize a Disposition and Development Agreement (DDA). The resolution presented for consideration acknowledged the Teaming Agreement between Griego Designs and Indigenous Global Development Corporation and include them on the development team.

Mr. Casey recommended the approval of Resolution 02-831 adding the Indigenous Global Development Corporation to the Black Diamond Mixed Use Project development team.

ALEX DREYER, Pittsburg, requested the approval of the project and noted that the community had supported the proposal.

On motion by Member Rios, seconded by Member Quesada and carried unanimously to approve Resolution 02-831.

PUBLIC HEARING

1. **RESOLUTION 02-832** Budget Adoption

On June 10, 2002, the Redevelopment Agency held a budget workshop to review the proposed budget for FY 2002/2003 for the Redevelopment Agency of the City of Pittsburg. The budget must be adopted to provide ongoing financing for Agency Authority activities in the next fiscal year.

Chair Aiello moved the public hearing to the end of the combined agenda to allow a JOINT PUBLIC HEARING.

In JOINT PUBLIC HEARING at 10:19 P.M. with the HOUSING AUTHORITY, the REDEVELOPMENT AGENCY, the CITY COUNCIL and the PITTSBURG POWER COMPANY, the following motion was made:

On motion by Chair Aiello, seconded by Member Quesada to continue the **Redevelopment Agency** (Resolution 02-832) Budget to the June 24 meeting for an enabling resolution to authorize the Executive Director to continue spending through July and to the August 5, 2002 meeting for the adoption of the Budget when the City Council would have an opportunity to identify the impacts from the State.

The motion carried by the following vote:

Ayes: Quesada, Rios, Aiello

Noes: Beals-Rogers, Lewis

Absent:None

ADJOURNMENT

The meeting adjourned at 7:31 P.M. to July 15, 2002.

Respectfully submitted,

Lillian J. Pride, Secretary

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CITY OF PITTSBURG
City Council Minutes
June 17, 2002

Mayor Frank Aiello called the meeting of the City Council to order at 7:32 P.M. in the City Council Chambers at City Hall, 65 Civic Avenue, Pittsburg, California.

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

MEMBERS ABSENT: None

STAFF PRESENT: City Manager, Willis Casey
Assistant City Manager, Nasser Shirazi
City Attorney, Linda Daube
Director of Economic Development, Garrett Evans
Economic/Redevelopment Coordinator, Brad Nail
Director of Public Services, John Fuller
Director of Leisure Services, Paul Flores
Director of Planning and Building, Randy Jerome
Director of Personnel Services, Marc Fox
Interim Director of Finance, Peter Kolf
City Engineer, Joe Sbranti
Director of Housing, Buck Eklund
Associate Planner, Chris Bekiaris
Associate Planner, Ken Strelo
CDBG Coordinator, Annette Landry
Police Chief, Aaron Baker
Executive Assistant to the City Manager, Alice Evenson

CITIZENS REMARKS

WILLIE MIMS, Pittsburg, representing the Black Political Association (BPA) questioned the effectiveness of the Keep Clear signs on California Avenue and suggested that a Stop sign between Diane Avenue and Loveridge Road would be sufficient. Noting a previous comment from the Mayor that a stop sign in that general area would be installed, he stated that had not been done. He otherwise supported the continuance of the Marina Project given his opinion that the Agency had violated its own policies and procedures by not adhering to its bid and purchasing policies.

Mayor Aiello stated with respect to a stop sign that he had favored the placement of a stop sign at Benjamin or Edwards Avenue, and in speaking with City staff, City Engineers and the City Police Department, Keep Clear signs as opposed to a stop sign had been preferred. If Keep Clear signs did not work, stop signs would be considered.

CHARLES SMITH, Pittsburg, described a traffic accident that had damaged his

vehicle and the reluctance on the part of the investigating officer to prepare what he considered was a complete report of damages related to the accident. He objected to his treatment at that time and stated that he might file a complaint with respect to that incident.

Police Chief Aaron Baker explained that if the comments from the investigating officer were as described, then Mr. Smith should file the complaint.

COUNCIL REPORTS

Councilmember Lewis reported that the Centennial Celebration Committee would hold a community forum on June 24 from 4:30 to 6:30 P.M, allowing an opportunity for the community to have input in the way the Centennial Celebration would be handled and to allow various groups to sponsor a particular event during a particular month during the centennial year. He encouraged all organizations and individuals in the City to participate in that forum.

Vice Mayor Beals-Rogers presented a plaque that had been presented to the City at the Tri-Delta Transit 25th Anniversary on June 7, in recognition and appreciation of 25 years of commitment as a partner and providing public transportation to residents of East Contra Costa County.

Mayor Aiello reported that Governor Davis was in the City this date to flip the switch on the Delta Energy Center and to advise that he would sign AB 81, which would mean a great deal of money to the City. He stated that a lot of work had gone into getting that done. Along with a determined Council, a number of people had a role in that successful effort, including San Francisco Mayor Willie Brown, Senators Burton, Perata, and Torlakson, Assemblymember Canciamilla, the Contra Costa Mayors Conference, the League of California Cities, and Councilmember Alegria of Pinole.

Mayor Aiello announced that a special meeting would be held with the City Council and all commissions of the City to discuss priorities and goals with regards to AB 81 expenditures. He suggested that special meeting be held on July 20. He further announced that in August a Mayors forum would be held to allow the community to have its say on priorities with regards to how the funds related to AB 81 would be spent, after which the Council could meet in a workshop to discuss the priorities as directed by the commissions in the joint meeting and the open community forum as to how to spend the funds to enhance the quality of life in the City.

Mayor Aiello added that the City had the honor of hosting both Governor Davis and his wife. He reported that Sharon Davis had toured the Columbia Manor Preschool and had commented on the excellent programs and presentations, which had also been made at that time.

Mayor Aiello also announced that the US Post Office would be issuing a stamp in honor of 9/11 Heroes and all proceeds in excess of the regular price of the stamp would go

towards victims of September 11.

Councilmember Quesada thanked Vice Mayor Beals-Rogers for announcing the award presented by Tri-Delta Transit. He stated that he had also received an award for initiating what had become Tri-Delta Transit. He referred to what the Community Advisory Commission (CAC) was doing for the City of Pittsburg as what the Model Cities Program had done 25 to 30 years ago to help the City and all of East County. He added that Nello Bianco had also been instrumental in helping the City address its transportation needs.

Vice Mayor Beals-Rogers noted a conflict with the July 20 meeting recommended by the Mayor and asked staff to poll Councilmembers to find a meeting date where all could attend.

