

**CITY OF PITTSBURG**  
**Redevelopment Agency Minutes**  
**November 3, 2003**

Chair Yvonne Beals called the meeting of the Redevelopment Agency to order at 7:09 P.M. in the City Council Chambers at City Hall, 65 Civic Avenue, Pittsburg, California after having met at 5:00 P.M. for Commission Review Workshop and at 6:00 P.M. in Closed Session pursuant to Government Code Section 54956.9, Conference with Legal Counsel - Existing Litigation regarding The City of Pittsburg vs. Cheri De Bonneville, Contra Costa County Superior Court Case No. C03-00484 and Lopez v. City of Pittsburg, Contra Costa County Superior Court Case No. C03-01781; Conference with Legal Counsel - Anticipated Litigation pursuant to subdivision (b) of Section 54956.9 regarding two cases; and Public Employee Performance Evaluation of the City Attorney.

City Attorney Linda Daube reported that in Closed Session the claim of Michael Barbanica had been considered, which claim had been filed with the City Clerk on October 1, 2003. The Council voted unanimously to deny that claim.

Mayor Beals reported that the City Council had deliberated in Closed Session in reference to the City Attorney's contract. The Council voted 4-1 to extend the City Attorney's contract through the end of the fiscal year. The Council directed staff to work immediately on issuing a Request for Proposal (RFP) for the month of December with a deadline of January 2004 to conduct interviews in the spring for City Attorney services.

**MEMBERS PRESENT:** Glynn, Kee, Parent, Rios, Beals

**MEMBERS ABSENT:** None

**STAFF PRESENT**

- Executive Director, Willis Casey
- Assistant Executive Director, Nasser Shirazi
- Legal Counsel, Linda Daube
- City Clerk, Lillian Pride
- Director of the Redevelopment Agency, Garrett Evans
- Director of Economic Development, Brad Nail
- Director of Recreation, Paul Flores
- Director of Finance, Marie Simons
- Director of Human Resources, Marc Fox
- Director of Public Works, John Fuller
- Director of Planning and Building, Randy Jerome
- City Engineer, Joe Sbranti
- Police Chief, Aaron Baker
- Executive Assistant to the City Manager, Alice Evenson

## **PLEDGE OF ALLEGIANCE**

Denae Bonds led the Pledge of Allegiance.

## **CITIZENS REMARKS**

There were no citizen remarks.

## **MEMBERS REMARKS**

There were no Member remarks.

## **CONSENT**

On motion by Vice Chair Rios, seconded by Member Glynn, and carried unanimously to adopt the Consent Calendar, as follows:

- a. **MINUTES** Dated: October 20, 2003

Approved Minutes dated October 20, 2003.

## **ADJOURNMENT**

The meeting of the Redevelopment Agency adjourned at 7:12 P.M. to the regular meeting on November 17, 2003.

Respectfully submitted,

Lillian J. Pride, Secretary

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**CITY OF PITTSBURG**  
**City Council Minutes**  
**November 3, 2003**

Mayor Yvonne Beals called the meeting of the City Council to order at 7:13 P.M. in the City Council Chambers at City Hall, 65 Civic Avenue, Pittsburg, California after having met at 5:00 P.M. for Commission Review Workshop and at 6:00 P.M. in Closed Session pursuant to Government Code Section 54956.9, Conference with Legal Counsel - Existing Litigation regarding The City of Pittsburg vs. Cheri De Bonneville, Contra Costa County Superior Court Case No. C03-00484 and Lopez v. City of Pittsburg, Contra Costa County Superior Court Case No. C03-01781; Conference with Legal Counsel - Anticipated Litigation pursuant to subdivision (b) of Section 54956.9 regarding two cases; and Public Employee Performance Evaluation of the City Attorney.

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**MEMBERS PRESENT:** Glynn, Kee, Parent, Rios, Beals

**MEMBERS ABSENT:** None

**STAFF PRESENT:** City Manager, Willis Casey  
Assistant City Manager, Nasser Shirazi  
City Attorney, Linda Daube  
City Clerk, Lillian Pride  
Director of the Redevelopment Agency, Garrett Evans  
Director of Economic Development, Brad Nail  
Director of Recreation, Paul Flores  
Director of Finance, Marie Simons  
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Director of Planning and Building, Randy Jerome  
City Engineer, Joe Sbranti  
Police Chief, Aaron Baker  
Executive Assistant to the City Manager, Alice Evenson

**CITIZENS REMARKS**

BEN JOHNSON, Pittsburg, speaking on behalf of the United Veterans Council, reported that the WWII tank would be moved on November 5 to the platform at the Veterans Memorial site. He thanked the City for all its help and acknowledged the help from the Police Chief related to the closing of a portion of Harbor Street to allow the tank to be moved. He reported that the tank would be dedicated on Veterans Day. He invited everyone to the Veterans Day event, starting at 8:30 A.M. with a Kiwanis Club pancake breakfast to 10:30 A.M., after which the ceremony to dedicate the tank would commence at 11:00 A.M.

JENNIFER BONDS, Pittsburg, commented that she had approached the City Council at the beginning of the summer to solicit the use of a vacant lot on West Boulevard for a play area for the West Boulevard community. Noting the recent tragedy in that area, she took this opportunity to thank Councilmembers Glynn and Kee for attending the West Boulevard meetings and showing the support of the Council. She stated that the residents wanted to bring a change to the neighborhood and everyone had been working to do that. She sought Council direction in the creation of a safe place for the children in the neighborhood to play and to stay out of trouble.

CAROL DAVIS, Pittsburg, a West Boulevard resident, encouraged the Council to help the neighborhood create a safe place for children to play and to take some of the restlessness off of the street. She noted that the area was low income and there was a gang influence in the neighborhood that residents were working to abate.

