

CITY OF PITTSBURG
Redevelopment Agency Minutes
January 6, 2003

Chair Yvonne Beals called the meeting of the Redevelopment Agency to order at 7:02 P.M. in the City Council Chambers at City Hall, 65 Civic Avenue, Pittsburg, California after having met at 4:00 P.M. for Planning Commission candidate interviews, from 5:00 to 6:00 P.M. for Public Workshop on Library Issues, and from 6:00 P.M. in Closed Session pursuant to Section 54957.6 of the Government Code regarding Conference with Labor Negotiators regarding AFSCME Miscellaneous A Unit; AFSCME Management/Professional/Confidential Unit; Teamsters Local 856, and Unrepresented Employees.

City Attorney Linda Daube advised that there was nothing to report from Closed Session.

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 Public Works, John Fuller
Director of Recreation, Paul Flores
Director of Personnel Services, Marc Fox
Director of Finance, Marie Simons
Chief of Planning, Melissa Ayres
City Engineer, Joe Sbranti
CDBG Coordinator, Annette Landry
Police Chief, Aaron Baker
Police Lieutenant Nick Baker
Executive Assistant to the City Manager, Alice Evenson

PLEDGE OF ALLEGIANCE

Doris Bedford led the Pledge of Allegiance.

CITIZENS REMARKS

ELVIN SCOTT, Pittsburg, President Union All-Pension Democratic Research Center, Inc., Pittsburg, advised that the center addressed pension, health and welfare benefits. Mr. Scott reported that his television show would be broadcast in the Bay Area and he would be

allowed to have specials, websites and other resources necessary to advise the public of applicable pension, health and welfare benefits. He thanked the Council for all its help.

MEMBERS REMARKS

There were no Member remarks.

CONSENT

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

- a. **MINUTES** Dated: December 16, 2002

Approved Minutes dated December 16, 2002.

- b. **REPORT** Acceptance of the Redevelopment Agency's Annual Report for Fiscal Year 2001-2002

Accepted Redevelopment Agency's Annual Report for Fiscal Year 2001-2002.

Legal Counsel Linda Daube advised that Redevelopment Agency Resolutions 03-862 and 03-863 could be combined with City Council Resolutions 03-9745 and 03-9746.

Mayor Beals CONVENED THE REDEVELOPMENT AGENCY JOINTLY WITH THE CITY COUNCIL to consider the following:

CONSIDERATION

1. **RESOLUTION 03-862** Sixteenth Supplemental Resolution Authorizing the Issuance of Not to Exceed \$125,000,000 Principal Amount of Redevelopment Agency of the City of Pittsburg, Los Medanos Community Development Project Tax Allocation Bonds, to be Issued as the Series 2003a Bonds and One or More Series of Additional Bonds (Redevelopment Agency)
1. **RESOLUTION 03-9745** Approving the Issuance and Sale of Not to Exceed \$125,000,000 Aggregate Principal Amount of Redevelopment Agency of the City of Pittsburg, Los Medanos Community Development Project Tax Allocation Bonds, Series 2003a and Additional Bonds of One or More Series (City Council)

Executive Director Willis Casey reported that the proposed Agency Board action was to authorize staff to move forward with establishment of the foundation for the Agency

financing program through December 31, 2004. Agency staff and the financing team were to begin the tasks necessary to bring before the Agency Board the Los Medanos Community Development Project Tax Allocation Bonds, Series 2003. The Agency Board's action does not grant final approval for any specific new money financings. Subsequent Board Meetings are required in the future for that action.

Redevelopment Director Garrett Evans explained that the proposal included a set of documents that would allow the Agency and the City to move forward on a substantial financing program. He stated that the City's financial advisors, Kelling, Northcross & Nobriga, working with Don Fraser, Redevelopment Consultant, had explained how the bonds could be issued and stated that the State Budget crises had been the impetus for the situation since efforts to attach redevelopment funds had been considered by the State to address its \$35 billion deficit. He added that the actual bond documents would be returned to the Agency Board for approval. The current action would be to set up a foundation for action by the Agency to encumber the funds.

Given the preliminary step, Councilmember Parent suggested that the Agency's options should be left as open as possible, particularly given the State's potential action to limit the issuance of any bonds for 18 months and requiring all unencumbered funds for tax increment for that period and beyond. She wanted to protect the Agency as much as possible against that taking. She emphasized that the State should be advised by this and other cities to be left as is to do what it had to do. She did not want the City's horizons to be limited and she supported a much larger principal amount.