PRESENTATIONS

1. LMC Foundation Scholarship Recipients

On behalf of Los Medanos College (LMC) and Dr. Raul Rodriguez, LMC Vice President, Academic and Student Affairs, PETER GARCIA thanked the Council for its investment in young minds and lives through scholarship funds.

Councilmember Quesada commended Mr. Garcia and LMC staff who had worked hard to ensure that students could advance to a higher education. He emphasized the privilege offered to allow students to do well. He commended the President of LMC, Mr. Garcia, Nancy Chinn, and staff who had worked to help students achieve their goals.

The recipients of this year's LMC Foundation Scholarships thanked the Council for their scholarships. Monica Stone, Jennifer Lehmann, Danielle Nichols, Aileen Nichols, Jamie Bernardino, Analyn Mutuc and Louis Velarde each identified their major, their interests, their future plans and thanked the Council for selecting them as LMC scholarship recipients.

Vice Mayor Beals-Rogers added that Analyn Mutuc was also a distinguished recipient of the Kennedy-King Scholarship. She took this opportunity to thank scholarship recipients for their hard work and commitment to their future education.

Mayor Aiello emphasized that the City should thank the recipients for their commitment and ability to enhance their lives and the lives of those in their community.

LINDA WILLE, LMC Scholarship Program Coordinator, stated that each eligible student who had applied for the LMC scholarships this year had been awarded.

CONSENT CALENDAR

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

unanimously to adopt the Consent Calendar, with the removal of Items m, p, and t.

- a. **DISBURSEMENT LIST** Periods Ending: May 29, 2002, June 4, 2002, June 10, 2002 and June 12, 2002

Adopted Disbursement Lists periods ending May 29, 2002, June 4, 2002, June 10, 2002 and June 12, 2002.

- b. **MINUTES** Dated: June 3, 2002

Approved Minutes dated June 3, 2002.

- c. **CLAIMS** #1453 Patsy Kyles

Denied Claim #1453 Patsy Kyles.

- d. **RESOLUTION 02-9606** Adoption of the Records Management Program

Adopted Resolution 02-9606.

- e. **RESOLUTION 02-9613** Award of Contract 01-02; Central Park Improvement to Misan Construction, Inc. of Brentwood, California

Adopted Resolution 02-9613.

- f. **RESOLUTION 02-9614** Reclassify the Positions and Incumbents from Recreation Services Worker to Golf Operations Technician

Adopted Resolution 02-9614.

- g. **RESOLUTION 02-9615** Approving the Engineer's Report and Declaring the City Council's Intent to Order Improvements for Landscaping & Lighting Assessment District 1988-01, Citywide (Fiscal Year 2002-03)

Adopted Resolution 02-9615.

- h. **RESOLUTION 02-9616** Approving the Engineer's Report and Declaring the City Council's Intent to Order Improvements for Landscaping & Lighting Assessment District 1988-02, Oakhills (Fiscal Year 2002-03)

Adopted Resolution 02-9616.

- i. **RESOLUTION 02-9617** Directing Engineer of Work for the Lighting & Landscaping Districts 1988-01, Citywide (District 88-01)

and Oakhills (District 88-02) to Research the Procedure to Merge These Two Districts Beginning in Fiscal Year 2003-04

Adopted Resolution 02-9617.

- j. **RESOLUTION 02-9618** Adopt the Memorandum of Understanding Between the City of Pittsburg and the Pittsburg Police Officers' Association and Direct the City Manager and Director of Personnel Services to Sign the Memorandum of Understanding on Behalf of the City

Adopted Resolution 02-9618.

- k. **RESOLUTION 02-9619** Adopt the Memorandum of Understanding Between the City of Pittsburg and the Pittsburg Police Managers' Group and Direct the City Manager and Director of Personnel Services to Sign the Memorandum of Understanding on Behalf of the City

Adopted Resolution 02-9619.

- l. **RESOLUTION 02-9620** Adopt the Memorandum of Understanding Between the City of Pittsburg and Teamsters Local 856 and Direct the City Manager and Director of Personnel Services to Sign the Memorandum of Understanding on Behalf of the City.

Adopted Resolution 02-9620.

- n. **RESOLUTION 02-9622** Deferred Compensation 457 Plan Amendment

Adopted Resolution 02-9622.

- o. **RESOLUTION 02-9623** Requesting the Consolidation of the Municipal Election with Other Elections to be Held on Tuesday, November 5, 2002 General Election Date for the Election of Certain Officers as Required by the Provisions of the Laws of the State of California Relating to General Law Cities and Levying a Charge and Establishing Word Limitation for Candidates Statements

Adopted Resolution 02-9623.

- q. **MINUTE ORDER** Council Communication Regarding Proposed Keller Canyon Landfill Gas Power Plant

Approved Minute Order to forward letter to Supervisor Glover and the Contra Costa Board of Supervisors.

- r. **RESOLUTION 02-9625** Resolution to Extend CIP Appropriations

Adopted Resolution 02-9625.

- s. **RESOLUTION 02-9626** Adoption of the Hazardous Household Waste (HHW) Operations Agreement

Adopted Resolution 02-9626.

- u. **MINUTE ORDER** Direction to Staff for Biennial Review of Conflict of Interest Code

Approved Minute Order to review Conflict of Interest Code.

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

- m. **RESOLUTION 02-9621** Adoption of Department Director Benefits and Salary Schedule

The Department Director Benefits and Salary Schedule places into one source document the salary and benefit programs offered to the City's department heads and incorporates recommended changes for the next fiscal year.

Councilmember Rios had removed the item to recommend an amendment to Section 3.2 c. to require a timeline of five years at the Department Director level.

When asked, City Attorney Daube clarified that the item could be approved subject to amendment.

On motion by Councilmember Rios, seconded by Mayor Aiello and carried unanimously to adopt Resolution 02-9621 as amended to modify Section 3.2.c to require a timeline of five years at the Department Director level.

- p. **RESOLUTION 02-9624** Advertising Contract 99-05, State Route 4 Flood Relief Project at Loveridge Road

The City Council is requested to review and approve project plans, specifications and engineer's estimate for Contract 99-05, State Route 4 Flood Relief Project at Loveridge Road and to authorize advertisement of project bids for this project. The design of flood relief improvements to Kirker Creek, from SR4 to Loveridge Road has been completed. The improvements include fully enclosed double box culverts within the Martin Luther King School property to address the Pittsburg Unified School District's concerns. They also

include all necessary environmental mitigation identified in the project's Environmental Impact Report (EIR).