JOHNNY RODRIGUEZ, Brentwood, spoke on behalf of a community center for the West Boulevard neighborhood. As the director of a program that had just been contracted to work at the Junior High level and as a former gang member himself, he had been working to address the gangs in far East County for the last eleven years. He commented that the City of Brentwood had built a community center in his former neighborhood to provide services for kids, to give children an opportunity to participate in community events, and through a mentoring program to help the children in the neighborhood and offer children a safe place to be. He urged the City Council to consider a community center to help better the West Boulevard community and help to clean up that neighborhood.

SARAH IGNACIO, Pittsburg, one of the youth involved in the previously referenced program and a Hillview Jr. High student, referred to the recent killing on West Boulevard. She noted that West Boulevard people hung out with their own people and there was too much emphasis on "colors." She explained that there were hard working families in the neighborhood who were working to protect their children. She suggested that the placement of a community center would help address the problems.

WENDY CERVANTES, Pittsburg, took this opportunity to thank the members of the Police Department and the City Council who had been supportive of the neighborhood in making some changes to address the reported problems.

Mayor Beals offered her condolences to the mother of the boy killed on West Boulevard. She directed the Police Chief to continue to work with the residents to create

some strategic operation to increase the visibility of law enforcement and to create a deterrent in the area. She suggested that the school in the West Boulevard neighborhood could also be used as a community center.

Mayor Beals requested that staff work with the Pittsburg Unified School District (PUSD) to potentially place a portable at the school to serve as an after hours community center. She requested that the School District Liaison Committee, along with staff from the Public Works or Engineering Departments and the Police Chief work collaboratively to address the issue immediately, at least on an interim basis.

Councilmember Parent commented that Calpine had distributed the rest of its money from its community funds and one of those donations was \$30,000 to the Boys Club for the purpose of buying a van to help City children have access to the Boys and Girls Club. She suggested that the Police Department work to coordinate that resource to get children from the West Boulevard neighborhood to and from the Boys and Girls Club.

Mayor Beals suggested that too could be discussed at the School District Liaison Committee.

## **COUNCIL REPORTS**

Councilmember Kee referred to the West Boulevard issue, noted that he had attended an emergency meeting of West Boulevard residents last week and commented that the tragic situation had brought everyone together. At the meeting many ideas had been offered to help improve the situation, such as an increased police visibility and patrols, the prompt replacement of light fixtures, the trimming of trees that blocked the lights, and the possibility of securing a portable for use as a community center. He noted that there were community groups that would like to staff such centers. He suggested that the Community Advisory Commission or some other City group could help in that regard.

Councilmember Kee added that he had also attended the Centennial Plaque Dedication.

Councilmember Parent reported that she had recently attended the East County Mayors Luncheon promoting East County unity, and the Los Medanos College (LMC) opening of its Children's Center. She explained that the existing center had been doubled. The center provided childcare to students at LMC and to the community, and at the same time provided educational opportunities in the form of a laboratory for those students learning early childhood development. She commented that was just the beginning since the voter approved bonds would also provide a new library and a new math and science center at LMC.

Councilmember Parent had also attended the Calpine meeting in Antioch, the purpose for which was to receive from Calpine \$25,000 in the form of a donation for the purpose of helping to furnish the Senior Center. She expressed her appreciation for the fact that Calpine had donated \$1 million to 25 different groups in the communities of Bay

Point, Pittsburg and Antioch over the last four years. Councilmember Parent advised that she had also attended the Shimoneseki events when a plaque had been dedicated followed by a luncheon.

Further, Councilmember Parent referred to a letter sent to the City Council from a constituent who had moved to the City within the last three years and who wanted to apprise the Council how much they appreciated the Public Works Department for its assistance and prompt replies. Having contacted those parties by phone, she verified that the commendation was real and that the residents had told her how happy they were to live in the City.

Councilmember Glynn advised that he had attended the emergency meeting of the West Boulevard neighborhood group. He stated that the community had responded well in that situation and had taken appropriate action. He also reported that he had attended the Calpine presentation in Antioch. He noted that even though the Calpine money had been exhausted, Supervisor Glover reported that he had attained \$150,000 that could also be made available for further distribution. Councilmember Glynn further highlighted his attendance at the Shimoneseki celebration and the dedication of the plaque in that case. He described that event as outstanding.

Mayor Beals commented that she had been a celebrity waiter for the LMC Foundation, as had Linda Daube, Peter Garcia the President of LMC, Mayor Don Freitas of Antioch, Cheryl Sturges, and other members of the community where the celebrity waiters competed to raise money. She had raised \$1,400. Peter Garcia had won, raising \$4,000 towards scholarships for LMC students. She noted that other City staff had been in attendance at that very positive event.

Mayor Beals also reported her attendance at the East County Mayors Luncheon, an event that occurred every two years, when she had been honored by Delta 2000. The luncheon had been sold out. She thanked Pittsburg residents and City staff who were present in support at that time.

Mayor Beals further reported that the Shimoneseki visit had included 30 visitors from Shimoneseki, Japan and that those visitors had participated in the dedication of a marble plaque in honor of the City's Centennial Year.

## **CITY MANAGER REPORT**

City Manager Willis Casey asked the Director of Economic Development Brad Nail to present a report on the Auto Mall.

Brad Nail announced that after several years of hard work on the part of many people, including a number of City departments, Mazzei Cadillac, Pontiac, Buick, GMC was now open for business, and Winter Chevrolet and Winter Honda planned to open by November 15, 2003. Three dealerships would then be open selling nine brands of cars. He added that continued interest of other dealers was anticipated.

## **PROCLAMATION**

### 1. Homeless Awareness Month

Vice Mayor Rios read the proclamation for Homeless Awareness Month, November 2003. There was no one present at this time to receive the proclamation.

At this time Mayor Beals acknowledged a speaker for public comment.

ROGER RILEY, Pittsburg, noted with respect to the City's building inspection that the Council should review the rule that for a roof inspection there had to be a ladder up and tied in place for the inspector even when it was unknown when that inspector might arrive at the site. He stated that was true for existing homes as well as subdivisions. His concern was that an unattended ladder would be an attractive nuisance and a safety hazard for children.