Member Glynn inquired whether or not there were sufficient capital improvement projects in excess of \$200 million. He suggested that there would be room to maximize the business opportunity and minimize the State's ability to make a strike on the unallocated amount of funding potential to the bond mechanism.

City Engineer Joe Sbranti advised that the City was currently projecting in the next three to five years \$35 million in capital projects. He stated that number could be expanded. He also noted that an additional amount had been proposed for the use of other Redevelopment Agency projects.

Mr. Evans noted that the 1993 Plan of capital improvement and redevelopment programs out of the three to five year period could exceed \$200 million.

Councilmember Kee concurred with Councilmember Parent's suggestion. He inquired whether or not the financial team had been assembled, to which Mr. Evans stated that the item would allow the Executive Director to secure a financing team, and bring it back as part of the bond documentation. Mr. Evans stated that the City currently has a financial advisor, and bond counsel Orrick, Herrington & Sutcliffe.

Noting that the City's financial adviser also did work for the Pittsburg Unified School District (PUSD), Councilmember Kee inquired whether or not that would represent a conflict to also working for the City.

JOHN O'SULLIVAN, Kelling, Northcross & Nobriga, stated that given the current relation with the City, their historical relationship with the PUSD would be deferred to focus on the City and they would not be involved in representing the PUSD on redevelopment matters.

In response to Councilmember Kee who had inquired of Cede & Co. referenced in the bond documents, DAVID BRODSLY, also with Kelling, Northcross & Nobriga, explained that the practice of municipal bonds was to issue bonds in book entry form only and that the bonds were historically registered in the name of Cede & Co.

In response to Vice Mayor Rios, Mr. Sbranti clarified that \$35 million was the target number discussed by staff, although the Buchanan Road Bypass Project alone was \$60 million project and that total could easily be expanded. He added that a Capital Improvement Program (CIP) workshop would be scheduled with the City Council in two weeks.

Vice Mayor Rios wanted to have the projects identified as part of the report to advise what would be spent on each project. She agreed with the need to protect the funds and to encumber those funds through a specific list of projects. She inquired how citizen input would be solicited through that process.

Mr. Sbranti affirmed that the CIP workshop to be conducted prior to the next Council meeting would allow members of the Council and the community to offer comment. He otherwise stressed that there was a time constraint on the use of Agency funds.

Mr. Evans stated that the references to \$250 or \$275 million would be carried over to almost a ten year period. He noted that some of the dynamics could be changed given that the amount of revenue would be changed.

Mr. Brodsly explained that he was one of the sources of the \$125 million recommendation. He stated that the Agency would be positioning itself vis-à-vis a potential threat from the State that might or might not come and whether or not the proposal was effective would only be known in the future. The intent was to create a mechanism to rely on if required. He recommended a reasonable approach that was not overreaching. If relying on the action and there was a challenge on that reliance, there would be a stronger case on a more reasonable proposal as opposed to an overreaching proposal.

Mr. Brodsly suggested that prudence would recommend a lower number. He did not recommend adopting a supporting bond mechanism for the same reason. He suggested that the Agency was already reaching high at \$125 million and suggested that \$70 million could be more supported. He clarified that the issue was very speculative and sought something more realistic and more appropriate for the timeframe, which already included a buffer.

Councilmember Parent sought the views of the underwriter the City had used for the

past 20 years, who was in the audience. She asked the Chair for permission for him to address the Council.

MARK CURRAN, US Bancorp Piper Jaffray, stated that the City had gone through the same type of exercise twice before and the City had taken an aggressive stance in the past to protect itself. With the issue of AB 1290, the City had again taken an aggressive posture. He suggested that the Agency could proceed in the range of \$120 to \$125 million based on tax increments without considering any growth. He added that the Agency had traditionally made aggressive and successful use back to 1986 with three and four year escrow bonds, which could take the bonds to the \$170 and \$180 million figure.

As to what could legally be done, Mr. Curran noted the unique situation that was unlike anything that had gone on before. He stated that the purpose of the current exercise was not to authorize bonds or projects, but simply based on its historic track record and the historic resources in the community, including the power plants and the improvements in the City, the maximum amount to protect for the community for improvements anticipated in this and the next year and beyond, a protection figure of \$250 million was realistic and could be supported. While he did not recommend that figure in the next 90 days, he suggested the identification of that figure would set the record after that time. If just looking at CIP projects that would be up no more than 20 percent of redevelopment expenditures, where other programmatic substantive improvements in the downtown could involve more money than the Agency could raise.