BRUCE OHLSON, Pittsburg, stated that the City's bicycle community would like the City to build a trail along the maintenance road that would follow the flood control channel between California Avenue and the Pittsburg-Antioch Highway, which he suggested would cost the City virtually nothing since an access road would be constructed as part of the project. He stated that the trail would be logical given that the north end of the project had been listed as a planned bicycle facility on the East County Bikeway Plan and the south end of the project was one block from Loveridge Road, which already had bicycle lanes along most of its length and would be provided with bicycle lanes on the remaining distance as part of the SR4 Freeway Widening Project.

WILLIE MIMS, Pittsburg, representing the BPA, concurred with Mr. Ohlson pertaining to an access road. He inquired whether or not there was anything that would address the concerns of the community who resided in the area, particularly the community bordering Carpino Avenue and the trees that had been removed as part of the project.

City Engineer Joe Sbranti advised that the environmental documentation on the project had already been approved at which time the environmental issue and the trees had been addressed. He stated that the creek would be fenced off similar to the way it was currently fenced off. There would be a detention basin on the east side of the creek on the opposite side of the neighborhood, also fenced off.

Mr. Mims expressed his concern for the depth of the detention basin and its proximity to the adjacent community. He suggested that the proposal did not represent good practice and that the detention basin would create an attractive nuisance in the area.

CHARLES SMITH, Pittsburg, restated concerns he had expressed at other meetings. As a retired environmental scientist, he stated that the culverts that ran behind Martin Luther King School and behind the community of El Pueblo and Carpino Avenue was not so much flood relief as it was flood deluge of waters from the hills caught on the other side of Highway 4. He reiterated his concerns and appeals based on best management practices. He was otherwise happy that the City had received a lot of money because what had been proposed in the area was the most the City could afford. Now that the City could afford more, he suggested that the project could be enhanced to do something with the adjacent residential area.

Mr. Smith questioned the logic of building a detention pond within close proximity of a neighborhood when said detention pond could be built in an adjacent industrial area. He noted that while the City's engineers were good, they were not environmental engineers who could address the areas of concern. He questioned the Council's logic of proceeding with a project without entertaining alternatives. He appealed to the Council for equity, fairness and environmental justice and urged the Council to determine whether or not the project could be delayed to address all of the issues. He urged that the project be addressed in conjunction with the Highway 4 Widening Project.

Mayor Aiello stated that the City could not bond out on the funds until next year.

On motion by Councilmember Quesada, seconded by Councilmember Rios and carried unanimously to adopt Resolution 02-9624.

- t. **ORDINANCE 02-1197** Adoption of an Ordinance to Amend the Zoning Map From CO (Office Commercial) to CC (Community Commercial) at the Southwest Corner of East Leland Road and Loveridge Road for ARCO Service Station APN 088-230-012 0 RZ 01-05

Adoption of the ordinance introduced by the City Council on June 3, 2002, in response to a request by Peter Tobin of Tait and Associates on behalf of ARCO Service Station, to rezone a 3.55 acre parcel from CO (Office Commercial) to CC (Community Commercial) to allow a service station, including a convenience store and car wash located at the southwest corner of East Leland Road and Loveridge Road.

WILLIE MIMS, Pittsburg, representing the BPA urged the rejection of the zoning change in that the City did not need another service station at the corner of Leland and Loveridge Roads. He referred to the staff report and the Negative Declaration where it had been found that there would be no significant impact related to the project, which finding he opposed, particularly related to the sale of alcohol and tobacco products.

Mr. Mims also suggested that the proposal would create a traffic logjam compounding the existing traffic problems in the area. He suggested that a small park would be more suitable for the area and he urged the rejection of the zoning change.

JIM DAVIS, Clayton, Real Estate Manager for the project, went over the process to this point to make the Council aware of the extensive communication in the lengthy process with the City, from a preallocation meeting with the Planning Department, a formal application, an internal design review, a traffic study, the California Environmental Quality Act (CEQA) process and the preparation of the Negative Declaration from that process, an application to the Bay Area Air Quality Management District (BAAQMD), a use permit hearing where the project had been approved 6 to zero, and where they had met with Commander Hendricks to address the safety, beer and wine issues. He stated that \$160,000 had been spent on the project to date to ensure a project that would be an asset to the City.

Councilmember Quesada emphasized that the proposal had been discussed at length.

Vice Mayor Beals-Rogers stated that while she appreciated the chronological references, Mr. Davis had not met with the Pittsburg Unified School District (PUSD) Board of Trustees, as directed. As such, she would oppose the application.

Councilmember Rios clarified for the benefit of the audience that the City did not need

to go to the PUSD School Board, although out of courtesy the applicant had been directed to speak to the Board, and the applicant had made an effort to do so. She added that she had been assured by the City Attorney that the Council did not need to make its decision based on a School Board decision.

Mayor Aiello stated that one PUSD Boardmember had been contacted, a second member had reportedly not returned a phone call, the item had been considered on reconsideration, and the item had an 18 month zero tolerance program unlike any other in the State. He stated that the applicant had agreed to that proviso and students were not allowed in the store one hour before and one hour after school. With respect to alcohol and tobacco, Mayor Aiello stated that would have to be addressed as a blanket approach across town which would mean that there would be no chance to have a blues club in the downtown, as planned, given the close proximity of schools in that area.

On motion by Councilmember Quesada, seconded by Councilmember Rios to adopt Ordinance 02-1197 by title only and waived further reading, carried by the following vote:

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

CONSIDERATION

1. **APPOINTMENT** Housing Authority Commission Appointment

City Manager Willis Casey advised that there was one vacant position on the Housing Authority. As specified in the Municipal Code, this commission seat is reserved for a tenant of the Pittsburg Housing Authority who is also over the age of 62 years. Applications had been received from three candidates, all of whom met the above requirements. The City had advertised for the opening and candidates had been interviewed on May 20, 2002.

On motion by Councilmember Rios, seconded by Councilmember Quesada to appoint *Dana V. Leatherwood* to the Housing Authority, carried by the following vote:

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

2. **APPOINTMENTS** Planning Commission Appointments

Two openings existed on the Planning Commission. The City had advertised for the openings and had received three applications. All applicants had been invited to interview with the City Council on June 3, 2002, and all had been interested at that time.

On motion by Vice Mayor Beals-Rogers, seconded by Councilmember Lewis to appoint Delores "Irene" Moreno-Bennett to the Planning Commission, failed to carry by the following vote:

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

On motion by Councilmember Lewis, seconded by Councilmember Rios and carried unanimously to appoint *Orlando G. Dolojan* to the Planning Commission.