Mr. Riley added that he had been refused inspection because the ladder had been available, but was not up and tied in place at the time that the inspector had arrived. He suggested that policy should be reviewed as to its appropriateness. He noted, when asked, that he had been working with Building Inspection staff to address the issue.

## **PRESENTATION**

### 1. Business Improvement District (BID) - Chamber of Commerce

DR. RON QUESADA, the President of the Pittsburg Chamber of Commerce, presented the Chamber's proposal for the 2003-2004 BID. He noted that over the years the Chamber had worked closely with the City. It was the hope that partnership would provide valuable resources for the business community for years to come. He noted that the Chamber with the guidance of the Vice-Mayor had asked members to contribute to the production of the Holiday Parade. He identified a number of members of the Chamber who had responded to that request and presented a check in the amount of \$3,350 for the Holiday Parade to the Mayor at this time.

Mayor Beals identified a request to add a minute order to the agenda as an emergency item that had arisen after the posting of the meeting agenda related to the Interim City Manager position.

On motion by Vice Mayor Rios, seconded by Councilmember Parent and carried unanimously to add an item to the meeting agenda that had arisen after the posting of the meeting agenda.

On motion by Mayor Beals, seconded by Councilmember Parent and carried unanimously to direct the City Manager to immediately contact the League of California Cities (LCC) to generate a six to ten candidate list for an Interim City Manager with interviews scheduled for either November 12 or 13, and for Council deliberation of the appointment of an Interim City Manager scheduled for its November 17 Closed Session agenda.

## **CONSENT CALENDAR**

On motion by Councilmember Parent, seconded by Councilmember Glynn, and carried unanimously to adopt the Consent Calendar, as follows:

- a. **MINUTES** Dated: October 20, 2003  
Approved Minutes dated October 20, 2003.
- b. **CLAIMS** #1528 Arthur J. Sarvis; #1539 Josefina Alvarez  
Denied claims #1528 Arthur J. Sarvis; and #1539 Josefina Alvarez.
- c. **ORDINANCE 03-1213** Ordinance of the City Council of the City of Pittsburg Approving and Adopting the Fifth Amendment to the Community Development Plan for the Los Medanos Community Development Project and Approving a Notice of Exemption for the Plan Amendment  
Adopted Ordinance 03-1213.
- e. **RESOLUTION 03-9939** Notice of Completion and Acceptance of Public Improvements Within Subdivision 8576 Oak Hills South Unit 7A for Continuous Maintenance  
Adopted Resolution 03-9939.
- f. **REPORT** Receive and File Quarterly Investment Report as of September 30, 2003  
Received and Filed quarterly Investment Report as of September 30, 2003.
- Vice Mayor Rios had removed the following item from the Consent Calendar for discussion.
- d. **RESOLUTION 03-9937** Approving the Transfer of Prior Year Grant Balances as of June 30, 2003 into the Fiscal Year 03-04 Budget for the City of Pittsburg in the Amount of \$515,053

The City of Pittsburg has federal, state and local grants funding Police, Public Works and Community Development Block Grant (CDBG) activities which were not completed during the prior year. The City received most of the funding in advance except for the CDBG. This is paid to the City on a reimbursement basis. In compliance with federal, state and local grant agreements as well as governmental accounting standards, these grant commitments need to be transferred to the FY 2003-04 budget.

Vice Mayor Rios noted that some of the grants were for activities. The information provided did not list some of the activity programs and did not specify which programs were multi-year. She added that the list of activities that had been identified as not completed included no explanation as to why no completion had occurred. She also referred to the CDBG Housing Rehabilitation category, noted that \$100,000 remained in that account, and questioned whether or not housing loans were still being promoted. She emphasized that multiple questions had not been answered.

Finance Director Marie Simons commented that staff could have done a better job identifying the status of grants, but that staff had worked with the departments and program managers and had received verification, in writing, that the grants were active and should be carried over. She concurred that additional information could have been provided to itemize the grants. She added that the item could be continued pending the submittal of more information.

On motion by Vice Mayor Rios, seconded by Councilmember Glynn and carried unanimously to continue Resolution 03-9937 to the next Council meeting for more complete information.

## **CONSIDERATION**

1. **RESOLUTION 03-9938** Authorize Staff to Negotiate a Design Contract with Noll & Tam Architects to Complete Construction Contract Documents for a New Library

City Manager Casey reported that on September 15, 2003 the City Council approved and accepted the Needs Assessment and Programming Study for a New Public Library in Pittsburg. At that meeting, the City Council asked that the Library Subcommittee reconvene to further explore methods of funding the operations and maintenance of a new Library. The subcommittee met on October 21 and concluded that the design of the library should move forward while the City continues to explore funding options for operation and maintenance.

Mr. Casey stated that there was no fiscal impact as a direct result of the resolution. Prior to entering into a contract for design services, staff would return to the Council for authorization. He recommended that staff be authorized to negotiate a design contract with Noll & Tam Architects in order to complete construction documents for the new Pittsburg Library.

MARIAN PARTRIDGE, Pittsburg, the Branch Librarian at the Pittsburg Library, spoke in support of the Library project. Besides those who used the library to borrow books for the enjoyment of reading and besides those parents who checked out books to read to his/her children, she spoke for all those who used the library for myriad other reasons and urged the Council to remember that a new library would serve everyone in the community and serve as a source of pride to the community.

Councilmember Kee noted his understanding that the Library Subcommittee had recommended that in order to maintain the Library building the parcel of land could be sold to potentially fund the operation and maintenance of the library over a period of time.

City Engineer Joe Sbranti explained that was one of the options recommended by the Subcommittee for the interim until a permanent solution could be found.

Councilmember Kee suggested that the same problem with respect to maintenance would occur with other situations, such as the California Theatre, once built. He therefore asked the Council to consider the dedication of the money from the sale of the land so that it would be reserved specifically to maintain the library, the Senior Center and the California Theatre.