Councilmember Glynn spoke to current bond indebtedness and inquired whether or not the current bonds had been evaluated in terms of refinance, to which Mr. Curran stated that had been done and at the moment the overall redevelopment debt portfolio involved interest rates in the low 5's while the current market was in the high 4's or low 5's. He stated that it made no economic sense to refinance the current portfolio. He added that the City had refinanced last year when the debt portfolio had been considered in depth. He characterized the City's debt ratings as the best in the State and had laid out the foundation for everything the Agency wanted to do to move forward.

Finance Director Marie Simons explained that there was a risk factor either way since it was unknown what the State would do. She commented that the Governor's budget would be unveiled this week. Either way there was a risk. She had relied on the financing team and staff supported the financing team's numbers in order to protect the City's revenues and not be too aggressive where the State would challenge.

Mayor Beals did not support being too conservative. She supported something in the range of \$200 million that could offer some leeway in the future. She had a concern with the timeliness of the conservative suggestion, particularly given the eleventh hour situation and what the City could potentially face with the State. She wanted to move forward and made a motion to approve the Resolution with a modification of the principal amount from \$125 million to \$200 million.

Councilmember Glynn seconded the motion.

In response to Vice Mayor Rios as to a potential challenge, SAM SPERRY, Orrick, Herrington & Sutcliffe, stated that the proposed action did not commit the Agency but was intended to protect options. He suggested that when it came down to time to issue bonds the total could be reduced. If there was a challenge by the State, he suggested that a recommendation to lower the cap could be considered. He emphasized that it was unknown what form a challenge might take. He stated that Agency bond counsel could offer a legal opinion after measuring the legislation and determining whether or not the Agency's action was legal and binding.

On motion by Chair Beals, seconded by Member Glynn and carried unanimously to adopt Resolution 03-862, as modified not to exceed \$200 million.

On motion by Councilmember Parent, seconded by Councilmember Glynn and carried unanimously to adopt City Council Resolution 03-9745, as modified not to exceed \$200 million.

2. **RESOLUTION 03-863** Authorizing the Issuance of Los Medanos Community Development Project Subordinate Tax Allocation Bonds, Series 2003, in the Aggregate Principal Amount Not to Exceed \$25 Million; Approving the Form of First Supplemental Indenture, Authorizing Modifications Thereto, and Authorizing the Execution and Delivery Thereof as Modified; and Authorizing the Taking of Necessary Actions in Connection with the Issuance, Sale and Delivery of the Series 2003 Bonds. (Redevelopment Agency)

2. **RESOLUTION 03-9746** Approving the Issuance and Sale of Not to Exceed \$25 Million Aggregate Principal Amount of Redevelopment Agency of the City of Pittsburg, Los Medanos Community Development Project Subordinate Tax Allocation Bonds, Series 2003 (City Council)

The proposed Agency Board and City Council action to authorize staff to move forward with establishment of the foundation for the Agency financing program (Series 2003 and beyond) through December 31, 2004.

Agency staff and the financing team to begin the tasks necessary to bring before the Agency Board the Los Medanos Community Development Project Tax Allocation Bonds, Series 2003. The action does not grant final approval for any specific new money financings. Subsequent meetings are required in the future for that action.

In response to Councilmember Parent, Mark Curran stated that the difference between senior and subordinate bonds was that senior bonds had a debt ratio of 125 percent. He stated that subordinate bonds had a lower coverage ratio of 1:1. He added

that most Redevelopment Agencies in the State had done those on an unrated basis. Here, the Agency Board given its tremendous credit rating, its ownership in the project area, the size of the area and the exceptional rating, the Agency had received a Triple B Plus range rating with a debt series in the \$20 million range. He emphasized that the debt rating was there and that it was not a stretch to authorize an additional resolution for that because if the money was needed it would be available.

On motion by Member Parent, seconded by Member Glynn and carried unanimously to adopt Redevelopment Agency Resolution 03-863.

On motion by Councilmember Glynn, seconded by Councilmember Parent and carried unanimously to adopt City Council Resolution 03-9746.

In terms of progressing, Mr. Evans explained that staff would present a multitude of different types of projects and activities during the next Council session.