On motion by Councilmember Rios, seconded by Councilmember Quesada to reappoint *Ralph C. Ramirez* to the Planning Commission, carried by the following vote:

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

Mayor Aiello stepped down for the following item as he believed he had a potential conflict of interest in that one of the candidates for Leisure Services Commission was an employee of Pittsburg Unified School District and Vice Mayor Beals-Rogers chaired the meeting at this time.

3. **APPOINTMENT** Leisure Services Commission Appointments

One opening existed on the Leisure Services Commission. The City had advertised for the opening and had received four applications. All applicants had been invited to interview with the City Council; two applicants had been interviewed at various times.

On motion by Councilmember Quesada, seconded by Councilmember Rios to appoint *Dewitt Bussey III* to the Leisure Services Commission, carried by the following vote:

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

A break was taken at 8:33 P.M. The Council reconvened at 8:44 P.M. with all members present.

PUBLIC HEARING

1. **RESOLUTION 02-9628** Supplemental Law Enforcement Services Fund (SLESF)

Mr. Casey advised that the item would authorize the use of funds from the Supplemental Law Enforcement Services Fund 2001-2002 Allocation.

Mr. Casey recommended that the City Council approve the requests of the Chief of Police to appropriate funds from the SLESF.

Mayor Aiello opened the public hearing on Resolution 02-9628.

WILLIAM GLYNN, Pittsburg, as a member of the Planning Commission, spoke in favor of the item. He noted that numerous communications towers had been erected throughout the City. He urged the adoption of the proposal as extremely important to provide an extra measure of safety for police officers deployed in the field. He urged the approval of the resolution to ensure the provision of clear communications throughout the entire City limits for police and fire purposes.

Mayor Aiello closed the public hearing.

On motion by Councilmember Quesada, seconded by Councilmember Rios and carried unanimously to adopt Resolution 02-9628.

2. **RESOLUTION 02-9629** Adoption of Resolutions Denying Appeals and Upholding the Planning Commission's Decision to Approve the Dow Sulfuryl Fluoride Facility Replacement Project (VA-01-05)
3. **RESOLUTION 02-9630** Adoption of Resolutions Denying Appeals and Upholding the Planning Commission's Decision to Approve the Dow Sulfuryl Fluoride Facility Replacement Project (DR-01-58)

The appeals of the Planning Commission's approval of a variance to construct a 125 foot high chemical processing facility, which exceeds the maximum height allowance of 95 feet for such structures in a general industrial zone, and a design review approval of architectural and elevation plans to construct a 4,500 square foot (footprint), 125 foot high Sulfuryl Fluoride chemical processing facility at 901 Loveridge Road (Dow Chemical Company), IG (General Industrial) zone; APN 073-220-037, were presented.

City Attorney Daube recommended that the two items related to the Dow Replacement Facility, Resolution 02-9629 and Resolution 02-9630, be considered together in one public hearing with separate actions on each appeal.

Mayor Aiello identified the format and time permitted for speakers and opened the public hearing on Resolution Nos. 02-9629 and 02-9630.

KATE HALLWARD, Oakland, Law Clerk, representing Communities for a Better Environment (CBE), a non-profit environmental justice organization with members living in Pittsburg, corrected the City Manager's report which she suggested had mischaracterized the appeal in that CBE had always maintained that the pesticide project warranted a full EIR under CEQA and was not categorically exempt from environmental review. She stated that CBE had not sought a Negative Declaration.

Ms. Hallward described Dow's facility as the largest integrated chemical manufacturing complex of its kind on the West Coast and one of the most significant sources of air pollution in the State. She stated that the proposed project would triple the production of Sulfuryl Fluoride (SF) from 6.72 million pounds to 18 million pounds per year.

Ms. Hallward reported that the Environmental Protection Agency's (EPA's) toxic release inventory had documented the release of 27 toxic chemicals from the facility, most of them pesticides, and that the State Air Resources Board had ranked Dow's Pittsburg facility among the top producers of nitrogen oxide in the State. In addition, the Regional Water Quality Control Board (RWQCB) had recently found Dow liable for refusing to comply with regulatory enforcement actions against the facility related to the contamination of water beneath the facility. She stated that the RWQCB had referred to that contamination as "The result of numerous historical spills and leaks to the ground which have occurred throughout the facility during the course of operations."

Ms. Hallward stated that the proposal to triple the production of SF would involve the demolition of the existing facility to be replaced with a much larger facility. She disagreed with the City that a use permit was not required for the process. She suggested that the increase anticipated was well above the 25 percent increase in production, which would trigger a use permit under Section 18.84.280 (C)(1) of the Pittsburg Municipal Code.

Given that an EIR was required for projects from parking garages to botanical gardens, Ms. Hallward expressed her surprise that the City would not require an EIR for an expanded chemical production facility capable of tripling the production of a deadly pesticide. She offered a number of reasons why an EIR should be required given the significant effect the project would have on the environment. She emphasized that the initial study did not provide sufficient information to even make an informed decision on that point. She added that the traffic impacts associated with the proposal would also offer reason enough to require an EIR given what she suggested would be an increase of more than one thousand truck trips a year and fourteen hundred rail trips with hazardous chemical imports and exports. She added that the increase in height from 95 feet to 125 feet represented a mandatory finding of significance that triggered an EIR under CEQA, and the cumulative effects of the entire Dow Chemical project should also be considered.

Ms. Hallward emphasized the many concerns involved, not the least of which was a newly discovered active fault line within a mile of the facility. She cited case law and urged the City Council to delay action on the project until a full EIR had been completed and the applicant had submitted a complete application for its conditional use permit. She further acknowledged documents that had been submitted to the Council, which documents had included expert testimony from three scientists who had discussed the impacts of the project.

JULIA MAY, Oakland, the Lead Scientist for CBE, presented other documents to the Council to make clear how egregious the legal deficiencies were in this case given that the project was using extremely hazardous substances, chemicals on the EPA's list of extremely hazardous substances that could cause immediate death if used. She

distributed a formula to identify how SF was made at Dow and commented that she had to get the information from the Internet because Dow had not provided that information.