Mayor Beals advised that the intent of the Subcommittee was that the sale of the property would be earmarked solely at this point for the library. The other referenced projects had not yet proven to be feasible. At this point the funds would only be dedicated to the library to offer a short term solution over a 20 year period while other avenues, such as a bond measure that could also fund the operation and maintenance of many of the City's community parks and recreation centers, could be pursued.

Councilmember Glynn pointed out that it would be important to insure that the funds were essentially dedicated by having a separate account for the construction aspects of the library itself which could only be used for that purpose.

Director of the Redevelopment Agency Garrett Evans stated that with the sale of the land staff would work with the Finance Director to set up that account.

Councilmember Parent commented that considering the City's finances and the fact that the City was attempting to create a long-term fiscal plan, she opposed the consideration of assets on a piecemeal basis. She suggested that the Council would get to the plan within the next two to three month period to know whether or not there was a desire to earmark the referenced property for library and other facility maintenance purposes.

Commenting that the City General Fund was contributing over \$1 million annually to the Landscaping and Lighting District (LLD), Councilmember Parent suggested that it might be appropriate to apprise the community of a potential change to the LLD, to include the library or other operational needs. She did not want to cloud that possibility. She would rather that the Council allow the drawings to proceed without committing the proceeds from the sale of the referenced property for a specific purpose.

Mayor Beals clarified that at this time the item related only to the approval of the drawings to allow the City to move forward with the construction drawings for the new City Library.

On motion by Vice Mayor Rios, seconded by Mayor Beals and carried unanimously to adopt Resolution No. 03-9938.

2.     **RESOLUTION 03-9940**                   Approval of the Business Improvement District Consultant Agreement with the Pittsburg Chamber of Commerce for Fiscal Year 2003-2004

Mr. Casey stated that since the inception of the Business Improvement District in 1972, the Pittsburg Chamber of Commerce has been designated as the Advisory Board for the Business Improvement District to promote business in the City of Pittsburg and to develop programs to help local businesses succeed. The annual Consultant Agreement with the Pittsburg Chamber of Commerce for the specified BID Scope of Services to be performed during the 2003-2004 Fiscal year would not exceed \$58,000.

Mr. Casey recommended that the City Council approve the annual Business Improvement District Consultant Agreement with the Pittsburg Chamber of Commerce for the 2003-2004 fiscal year, not to exceed \$58,000. The expenditure had been included in the 2003-2004 City budget.

Vice Mayor Rios stressed that the City and the Chamber should work on business retention. She urged the City to work hard at retaining its business.

On motion by Vice Mayor Rios, seconded by Councilmember Glynn and carried unanimously to adopt Resolution 03-9940.

3.     **MINUTE ORDER**                   Letter to Board of Supervisors Regarding Urban Limit Line

Mr. Casey explained that the cities of Antioch, Brentwood and Oakley had asked the City of Pittsburg to participate collaboratively in drafting a letter to the Board of Supervisors regarding the proposed voter initiative on the Urban Limit Line (ULL).

Mr. Casey recommended that the Council review the draft letter and take action regarding the support of that letter.

Mayor Beals reported that all four Mayors had met and had discussed the item. She noted that there had been no suggested language for the ballot measure to date and the City was waiting to see what the Board of Supervisors would do. She advised that the City of Oakley would be reviewing the letter on November 11, and it was the intent of the Mayors to meet with Supervisor Glover to discuss the issue in more detail to learn how the ULL would impact each jurisdiction.

BRUCE OHLSON, Pittsburg, suggested that the City should not sign the letter. He noted that the ULL was fine as is for the next ten to twenty years. He suggested that expanding the areas of the County that were open to construction and development would

only generate more traffic and more air pollution. At some point in the future, he suggested that the expansion of the ULL could be reconsidered. He urged the adoption of the *Shaping Our Future* initiative and he urged a regionalized approach.

ROGER RILEY, Pittsburg, commented that he was not aware of the current ULL although he had an interest in the situation and how it would affect him as a property owner. He suggested that the City should give itself the room it needed to expand.

Councilmember Kee commented that in reading the letter there was an attempt to gain some solidarity in East County in opposition to the *Shaping our Future* initiative until the ULL had been resolved. He also noted that the City was being asked to oppose something that would be presented to Contra Costa County voters and the City did not know the wording of that ballot measure. He objected to being asked to oppose something that had not been identified at this point and being asked to oppose allowing the voters to make a decision, which he suggested was against democracy.

Councilmember Parent suggested that doing land use planning by public vote made no good sense, especially with a Countywide vote with very different situations in different areas of the County. She noted that there were those in the County who had what they wanted and did not want to see anyone else get it. She characterized that as a drawbridge mentality. She expressed concern that if the ULL is determined by the voters, those areas that were completely built out would have the drawbridge mentality and oppose those jurisdictions that were not built out. Councilmember Parent suggested that there were modifications of the ULL that should be pursued in the City of Pittsburg, and there was an opportunity to ask for revisions. Other jurisdictions in East County would also like to pursue that opportunity. She therefore supported the third bullet in the draft letter "We are opposed to 'ballot box planning.' It is often the opposite of sound planning reflective of legal requirements and State law public policy. In this process, it will create a second-class status for East County cities, which we find unacceptable." For that reason, she suggested that the letter was appropriate to send.

Councilmember Glynn concurred and commented that it was important to recognize that the City had been through the process before and the last time the item had been presented to the voters a particular ULL had been approved. Councilmember Glynn commented that subsequent to that time, the County Board of Supervisors had further restricted the ULL and had made it tighter. In the case of the City of Pittsburg, he commented that it was significant to note that the City's harbor was inside the City Limits but outside the ULL, although he acknowledged the claim that had been done in error. He also supported the third bullet item referenced by Councilmember Parent.

In the process of the *Shaping Our Future* meetings, Councilmember Glynn noted that the Board of Supervisors had indicated that land use planning ought to be shifted over to the Contra Costa Transportation Authority (CCTA) away from issues relevant to the County. He also noted that the maps that had been produced to identify the ULL were very confusing and made little sense.