PUBLIC HEARING

Mayor Beals advised that the City Council and Redevelopment Agency would CONVENE IN JOINT PUBLIC HEARING for the following items:

1. **RESOLUTION 03-860** Award of Construction Contract No. 02-03 for the Library Improvements (Redevelopment Agency)

1. **RESOLUTION 03-9741** Consent to the Award of Construction Contract No. 02-03 for the Library Improvements (City Council)

Executive Director Casey advised that bids had been opened for the construction of the library restroom improvements of the Pittsburg Library, located at 80 Power Avenue. Proposed improvements for this project include: converting the Men's and Women's restrooms that are not ADA accessible into two Uni-Sex ADA compliant restrooms. The restroom area represents approximately 200 square feet of the entire library, which is approximately 7,000 square feet. The apparent low bidder, California Construction of Pittsburg, California, submitted a Bid Proposal in the amount of Thirty Six Thousand One Hundred Ninety-Seven Dollars and No Cents (\$36,197.00). In addition to the bid for construction a 10 percent project contingency is to be included. In all, the total estimated cost to complete the project is \$39,900.

Mr. Casey recommended that the Redevelopment Agency adopt Resolution 03-860 and that the City Council adopt Resolution 03-9741 to authorize the project budget and award Contract No. 02-03; Library Restroom Improvements to California Construction.

In response to Councilmember Kee as to whether or not State Grant money for libraries was available, Mr. Sbranti stated that Proposition 14 money had been discussed as part of the Library workshop. Those monies were not available and staff was aware of no other funding options for that purpose at this time.

Mayor Beals opened the public hearing on Redevelopment Agency Resolution 03-860 and City Council Resolution 03-9741. There was no one to speak for or against the resolutions. Mayor Beals closed the public hearing.

On motion by Vice Chair Rios, seconded by Member Glynn and carried unanimously to adopt Redevelopment Agency Resolution 03-860.

On motion by Vice Mayor Rios, seconded by Mayor Beals and carried unanimously to adopt City Council Resolution 03-9741.

2. **RESOLUTION 03-861** Consent to the Execution of a Loan Agreement Between the Redevelopment Agency of the City of Pittsburg and the Mt. Diablo Unified School District (Redevelopment Agency)

6. **RESOLUTION 03-9744** Consent to the Execution of a Loan Agreement Between the Redevelopment Agency of the City of Pittsburg and the Mt. Diablo Unified School District (City Council)

Mr. Casey advised that the Redevelopment Agency of the City of Pittsburg (the "Agency"), by Resolution 93-436, authorized a Fiscal Agreement between the Agency and the Mt. Diablo Unified School District (the "District"), stating that the Agency will provide financial assistance to the District for the purpose of constructing a school to help alleviate the negative impact that development in the amended Project Area will bring. The Loan Agreement provides the Mt. Diablo Unified School District a loan not to exceed Six Million, Two Hundred Thousand Dollars (\$6,200,000) for construction of the school improvements; the repayment of the loan to commence on January 2005, paying the Agency biannually a rate of 24 percent of all developer fees collected from the Agency Project Area until the entire loan has been satisfied.

Mr. Casey recommended the approval of the Loan Agreement between the Redevelopment Agency of the City of Pittsburg and the Mt. Diablo Unified School District (MDUSD), to authorize and direct the Executive Director to execute the Agreement on behalf of the Agency and to execute such further documents and take such further actions as may be appropriate to carry out the Agency's obligations pursuant to the Agreement.

Mayor Beals opened the public hearing for Redevelopment Agency Resolution 03-861 and City Council Resolution 03-9744.

WILLIE MIMS, Pittsburg, representing the Black Political Association (BPA), took issue with the \$6.2 million loan to the MDUSD and did not believe that the Agency should be in the business of loaning taxpayer money to an out of city school district.

Mr. Evans explained that the City had obligations through the 1993 agreement with the MDUSD that served Oak Hills, San Marcos and Bay Point, and instead of a

passthrough \$5.5 million agreement with escalation through 1998, with inflation an arrangement for \$6.2 million had been negotiated. He added that the Agency also had a passthrough agreement with the Antioch Unified School District (AUSD) which was in the project area, and the Pittsburg Unified School District (PUSD) which received almost \$2 million annually from the Agency.

ROGER RILEY, Pittsburg, based upon the number of units approved in the City questioned whether or not that would provide for a full repayment of the loan plus interest.