Ms. May cited a number of instances where death had occurred with exposure to SF, she explained that the elderly and those with poor health and nutrition were especially susceptible to risk of exposure, particularly low income residents, and she described a number of releases and the effects of those releases, even minor releases, on the environment and on those living in the general area. She described the tests that had been conducted to identify the impacts involved and stated that a government report had acknowledged a significant threat to the public in an exposure event. She added that the substance had been banned from use in Los Angeles County in the early 1990's, although that had since been struck down on a technicality having nothing to do with the chemical itself.

Ms. May stated that under CEQA there could be a significant impact from the project on the public. She urged the preparation of an EIR to address the concerns, and noted that releases could occur in any number of forms from equipment to transportation accidents to human error and the failure of following procedures, none of which had been evaluated. She sought the denial of the approval of the project for the variance of the high tower and emphasized the need for the preparation of an EIR.

Given that the appeal had been made not only by CBE but by Adams Broadwell Joseph and Cardozo representing Plumbers and Steamfitters Local 342 and IBEW Local 302, Mayor Aiello inquired whether or not there were any other speakers prior to proceeding with comments from Dow Chemical. There were none.

JOHN SAMPSON, Clayton, representing Dow Chemical, highlighted Dow's sixty-year relationship with the City, explained that Dow products were produced in a safe and environmentally sound manner, that Dow provided local jobs for members of East County, and that Dow employees were active in the community. He sought a favorable consideration of the request to build a replacement SF manufacturing facility and emphasized that the proposal would offer an inherently safer technology replacing a plant that was nearly thirty years old.

Mr. Sampson also commented that the proposed product would replace methyl bromide, a fumigant that had been found to be an ozone-depleting compound, which was why the facility and the production of SF had been proposed. He added that the Dow product to be produced had been awarded an EPA Stratospheric Ozone Protection Award in April 2002 in recognition of Dow's efforts to develop a practical solution to the phase-out issue on the competitive product.

JOHN SAKAMOTO, San Ramon and an employee of Eichleay Engineers, the permitting agent for Dow Chemical, addressed several of the points and noted that the plant would produce SF to address bugs, larvae and grain infestations to protect the world's crops. He stated that SF had been produced at the Pittsburg Dow plant since 1974, safely and effectively.

Addressing some of the points made by the appellants, Mr. Sakamoto advised that Dow had been working with City staff for over six months, that the item had been considered by the Planning Commission, and that the proposal had been reviewed as far as what had to be submitted. The proposal also conformed to the General Plan. As to whether or not a full EIR was required, Mr. Sakamoto stated that a Mitigated Negative Declaration had been prepared for the project, which meant that environmental review had been done and had been submitted. As to the chemical and toxicity of components, he pointed out that SF was a mature process and that Dow had been operating and producing the chemicals safely and effectively since 1974, with no off-site incidents. In the new plant, Dow would increase the production of SF but with that would be using newer technologies and inherently safer systems.

Mr. Sakamoto described some of the systems that would be used to safeguard the process. With respect to air and water emissions and solid and hazardous waste emissions, Mr. Sakamoto stated that Dow would comply with all jurisdictional requirements and would be in full compliance with the Contra Costa County Health Services Department California Access Update Release Program.

REBUTTAL:

Ms. May of CBE applauded Dow's intent to work with the community and applauded Dow's phase out of methyl bromide, which was also a deadly gas and a threat to the ozone. She noted that the phase out of that chemical was overdue. When phasing out one chemical however, she emphasized that did not imply an exemption to any of the laws related to other chemicals. She emphasized that the impacts would have to be addressed and that any possible alternatives should be considered.

Ms. May supported the use of inherently safer systems and urged Dow to include that in their conditional operations to ensure leakless valves and other engineering systems to make certain that there was a safe system, which she emphasized was needed in a process like this. She stated that the report from the government found that failure from equipment, human error and transportation accidents could cause release of SF and there could be no guarantee that the chemical would remain inside a facility. She stated that Dow had numerous releases of other hazardous chemicals and she urged the preparation of an EIR to make certain that releases in the future were prevented.

Mayor Aiello opened the public hearing on Resolution 02-9629 and Resolution 02-9630.

DENNIS PEARL, Antioch, the CEO of Performance Mechanical Inc. in Pittsburg, stated that PMI conducted private enterprise industrial work, which was the containment facilities and process piping for operations such as Dow Chemical. Having worked with Dow Chemical since February 14, 1974, he was aware of Dow's partnership with the City and aware of Dow's contributions to the City's economy. He stated that he had been inside of, on top of, or around everything Dow owned on the premises. He supported the

proposal and urged the City to proceed with the project on behalf of the community.

DONALD SILVA, Dublin, the President of PMI, stated that he had been with PMI for 14 years and had worked with Dow Chemical in the last 20 years on different projects and throughout the State, primarily in the Bay Area. He characterized Dow Chemical as one of the safest plants to work in. He stated that Dow employees enforced the rules and regulations. He emphasized that the work would be done by union craftsmen with knowledge of experience of that kind of work and that Dow would meet every standard.

WILLIE MIMS, Pittsburg, representing the BPA, stated with respect to CEQA and EPA, that the staff report had showed a CEQA exemption as a Category 2 Replacement. He suggested that a like replacement could qualify for that exemption although the enhancement of that facility from 95 feet to 120 feet was not a like replacement and should not be considered exempt. He also noted that the proposed increase in production would also mean that an exemption should not be applicable in this case. Given that the Dow facility was the largest facility of its kind in the world, was located in the City of Pittsburg and was on the EPA's gross polluter list for ten years, Mr. Mims urged the Council to reject the potential environmental death trap in the community. He stated that there was already an environmental gauntlet in the community.

PAULETTE LAGANA, Pittsburg, representing CAP-IT, a community based environmental group celebrating its tenth year in the City and representing Pittsburg, Antioch and Bay Point, summarized the document submitted to the Council. She noted that construction of the facility, railroad transportation and air quality were primary concerns. She emphasized the increase in trucks on Highway 4 and Loveridge Road and expressed concern with how the proposal would impact those areas. She questioned whether or not consideration of plant noise to nearby homes had been considered, inquired what efforts were being made to hire full or part time workers from the local pool, and as a result of 9/11 inquired what security measures had been proposed for the facility. With respect to the older facility, she inquired how the clean up of that thirty-year facility would proceed and how long it would take.

With respect to a support system for railroad safety, Ms. Lagana noted that there had already been a spill in the area and there were real concerns for rail transportation safety as a result. She questioned the training for local police and fire personnel to address safety and security issues. She also inquired whether or not there would be offset credits for the facility, and if so, where those credits would occur.