Councilmember Glynn further noted that those who objected to the ULL were the District 5 cities that were contiguous to one another. He suggested that the letter was appropriate with respect to regionalism relevant to the four cities in East Contra Costa County. He strongly opposed the concept and did not want the City to give up its rights for ten years. He therefore supported the letter and characterized it as outstanding.

Vice Chair Rios concurred with the comments and suggested that the letter would send a strong message to the Board of Supervisors. She supported the letter.

On motion by Councilmember Glynn, seconded by Vice Mayor Rios to send the draft letter to the Board of Supervisors regarding the Urban Limit Line, carried by the following vote:

Ayes: Glynn, Parent, Rios, Beals  
Noes: Kee

4. **RESOLUTION 03-9942** Contra Costa County Employees' Retirement Association (CCCERA) Invoice

Mr. Casey reported that the Contra Costa County Employees' Retirement Association (CCCERA) had settled the *Paulson* and *Walden* lawsuits (Contra Costa Superior Court No. C-96-02939 and C-97-03935). The lawsuits centered on what compensation was included by CCCERA when determining retirement benefits. The CCCERA had set aside \$115,116,014 towards the costs of these lawsuits and this set-aside is insufficient to pay the total settlement costs of \$149,346,218. CCCERA had invoiced the City of Pittsburg for its additional share of the settlement costs.

Mr. Casey explained that the amount owed by the City for the Paulson Settlement liability as of January 1, 2003 was an additional \$1,042,662 plus \$76,462 interest for January through November 2003. That amount assumed that all CCCERA actuarial assumptions remained accurate during the lifetime of the retirement plan. The amount owed could be paid over a twenty-year period and, if paid over the twenty years, would be \$105,542 per year.

Mr. Casey recommended that the City Manager be authorized to pay the Contra Costa County Employees' Retirement Association \$105,542 for unfunded retirement liability due to the Paulson decision and appropriate \$105,542 from the General Fund fund balance for that invoice.

Councilmember Kee clarified that the amount had to be taken out of the General Fund.

Human Resources Director Marc Fox reported, when asked, that the money was currently not budgeted which was why the Council was being asked to appropriate the funds. He advised that the City would lose interest earnings on \$105,000 for the balance of the fiscal year. It would be a supplemental appropriation and would not result in the loss of

any programs. He stated that staff had not been consulted about the settlement of the 1999 lawsuit. The Retirement Board had set aside an enormous amount of money for the decision.

When the final settlement had been determined, Mr. Fox explained that the actuary had determined that the settlement set-aside plus interest earnings was short of the needed money to pay the existing retirees the additional benefits covered under the lawsuit. All participating employers therefore had an additional liability. While the City's total liability exceeded \$4 million, the remaining money not currently in the retirement account was \$1.1 million.

Mr. Fox added that the County Retirement Board, as a number of retirement bodies, had been liberal in its application of benefits during the good times. The Retirement board also had the liability of figuring out how to pay for the retirement benefits. He noted that the City had one of the larger liabilities because it was one of the largest employers under the Retirement Plan. The County had the greatest liability.

Vice Chair Rios expressed her distress that staff was aware of the situation and had not made the Finance Director aware of the situation during budget discussions. She emphasized that the information should have been provided to the Council during its budget discussions.

Finance Director Marie Simons expressed her understanding that staff did not know that the settlement would impose the impact it had. It was staff's understanding that sufficient funds had been set aside. Staff had not received an invoice for the additional liability until after the City Council had considered its budget. Staff had honestly thought that the funds that had been set aside would be sufficient.

Mr. Fox explained, in response to the Mayor, that the County Retirement Board had set aside \$3.5 million of City of Pittsburg assets within the County Retirement Plan for the liability. Up to August 2003, the City of Pittsburg and the Human Resources Director believed that the \$3.5 million would be sufficient to pay the City's liability. That was ultimately not sufficient and the City of Pittsburg had to come up with the remainder.

When asked, Ms. Simons noted that staff had recommended deferring the total principal of the obligation paying it over time out of General Fund reserves this year and out of the General Fund in the intervening years.

Councilmember Parent noted that the staff report had advised that the suit had been filed in 1996 and another suit had been filed in 1997, and that both had been settled in 1999. She questioned how it took from 1999 and 2003 to determine that an insufficient amount of money had been set aside for the settlement.

Mr. Fox stated that the CCCERA worked slower than most other governmental entities. He noted that the biggest hint that the City got was when moving out of the CCCERA program and into the Public Employees Retirement System (PERS) was that the

CCCERA had set aside \$3.5 million for the City out of a total of \$90 million set-aside for the liability. He had been offered no indication by the Executive Director of the CCCERA that any additional liability would be owed by the City of Pittsburgh.

On motion by Mayor Beals, seconded by Councilmember Glynn and carried unanimously to adopt Resolution 03-9942.

5. **RESOLUTION 03-9943** Clarifying Application of Hillside Development Policies and Initiating a General Plan Amendment to Incorporate this Clarification into the General Plan

Mr. Casey advised that the City Council requested the Planning Commission submit its recommendation to the Council clarifying the intended application of General Plan hillside development policies. The Planning Commission recommends that General Plan hillside development policies be applied only to land designated Hillside Low Density Residential by the General Plan.

Mr. Casey stated that there was no impact to the General Fund to cover the cost of processing the General Plan Amendment. He recommended the adoption of the resolution clarifying that Chapter 4, Section 4.2 (Hillside Development) of the General Plan apply only to those lands designated as Hillside Low Density Residential and initiate a General Plan Amendment to incorporate the clarification into Chapter 4, the Urban Design Element of the General Plan.

Director of Building and Planning Randy Jerome reported that in June 2003 there was a joint meeting of the City Council and the Planning Commission at which time one of the issues that had been raised was an application of hillside standards. The Council had asked staff to refer the item to the Planning Commission for a recommendation. The Planning Commission had voted on the item in September and had submitted its recommendation to the City Council related to the application of hillside standards to the General Plan.