Councilmember Parent commented that the loan had no interest.

Mr. Evans stated that development fees worked out with the MDUSD for future development in the project area would meet the obligation for the \$6.2 million loan. He offered to provide the backup to verify that was the case. He added that the interest on the loan was part of the 1993 agreement and was something that had been agreed to allow the Agency to exist in the San Marcos and Oak Hills area. He clarified that the City had needed the MDUSD's approval to allow the creation of the redevelopment area.

Councilmember Kee suggested that the City had to carefully consider the situation given the three school districts that were involved. He did not want to position Pittsburg to be the "bank of everyone." He inquired whether or not the City had a guarantee from the MDUSD to fully staff and maintain the school without closing down other schools.

City Attorney Daube stated that there was no way a guarantee could be included in this kind of an agreement. She stressed that the item related to a 1993 agreement. The MDUSD was required to use the funds for the construction and improvement of the site. If that was not to occur, the funds would have to be returned to the City.

Councilmember Kee clarified that the MDUSD could not return for cost overruns.

Councilmember Glynn did not understand why the particular school for 900 students sat on 6.3 acres when the State Department of Education required 10 acres, to which Mr. Evans explained that a special waiver had been attained in that it was designated as an "urban school."

City Attorney Daube added that given the land transactions the State had gone in for a special authorization to proceed on less acreage, which was entirely within the purview of the State Department of Education.

Councilmember Glynn questioned where children would play and inquired whether or not there was a contiguous park adjacent to the school. He was concerned with 900 children in a K-6 school with no playground.

Mr. Sbranti stated that City staff was working with the adjacent developer to acquire a park contiguous to the school, as shown on the tentative map.

Councilmember Glynn also questioned the 35- year payback given that the life span

of a school was 30 years, to which Mr. Evans explained that 35 years would be the life span of the Agency.

Councilmember Glynn noted that the school would be eligible for modernization after 30 years. As such, he suggested that the loan should be paid back in 30 years as opposed to 35 years, to which Mr. Evans stated that the loan could be paid back sooner with the build out of San Marcos in 30 years as opposed to 35 years and that Exhibit C in the staff report had detailed that situation.

Councilmember Parent expressed concern for the requested increase from the previously approved \$5.5 million and stated that the original allocation should have been sufficient. She objected to the increase and stated that she would not support any future increases.

Mayor Beals closed the public hearing for Resolution 03-861 and Resolution 03-9744.

On motion by Vice Chair Rios, seconded by Member Glynn and carried unanimously to adopt Redevelopment Agency Resolution 03-861.

On motion by Vice Mayor Rios, seconded by Councilmember Glynn and carried unanimously to adopt City Council Resolution 03-9744.

ADJOURNMENT

The meeting of the Redevelopment Agency adjourned at 8:08 P.M. to the next meeting on January 21, 2003.

Respectfully submitted,

Lillian J. Pride, Secretary
als

CITY OF PITTSBURG
City Council Minutes
January 6, 2003

Mayor Yvonne Beals called the meeting of the City Council to order at 8:20 P.M. in the City Council Chambers at City Hall, 65 Civic Avenue, Pittsburg, California, after having met at 4:00 P.M. for Planning Commission candidate interviews, from 5:00 to 6:00 P.M. for Public Workshop on Library Issues, and from 6:00 P.M. in Closed Session pursuant to Section 54957.6 of the Government Code regarding Conference with Labor Negotiators regarding AFSCME Miscellaneous A Unit; AFSCME Management/ Professional/ Confidential Unit; Teamsters Local 856, and Unrepresented Employees.

City Attorney Linda Daube advised that there was nothing to report from Closed Session.

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 Public Works, John Fuller
Director of Recreation, Paul Flores
Director of Personnel Services, Marc Fox
Director of Finance, Marie Simons
Chief of Planning, Melissa Ayres
City Engineer, Joe Sbranti
CDBG Coordinator, Annette Landry
Police Chief, Aaron Baker
Police Lieutenant Nick Baker
Executive Assistant to the City Manager, Alice Evenson

CITIZENS REMARKS

City Attorney Daube advised that the Council would be considering the Consent Calendar in total and comments on Consent Calendar item would be taken during the public comment portion of the agenda, with three minutes allowed per item.