FRANK GORDON, Pittsburg, stated that as a member of the Dow Community Advisory Panel made up of residents from Pittsburg, Antioch and Bay Point, he had been involved with the project for the last three years. He stated that the panel wholeheartedly approved of the project. With respect to CBE, he urged careful consideration of the information submitted as to why CBE was involved.

Mayor Aiello referred to a speaker card and inquired whether or not Mr. Hart was a representative of Dow Chemical since the period for the Dow Chemical presentation had

elapsed. If responding to direct questions, Mr. Hart would be allowed three minutes to speak to the item.

DEVIN HART, Walnut Creek, representing Dow Chemical stated that the height was related to the disposition column, which would reduce air emissions. He stated that the taller the column the fewer air emissions. With respect to hazardous inventories on site, Mr. Hart clarified that inventory levels would be reduced with the new plant, even with the higher capacity. As to worst case scenarios and alternate risk scenarios, he stated that the proposal for the new plant would reduce those as well.

With respect to traffic, Mr. Hart explained that in terms of capacity increase, only one additional truck on the road each day and less than that in terms of railroad traffic was anticipated. He added that the Department of Transportation (DOT) had given the project its full endorsement and indicated no significant increase in traffic. With respect to security, he stated that he would address security issues if desired.

Mr. Hart emphasized that Dow worked with chemicals for a living, did it better and safer than anybody else, and were fully aware and capable of mitigating the risk.

Mayor Aiello closed the public hearing on Resolution Nos. 02-9629 and 02-9630.

City Attorney Daube reported that a letter had been distributed to the Council dated June 10, 2002 to Ken Strelow, Associate Planner from the DOT to advise that the Initial Study Mitigated Negative Declaration had been reviewed and the DOT was confident that no significant impacts to the State Highway System would result.

Councilmember Lewis inquired how the project had qualified for a Negative Declaration.

In response, City Attorney Daube noted that when the project had been proposed an exemption to CEQA had been found.

Associate Planner Ken Strelow clarified that when the project had been submitted to the Planning Commission, it had been classified as exempt. The appellants had filed the appeals of the design review and the variance based on the fact that there was inadequate CEQA analysis and that the project did not qualify for an exemption. He stated that the appeal had been brought to the City Council and an initial study had been prepared to address all the impacts associated with the project, to place them on a level of significance judged by either City thresholds or the professional judgment of staff. If impacts had been found to be potentially significant that were not part of the project design, mitigation was not required. The initial study had been done, all impacts were by design less than a significant level or through mitigation had been brought to a less than significant level. As such, an EIR was not required.

Mr. Strelow suggested that an EIR was required only after the preparation of an initial study. He noted that EIRs allowed for impacts to occur without mitigation while Mitigated

Negative Declarations did not and were more environmentally sound than EIRs.

Mr. Strelo added that Dow Chemical had designs for the project and staff had recommended mitigation for the project to ensure that there would be no significant impacts. He stated that in actuality a Mitigated Negative Declaration had been chosen for that reason, which had been in conjunction with the City Attorney and at her recommendation.

City Attorney Daube affirmed that had been the case.

When asked, Mr. Strelo advised that an EIR would consider other project alternatives, which a Negative Declaration would not. He reiterated that a Mitigated Negative Declaration would reduce impacts to a less than significant level.

Councilmember Quesada stated that the City had worked with Dow Chemical and USS POSCO to ensure the safety of City residents, and both had met all the requirements asked of them as far as safety was concerned.

On motion by Councilmember Quesada, seconded by Councilmember Rios and carried unanimously to adopt Resolution 02-9629.

On motion by Councilmember Quesada, seconded by Councilmember Rios and carried unanimously to adopt Resolution 02-9630.

4. **RESOLUTION 02-9631** Adoption of Resolution to Deny the Appeal and Uphold the Planning Commission Approval to Amend UP-95-05 to Remove Truck Trip Limitations for Pittsburg Marine Terminal Located at 707 East Third Street, IG (General Industrial) Zone, APNs 073-020-020 and 073-030-007. UP-02-03

City Manager Casey identified the resolution to deny an appeal by Mike Lengyel and uphold the Planning Commission's approval of a request from John Bass of Isle Capital Corporation to amend UP-95-05 to remove truck trip limitations for Pittsburg Marine Terminal located at 707 East Third Street, IG (General Industrial) zone, APNs 073-020-020 and 073-030-007.

Mr. Casey recommended the adoption of the resolution to deny the appeal and uphold the Planning Commission's approval to amend UP-95-05 to remove truck trip limitations for Pittsburg Marine Terminal and to require use of the Pittsburg/Antioch Highway (Truck Bypass) except in cases of emergency.

MIKE LENGYEL, Pittsburg stated that it had been four years that he had been dealing with the issues related to the roadway. He expressed his hope for a happy outcome to the problems that the roadway posed to the adjacent neighborhoods. He emphasized that diesel exhaust had been determined to be a toxic air pollutant by the State

Air Resources Control Board in 1998.

Mr. Lengyel suggested a direct route of the industrial lands at the waterfront to Loveridge Road, which he noted had been a previously approved route that would not impact his neighborhood or the other residential neighborhoods that would be impacted by the truck route, nor would the recreational facilities that had been constructed adjacent to the roadway be impacted. He provided pictures for the record to identify the distance to the truck route from Central Park and from the Central Park overcrossing.

Mr. Lengyel referenced a study entitled "Particle Civics" that he presented to the Council, which study identified the issues related to particulants. He urged the rejection of the lifting of the truck limit. He added that in the wake of that limit, John Bass had negotiated an agreement to lift that restriction and was expected to immediately proceed with a cement hauling enterprise. He noted that cement was an added problem and an additional hazard in the community.

Mr. Lengyel urged consideration of a direct route from the industrial lands at the waterfront to Loveridge Road, requested Council endorsement of the North City Health Monitoring Project, and recommended the imposition of a health mitigation tax on pollution of \$300/ton and \$3/pound on toxic air contaminants on pollution in excess of 50 tons a year to collect for the harm imposed by pollution.

Mayor Aiello referred to Mr. Lengyel's letter and the reference to 1,300 truck trips, which Mr. Lengyel advised had come from the Waterfront Truck Trip EIR.

City Attorney Daube clarified with Mr. Lengyel that the photographs that had been submitted had been submitted for the record. She then identified six 4 x 6 color photos that had been entered into evidence.

JOHN BASS, the General Manager of the Pittsburg Marine Terminal, suggested that the appellant had attempted to argue the merits for the approval of the alternative truck route and a potential relocation of that alternate truck route, which had not been included in their specific request to remove the truck limitation and to allow them to use the specific route that the City had designed for all truck use. He stated there were three specific routes that they were restricted to using.