Planning Manager Melissa Ayres displayed colored boards of the four options that had been considered by the Planning Commission: (1) to apply policies to all property with hillside terrain with the specific definition of hillside terrain in the General Plan, (2) to apply policies only to land designated Hillside Low Density Residential, (3) to apply policies only to lands designated Hillside Low Density Residential or Open Space, or (4) to apply policies only to land above the 500-foot contour elevation as delineated in the General Plan.

Ms. Ayres noted that staff had recommended Option 4. The Planning Commission had recommended Option 2 based on the history and continuity through the public hearing process for the 2001 General Plan. The Commission did not want to change the rules on the development community at this time and suggested that the application of the hillside policies through interpretation and policies in the General Plan might prevent the construction of the extension of San Marco Boulevard from San Marco development to Bailey Road.

Ms. Ayres reported that a map had been prepared, which map was displayed at this time, to show an extension of that road from the western edge of the Bailey Estates development to the southern end of the San Marco development, identified as the developer's preferred alignment.

Ms. Ayres sought a clarification of the recommended option or an option of the Council's own to be able to clarify the City's hillside regulations with respect to appropriately advising the development community of those required regulations.

ROGER RILEY, Pittsburg, had a number of questions that were addressed by staff with respect to the definition of "du" (dwelling units), the clarification of the slope permissible for development, and the time when the Council expected to act on the request.

In response to Mr. Riley, Mayor Beals explained that the item was a follow-up from a previous discussion, which had sought clarity on the definition of a hillside since that had never been clearly defined. The Council had referred the item back to the Planning Commission, which had reviewed the options to allow the City Council to move forward. She noted that a number of meetings had been conducted on the item, which had previously been discussed in detail in public hearing format to establish a definition for hillside.

Ms. Ayres explained for Mr. Riley's benefit that the hillside policies of the General Plan were not being changed. The only question was the land in the community for which those policies would be applied. She advised that the maps displayed had identified the areas of the City where the various options could apply.

Mr. Riley clarified that the designation would apply to any area of the City outside the ULL.

Mayor Beals asked staff to clarify the situation for Mr. Riley.

There were no other public comments.

Councilmember Kee verified with staff that road construction could occur in the hillside area as would residential construction, although that roadway construction would have to adhere to the hillside low-density standards. He also requested to be able to review the option displays up close.

Mayor Beals declared a recess at 8:49 P.M. to allow members of the Council and the public to review the option boards in detail. The meeting reconvened at 8:58 P.M. with all Councilmembers present.

Vice Mayor Rios moved to approve Option 2.

Councilmember Parent commented that the Hillside Ordinance had been an important issue to her for many years because of the attempt to maintain the hillsides and

the viewshed which was important to those who lived in the hills, those who lived on the flat areas of the City, and those who traveled through the City, which was why the original Hillside Ordinances had been adopted. She noted that those ordinances were similar to Option 1 related to a 30 percent slope. She understood that over the intervening years because many changes had been made that Option 1 had been difficult to apply.

Councilmember Parent explained nevertheless that the current General Plan had been proposed and the consultants had laid out what were considered to be the major and minor ridges of the southern hills of the City that might be protected if one said that hillside development could not occur except under circumstances in areas related to the major and minor ridgelines. She noted that ultimately all of the hillside areas had systematically been drawn out in areas to be described as hillsides leaving almost nothing protected. She had visited some of the areas in question to see the different perspectives of those hillsides.

Councilmember Parent stated that she did not want to see Daly City. She suggested that the major area to be affected would be west of Bailey Road, which was what she was interested in protecting. Based on that, she expressed a preference for Option 4, a 500-foot contour elevation, because it was her understanding that would do the most to protect the viewshed of the hillsides.

Councilmember Glynn commented that he had sat in on the creation of the current General Plan along with Councilmember Kee. He stated that the General Plan had been adopted in November 2001 after 37 separate meetings over a period longer than three years, all over town when anyone who wanted to speak on the Plan had the opportunity to do so. He noted that the argument of a ridge versus a hillside had been considered. He stated that hillsides had been determined on what was visible as opposed to what was not visible. Several projects had been modified during that period of time, such as Bailey Estates, and the future extension of West Leland Road had been considered, among many others components of the Plan.

Councilmember Glynn stated that the Commission had worked on that issue for an extended period of time with endless input, and no one had expressed any objection to the plan as it had been formulated. He added that the plan had won a State award for its completeness, accuracy and all other considerations with the exception of the Housing Element. That plan had been adopted. He suggested that Option 2 was the appropriate designation because it would allow the maximum flexibility to deal with the issues.

Councilmember Glynn seconded the motion for Option 2.

Councilmember Kee commented that as Councilmember Glynn had stated there had been numerous meetings related to the General Plan, although it had not been noted on Option 2 that there were some 700 acres of land once designated as Hillside Low Density that were no longer designated as Hillside Low Density in that option. In reading through some of the information, he referenced one of the comments that the hillsides were the only area left to build. He suggested instead that the hillsides were the only areas left to protect.

Councilmember Kee commented that designating an area as Hillside Low Density would not prohibit development but would allow the City greater control in what type of development would be allowed to occur. He did not support the motion. He concurred with Councilmember Parent that Option 4 would be an appropriate way of delineating what was and what was not a hillside.

Mayor Beals questioned whether or not the areas of Option 2 would be impacted by Option 4, reported by Ms. Ayres that not all would be impacted. There was an overlap but they were not all the same. She noted, for instance that the DeBonneville property would not be covered under Option 4 but it would be covered under Option 2. Nortonville, Bailey Estates and others would remain.

On Councilmember Parent's question as to which option would protect the viewshed, Mr. Jerome stated that Option 4, the 500-foot contour, would protect the viewshed.

Ms. Ayres stated that projects could be viewed for viewshed protection irrespective of the hillside issue because that related to Chapter 4.1 of Chapter 4. Chapter 4.2 was the hillside policies. Viewshed could be considered in any option since that would be a subsection of the General Plan that would have to be analyzed. She suggested that section would do a better job of viewshed protection and offer better direction to the public in terms of what could and could not be done.

Councilmember Glynn clarified that staff had recommended Option 4 and that the Planning Commission had voted 5-2 for Option 2, and that staff had recommended Option 2 to the Council given staff's desire for direction from the Council to offer a clear policy to developers.

Councilmember Glynn verified that the text of the General Plan would have to be modified to support the chosen option, which would ultimately require approval by the Planning Commission and the City Council. He also questioned the impact Option 4 would have on utility location with respect to water tanks.

Mr. Jerome explained with respect to water tanks that the hearing draft of the General Plan had noted that 800 feet was the maximum limit for grading above 30 percent slope. When the land use changes had been made by the Council in November 2001, some of the land use areas that had been changed in the southwest hills, primarily the higher elevations, would have allowed some development in that area which had not been shown under the hearing draft. The 900 feet therefore had made a difference in terms of siting water reservoirs. With the change of land uses in the southwest hills to open space or ridgelines, that would allow development in that area. In that case, the 900 foot level was important to allow a tank in that area.

Councilmember Glynn inquired why it was necessary to see 900 feet show up in every document since it had nothing to do with anything except for utilities. He was irritated that the 900 feet was important to accommodate the need for water pressure and storage.

He noted that the De Bonneville property was not a buildable property for any development. He also commented that the viewshed issue had been brought up by the consultant and not by the Planning Commission.

Mr. Jerome stated that what had been submitted as part of Option 4 was a figure in the General Plan that identified areas of 500 feet that should be considered for viewshed analysis.

Councilmember Glynn inquired how Option 4 would impact the extension of West Leland Road, to which Mr. Jerome explained that the only thing that Option 4 would do was that the General Plan was applicable to those higher development areas.

Councilmember Parent pointed out that the Planning Commission of 2001, which listed Councilmembers Glynn and Kee as among its members, had adopted the original draft General Plan that had been modified by the City Council when the addendum had been added. It was the addendum that had taken out something in excess of 70 percent of the acreage that formerly had been identified subject to hillside development. The item being considered by the City Council was an attempt to rectify what had previously occurred with the then City Council to something that was more supportable than what had been adopted in August 2001.

Councilmember Glynn stated that the intent of the concept in the application was Option 2, which had originally been supported. He noted that visible property and the nature of density on each of those pieces had been discussed along with issues of buildable property.

In response to the Mayor, Ms. Ayres stated that whatever the Council chose would require the insertion of one sentence in the chapter to define how hillside policy should apply. As to how Option 4 would impact future development, she stated that the General Plan still called for a certain designation in terms of density. Whichever option was applied would still allow the development of 3 du per acre and would allow more respect of the property when developed. She characterized it as a different way of doing business. Rather than flat pads, stepped houses would be considered. Rather than grading a whole area or block of streets, more stepping might be required.

On motion by Vice Mayor Rios, seconded by Councilmember Glynn to adopt Resolution 03-9943 for Option 2, failed to carry by the following vote:

Ayes: Rios, Glynn  
Noes: Kee, Parent, Beals

On motion by Councilmember Parent, seconded by Councilmember Kee to adopt Resolution 03-9943 for Option 4, 500-foot contour elevations, carried by the following vote:

Ayes: Kee, Parent, Beals  
Noes: Rios, Glynn

6. **RESOLUTION 03-9944** Approve the Recommendation to Research a Firm to Provide Assistance with the Preparation of a Citywide Finance Strategic Plan

Mr. Casey stated that on August 18, 2003 the City Council adopted a General Fund operating budget that included spending reductions in the amount of \$2 million and the use of one-time revenues in the amount of \$1.4 million for the purpose of closing a budget shortfall of \$3.4 million. This shortfall was the result of General Fund revenues not keeping pace with on-going expenditures. Staff is forecasting that these fiscal pressures are going to continue to worsen for Fiscal Year 2004-2005. The City is facing significant challenges particularly in the area of securing the stabilizing revenues for on-going operations and deferred capital maintenance costs associated with parks and streets. It is staff's recommendation that the City Council begin to address these fiscal challenges with the preparation of a "Citywide Finance Strategic Plan."

Mr. Casey reported that the recommendation to research a firm to provide assistance with the preparation of a Citywide Finance Strategic Plan would impact staff time only, although a later decision toward a consultant contract had been estimated to cost approximately \$60,000. Staff planned to request proposals from several firms and would return to the Council for approval of a recommended firm with the proposed contract cost.

Mr. Casey recommended the adoption of the resolution authorizing the recommendation to research a firm to provide assistance with the preparation of a Citywide Finance Strategic Plan.

BEN JOHNSON, Pittsburg, had submitted a card but did not wish to speak to the item at this time.

On motion by Vice Mayor Rios, seconded by Mayor Beals and carried unanimously to adopt Resolution No. 03-9944.

With respect to the next item, Vice Mayor Rios stated that as a federal employee she was prohibited from making a recommendation or speaking to any issue related to Social Security. She recused herself and left the dais at this time.

7. **MINUTE ORDER** Alternative Retirement Plan for Seasonal Employees

Mr. Casey explained that federal law required public employers to offer all employees a retirement plan. For regular employees, the City offered both Social Security and a defined benefit plan (i.e., CalPERS). The City provided its seasonal employees with membership into the Social Security system. Research by the Human Resources Department and the City Attorney's Office confirmed that the City may provide an alternative retirement plan, and not Social Security, to its seasonal employees. (The City did not have the same option of withdrawing from the Social Security system for its regular employees.)

Mr. Casey reported that participation in an alternate retirement plan for seasonal employees would save the City approximately \$75,060 each fiscal year. He recommended that the Council offer direction to the City Manager as to whether or not the City should explore moving seasonal employees out of the Social Security system and into an alternative retirement plan.

Upon his inquiry, Councilmember Kee was advised that all seasonal employees were in the Social Security system. If the Council offered an alternative, that would have to be exclusive and Social Security would no longer be offered to the seasonal employees.