Mayor Aiello inquired when the item would be implemented, if adopted, and Associate Planner Chris Bekiaris stated that would occur immediately.

The Mayor inquired how the truck drivers would be asked to abide by the condition, to which Mr. Bass stated that all the truck work was done through one company and the use of the specific route would become an addition to the contract with that company.

In response to Councilmember Quesada, Mr. Bass clarified that they would use the alternate truck route exclusively, one hundred percent of the trucks to and from Highway 4 via the alternate truck route, with the only exception being if that route was not available.

If that were to occur, the currently existing route up Railroad Avenue or out Tenth Street to Willow Pass Road would be used. Mr. Bass added that they currently had three approved routes, including Harbor Street to California Avenue, but would eliminate the use of the Harbor Street to California Avenue route.

REBUTTAL:

In rebuttal, Mr. Lengyel suggested that the need for an unlimited amount of trucks had not been identified by Mr. Bass and he suggested that the applicant would be given a blank check if what he would be hauling was not identified. He added that the matter of discussing an alternate route was to have solved the problem of truck trips but was not to poison people or children playing in a park. He added that the City was trying to establish a Foreign Trade Zone in working with the Department of Commerce and he emphasized that the federal government had some environmental justice regulations that he suggested applied to this case.

FRANK GORDON, Pittsburg, stated that the item was a culmination of over ten years of work on the part of many, including he and his wife, who had been active participants in filing a lawsuit with Diablo Services, which suit had been settled, and where Diablo Services currently had no truck limit or route limitations. He suggested that Mr. Lengyel had been ill informed. As far as the truck route for the hydrogen plant, he stated that he and his wife had fought against that plant, and he noted that there had been a truck route specified but for construction only, which route was through USS Posco property.

Mr. Gordon stated that when the issue of the truck routes had been discussed during the Power Plant Advisory Committee meetings, Mr. Lengyel had not attended any of those meetings. With respect to a proposal for a pollution tax, he stated that the EIR for the Pittsburg Marine Terminal and the BAAQMD's requirements had been limited to less than 14 tons per year and Pittsburg Marine Terminal would therefore be exempt from the tax suggested by Mr. Lengyel. He also noted that Diablo Services was legally permitted for 99 tons of PM10 particulate matter. As such, he commented that it would be the old facility that would be taxed and not the new one.

BILL GLYNN, Pittsburg, as the Vice Chair of the Planning Commission, stated that the truck routes that had been discussed during Planning Commission deliberations had noted that Mr. Bass had agreed to deal only with the prescribed truck route to gain access to Highway 4, with the alternate truck route along Harbor Street to East Tenth Street to be used only if the prescribed route were shut down. The third route would be through Bay Point, and in that case, the City would have no right to impose traffic regulations in another jurisdiction without some specific agreement.

Given the impending schedule of the Harbor Street overcrossing, Mr. Glynn suggested that Alternate 2 and 3 would have to be instituted and significant impacts would be imposed.

Mr. Glynn therefore recommended that Alternate 3 through West Tenth Street and up to Bay Point would have to be implemented to address the truck traffic impacted by impending road closures. He urged some way to mitigate any adverse impact on truck routes based on construction, which impacts the applicant would have no control.

Mayor Aiello closed the public hearing.

On motion by Councilmember Quesada, seconded by Mayor Aiello and carried unanimously to adopt Resolution 02-9631.

5. **RESOLUTION 02-9632** Budget Adoption

On June 10, 2002, the City Council held a budget workshop to review the proposed budget for FY 2002/2003 for the City Council of the City of Pittsburg. The budget must be adopted to provide ongoing financing for City Council activities in the next fiscal year.

Mayor Aiello moved the public hearing to the end of the combined agenda to allow a JOINT PUBLIC HEARING.

In JOINT PUBLIC HEARING at 10:19 P.M. with the HOUSING AUTHORITY, the REDEVELOPMENT AGENCY, the CITY COUNCIL and the PITTSBURG POWER COMPANY, the following motion was made:

On motion by Mayor Aiello, seconded by Councilmember Rios to continue the **City Council** (Resolution 02-9632) Budget to the June 24 meeting for an enabling resolution to authorize the City Manager to continue spending through July and to the August 5, 2002 meeting for the adoption of the Budget when the City Council would have an opportunity to identify the impacts from the State. The motion carried by the following vote:

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

ADJOURNMENT

The meeting adjourned at 10:12 P.M. to the next meeting set June 24, 2002 at 4:30 P.M.

Respectfully submitted,

Lillian J. Pride, City Clerk

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CITY OF PITTSBURG
Pittsburg Power Company
June 17, 2002

Chair Frank Aiello called the meeting of the Pittsburg Power Company to order at 10:13 P.M. in the City Council Chambers at City Hall, 65 Civic Avenue, Pittsburg, California.

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

MEMBERS ABSENT: None

STAFF PRESENT: Executive Director, Willis Casey
Assistant Executive Director, Nasser Shirazi
Legal Counsel, Linda Daube
Director of Economic Development, Garrett Evans
Economic/Redevelopment Coordinator, Brad Nail
Director of Public Services, John Fuller
Director of Leisure Services, Paul Flores
Director of Planning and Building, Randy Jerome
Director of Personnel Services, Marc Fox
City Engineer, Joe Sbranti
Director of Housing, Buck Eklund
Associate Planner, Chris Bekiaris
Associate Planner, Ken Strelo
CDBG Coordinator, Annette Landry
Police Chief, Aaron Baker
Executive Assistant to the City Manager, Alice Evenson

CITIZENS REMARKS

There were no citizens remarks.

MEMBERS REMARKS

There were no Members remarks.

CONSENT

On motion by Member Lewis, seconded by Member Quesada and carried unanimously to adopt the Consent Calendar, as follows:

a. **MINUTES** Dated: June 3, 2002

Approved the Minutes dated June 3, 2002.

- b. **RESOLUTION 02-072** Award of Contract 01-02; Central Park Improvement to Misan Construction, Inc. of Brentwood, California

Adopted Resolution 02-072.

- c. **RESOLUTION 02-073** Resolution to Extend CIP Appropriations

Adopted Resolution 02-073.

A break was taken at 10:14 P.M. The meeting reconvened at 10:19 P.M. with all members present.

Mayor Aiello convened the HOUSING AUTHORITY, the REDEVELOPMENT AGENCY, the CITY COUNCIL and the PITTSBURG POWER COMPANY JOINTLY to consider the adoption of the Budget.