Councilmember Parent understood the motivation for the proposal which clearly followed what the Council had asked staff to do, to do everything possible to save the City money, particularly funds associated with the General Fund. She was otherwise concerned as to what kind of alternative might be involved.

As a 30-year practitioner of family law, Councilmember Parent commented that whenever splitting up the assets of families, particularly those who had very little, that included the asset of retirement but did not include a division of Social Security. While not necessarily the best managed system in the world, she was concerned with the alternatives and commented that most everyone was moving away from a defined benefit plan.

Councilmember Parent noted that regular City employees had the advantage of PERS and formerly had the advantage of the Contra Costa Plan when it was a good plan and the employee would know what he/she would get. She suggested that the political reality was that the Social Security system would remain, even with its problems.

Referencing some of the downsides to a defined contribution plan, Councilmember Parent was concerned with the time required to manage a 401K plan. She did not want to undercut the employees who had the least of everything that the City had to offer. She therefore did not support the recommendation.

Mayor Beals noted that the option was to maintain the status quo for seasonal employees or to direct the City Manager to define a contribution plan for seasonal employees.

Mr. Fox stated that the only retirement plan offered to seasonal employees was Social Security. He noted that existing Social Security credits would remain. Those credits would never expire. The advantage would be that the employee's pay would go up slightly. The employee might have control over the investments, and following employment with the City the employee could roll over that retirement plan. He added that seasonal employees were defined as those working less than 1,000 hours each fiscal year.

Councilmember Parent recommended that staff leave the situation for seasonal employees as is and consider other options to save money.

On motion by Councilmember Parent, seconded by Councilmember Kee and carried unanimously, the Council supported no alternative retirement plan for seasonal employees preferring to leave the situation for seasonal employees as is.

**ADJOURNMENT**

The meeting of the City Council adjourned at 9:45 P.M. to the regular City Council meeting scheduled for November 17, 2003

Respectfully submitted,

Lillian J. Pride, City Clerk

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**CITY OF PITTSBURG**  
**Pittsburg Power Company Minutes**  
**November 3, 2003**

Chair Yvonne Beals called the meeting of the Pittsburg Power Company to order at 9:46 P.M. in the City Council Chambers at City Hall, 65 Civic Avenue, Pittsburg, California after having met at 5:00 P.M. for Commission Review Workshop and at 6:00 P.M. in Closed Session pursuant to Government Code Section 54956.9, Conference with Legal Counsel - Existing Litigation regarding The City of Pittsburg vs. Cheri De Bonneville, Contra Costa County Superior Court Case No. C03-00484 and Lopez v. City of Pittsburg, Contra Costa County Superior Court Case No. C03-01781; Conference with Legal Counsel - Anticipated Litigation pursuant to subdivision (b) of Section 54956.9 regarding two cases; and Public Employee Performance Evaluation of the City Attorney.

City Attorney Linda Daube reported that in Closed Session the claim of Michael Barbanica had been considered, which claim had been filed with the City Clerk on October 1, 2003. The Council voted unanimously to deny that claim.

Mayor Beals reported that the City Council had deliberated in Closed Session in reference to the City Attorney's contract. The Council voted 4-1 to extend the City Attorney's contract through the end of the fiscal year. The Council directed staff to work immediately on issuing a Request for Proposal (RFP) for the month of December with a deadline of January 2004 to conduct interviews in the spring for City Attorney services.

**MEMBERS PRESENT:** Glynn, Kee, Parent, Rios, Beals

**MEMBERS ABSENT:** None

**STAFF PRESENT**

- Executive Director, Willis Casey
- Assistant Executive Director, Nasser Shirazi
- Legal Counsel, Linda Daube
- City Clerk, Lillian Pride
- Director of the Redevelopment Agency, Garrett Evans
- Director of Economic Development, Brad Nail
- Director of Recreation, Paul Flores
- Director of Finance, Marie Simons
- Director of Human Resources, Marc Fox
- Director of Public Works, John Fuller
- Director of Planning and Building, Randy Jerome
- City Engineer, Joe Sbranti
- Police Chief, Aaron Baker
- Executive Assistant to the City Manager, Alice Evenson

## **CITIZENS REMARKS**

There were no citizens remarks.

## **MEMBERS REMARKS**

There were no Member remarks.

## **CONSENT**

On motion by Member Parent, seconded by Vice Chair Rios, and carried unanimously to adopt the Consent Calendar, as follows:

- a. **MINUTES** Dated: September 15, 2003

Approved Minutes dated September 15, 2003.

## **CONSIDERATION**

1. **RESOLUTION 03-094** Approving the Transfer of Funds from the Pittsburg Power Company (Fund 59) to Island Energy (Fund 58) for the Purpose of Establishing a Reserve Account

Executive Director Willis Casey advised that the Pittsburg Power Company was doing business as Island Energy on Mare Island. The transfer of funds from the Pittsburg Power Company to Island Energy was for the purpose of establishing a Reserve Fund. The transfer allowed Island Energy to continue operation inline with the change in account philosophy by the Finance Department. The accounting mythology previously used was accomplished by transferring funds from Pittsburg Power Company in and out of Island Energy annually, which met existing cash flow requirements. The creation of the Island Energy Reserve Funds would allow this Enterprise Fund to continue to operate with sound accounting practices.

Mr. Casey explained that the transfer of \$300,000 from the Pittsburg Power Company to Island Energy was for the purpose of establishing a reserve fund as of June 30, 2003. The transfer would allow Island Energy to operate with sound accounting practices. The funds were available in Pittsburg Power Company (Fund 59) and were required to be dedicated for that purpose.

Mr. Casey recommended that the Executive Director and the City Finance Director be authorized to transfer \$300,000 from the Pittsburg Power Company (Fund 59) to Island Energy (Fund 58) for the purpose of establishing a reserve fund.

On motion by Member Glynn, seconded by Vice Chair Rios and carried unanimously to adopt Resolution 03-094.

**ADJOURNMENT**

The meeting of the Pittsburg Power Company adjourned at 9:48 P.M.

Respectfully submitted,

Lillian J. Pride, Secretary

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