PUBLIC HEARING

1. **RESOLUTION 02-202** Budget Adoption (Housing Authority)
1. **RESOLUTION 02-832** Budget Adoption (Redevelopment Agency)
5. **RESOLUTION 02-9632** Budget Adoption (City Council)
1. **RESOLUTION 02-074** Budget Adoption (Pittsburg Power Company)

City Manager Willis Casey reported that on June 10, 2002, the Housing Authority, Redevelopment Agency, City Council and Pittsburg Power Company held a budget workshop to review the proposed budget for FY 2002/2003 of the City of Pittsburg. He advised that the budget must be adopted to provide ongoing financing for Housing Authority, Redevelopment Agency, City Council and Pittsburg Power Company activities in the next fiscal year.

Mr. Casey recommended the approval of the budget for the Housing Authority, the Redevelopment Agency, the City Council and the Pittsburg Power Company for FY 2002/2003.

Mayor Aiello opened the public hearing on Resolution 02-202, Resolution 02-832, Resolution 02-9632 and Resolution 02-074.

Mayor Aiello inquired of the mandates and expected impacts on the budget from the State, including the State's Educational Revenue Augmentation Fund (ERAF) taking, the impact of the State's \$600 million in new mandates from cities and counties, the deferment of reimbursables on mandated programs of \$168 million, and the potential impact of the vehicle license fees (VLF) of \$3 million.

In response, budget consultant Jim Holmes stated that until the legislation had been

passed there was no idea what the impact would be. He stated that information was not available given that the enabling legislation had yet to be adopted.

Mayor Aiello characterized the budget as long and complex. He made a motion that the budget return to the June 24 meeting to authorize the City Manager to continue spending through July and to the first meeting in August when the Council would have an opportunity to identify the impacts from the State.

Mr. Holmes stated that given the projected fund balance at the end of 2003 and setting aside all those items that had been discussed by the Council to be reserved, such as vacation, retirement, medical, Tier 1, the Auto Mall, and the like, there would still be \$2.7 million in undesignated fund balance available. He suggested that the impact of the State budget would offer no greater impact than that. Additionally, \$5.3 million had been set aside for economic uncertainty. As such, he stated that any State mandates that could affect the budget had already been addressed in the proposed budget.

Mayor Aiello understood the information presented, although he wanted to be fiscally responsible to the taxpayer and he did not want to pass a budget that did not include factual numbers. Given the priority issue of shifting redevelopment salary into General Fund salary, an issue of policy on return of investment of redevelopment dollars, and with the multiple issues dealing with the budget, he emphasized that it was still unknown what those impacts would be along with the effects of those impacts on certain departments. He did not want to touch the reserve.

Councilmember Rios seconded the motion.

Interim Director of Finance, Peter Kolf stated that while he understood the problem, particularly with respect to the State and its deficits, he stated that the budget was a relatively modest budget compared to last year. He stated that deferring the budget into July would create an administrative nightmare for staff. He proposed that the budget be approved as submitted and that the Council make the necessary changes at its first meeting in July on July 15 to enable staff to go through the year-end process on an orderly basis. He stated that staff had to close out the fiscal year, had to carry forward this year's encumbered amounts, and that the two week period would enable staff to establish the budget for the next fiscal year and make any changes the Council deemed necessary in the budget to offer a better understanding of what the State's actions could do.

Mr. Kolf added that if there were any particular types of expenditures that the Council would like to address during that period, he stated that could be done. He looked to an orderly move from one fiscal year to another and suggested that could be accomplished by adopting the budget at this time and still address any concerns the Council might have. He emphasized that the Council could make any adjustments or amendments it saw fit and he did not believe that a two week period would cause that much grief.

In response to the Chair as to the difficulties that would be created for staff if the budget were not adopted, Mr. Kolf stated that the chaos would involve the closing out of this year and

the setting up of the budget for the next fiscal year, which would require the setting of each line item in the financial management system and the identification and adjustment of carryover encumbrances, which involved a great deal of time.

Given that this was not the first time that the City had faced uncertain financial times, Councilmember Lewis emphasized that the budget workshop had identified few discretionary funds and a minor amount that would leave little leeway for things that would have to be cut. While not an advocate of using reserves, he stated that the funds had been so designated because of economic uncertainties. He emphasized that the budget had included funds to address an economic uncertainty. Given that he had been advised that adjustments could be made in the process, he was not in favor of allowing the fiscal year to lapse without the adoption of a budget that could be adjusted at a later date, if necessary.

When asked, Mr. Holmes stated that 20 percent reserves had been set in the current budget as had occurred in the last budget. The difference was that the current budget had designated where the reserves would be directed.

On motion by Mayor Aiello, seconded by Councilmember Rios to continue the **City Council** (Resolution 02-9632) Budget to the June 24 meeting for an enabling resolution to authorize the City Manager to continue spending through July and to the August 5, 2002 meeting for the adoption of the Budget when the City Council would have an opportunity to identify the impacts from the State. The motion carried by the following vote:

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

On motion by Chair Aiello, seconded by Member Quesada to continue the **Housing Authority** (Resolution 02-202) Budget to the June 24 meeting for an enabling resolution to authorize the Executive Director to continue spending through July and to the August 5, 2002 meeting for the adoption of the Budget when the City Council would have an opportunity to identify the impacts from the State. The motion carried by the following vote:

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

On motion by Chair Aiello, seconded by Member Quesada to continue the **Redevelopment Agency** (Resolution 02-832) Budget to the June 24 meeting for an enabling resolution to authorize the Executive Director to continue spending through July and to the August 5, 2002 meeting for the adoption of the Budget when the City Council would have an opportunity to identify the impacts from the State. The motion carried by the following vote:

Ayes: Quesada, Rios, Aiello

Noes: Beals-Rogers, Lewis
Absent:None

On motion by Chair Aiello, seconded by Member Quesada to continue the **Pittsburg Power Company** (Resolution 02-074) Budget to the June 24 meeting for an enabling resolution to authorize the Executive Director to continue spending through July and to the August 5, 2002 meeting for the adoption of the Budget when the City Council would have an opportunity to identify the impacts from the State. The motion carried by the following vote:

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

When asked, City Attorney Daube clarified that a four-fifths vote was required on June 24, 2002 to adopt the enabling resolution.

ADJOURNMENT

There being no further business, the meeting adjourned at 10:41 P.M.

Respectfully submitted,

Lillian J. Pride, Secretary

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