BRUCE OHLSON, Pittsburg stated with respect to Consent Item f. Resolution 03-9733, while realizing that the Metropolitan Transportation Commission (MTC) funds and not Pittsburg funds were involved, expressed concern that traffic counts for the project would

be taken while traffic was completely disrupted with the closure of the Harbor Street bridge. He questioned the stewardship of the project and inquired why traffic counts would be taken while the bridge was closed given that could skew the numbers.

With respect to Item I and speaking as a member of the Board of Directors of the East Bay Bicycle Coalition, Mr. Olson stated that the Pittsburg bicycle community favored the resolution. He thanked the city for its attention to open space, parks and trails.

CHARLES SMITH, Pittsburg, spoke to the changes to the City Council agenda, specifically related to the Consent Calendar, which was a concern to him. He had a problem with the minutes and spoke to what he considered a lack of detail in the minutes. He also noted his understanding that the public could no longer speak to the minutes, proclamations or presentations on the meeting agenda. As such, he stated that the Council appeared to be limiting public input. He was also concerned that not being allowed to speak to Consent Calendar items at the time they were considered by the Council would make those comments irrelevant to the Council's action.

WILLIE MIMS, Pittsburg, representing the Black Political Association (BPA) protested the action taken by the Council on December 16, 2002 excluding public comment on particular items. He suggested that any time a change was made it was an action and the Brown Act specifically addressed such arbitrary decisions, which was a concern to him. He noted that the Council had cited Government Code Section 54954.3 related to public comments to a jurisdictional body. He referenced portions of the State Constitution related to the declaration of rights and suggested that the Council's action had violated the State and U.S. Constitutions preserving freedom of speech.

Mr. Mims referred to the language stipulated under the Notice to Public page attached to each meeting agenda and specifically cited the notice as of December 10, 2001 where no separate discussions on items unless requested by a member of the Council or the public prior to the Council votes would be allowed. He referred to the Notice to Public attached to the January 7, 2002 meeting agenda where the same stipulation had been shown and stated that the problem had arisen on December 16, 2002 when the City Council had implemented a policy. He inquired when the decision had been made and whether or not that decision had been made in public session.

Mr. Mims stated that he had conducted a survey and there was no City in Contra Costa County that was doing what the City of Pittsburg was doing in that other cities were respecting the rights of their citizenry and not restricting the public from speaking. He asserted that was a violation of the State Constitution, the U.S. Constitution and Section 54954 of the Brown Act.

Mr. Mims further commented that he had submitted a speaker card on presentations. He noted that a few more items had been added to the Notice to Public with respect to presentations and proclamations. Although he had submitted speaker cards on three items: public comment, presentations and Consent Calendar d, he had chosen not to speak to those items and would wait for those items to be brought up for consideration. If not

called upon to speak, he stated that the Mayor would be abridging her fiduciary responsibility and violating his rights as previously noted.

City Attorney Daube advised that she had sent a memo to Mr. Mims. She reported that the City Council had established rules and procedures. She stated that the right of the citizenry was not being jeopardized; it was simply a matter of when the public would be allowed to speak.

Mayor Beals stated that the Notice to Public had been approved by the entire Council in a public meeting on December 16, which meeting had been noticed to the public.

City Attorney Daube referred to Resolution 01-9475, rules for the Council and conduct of business, which clearly indicated that the public could address items before or during. As such, the order was consistent with the actions taken by the previous Council.

Mr. Mims emphasized that California law superseded local law and that U.S. law superseded California law.

COUNCIL REPORTS

Councilmember Parent commented that Councilmembers were automatically invited to a number of events. She reported that she had been invited by Hospice to participate in the Angel Tree at East County Mall, which had been a successful event. She commented that Hospice provided services to East County and she had represented the City at that event. She had also attended the Mayors Conference in Orinda and had met the County Administrator at that time. She planned to attend the Oakley Council reorganization along with other Councilmembers to show other cities in East County Pittsburg's objective to work regionally.

Mayor Beals commended the Cultural Arts Alliance for a very well done event for Kwanzaa and had been impressed and appreciative of bringing that portion of African American Culture to Pittsburg. She had attended the Mayors Conference along with other members of the Council and she explained that the Mayors Conference was a valuable tool for networking. She took this opportunity to thank staff for expeditiously putting together the website to recognize the Centennial Celebration given that 2003 was the City's one hundredth year.

Because there would be no meeting between now and Dr. Martin Luther King, Jr. Recognition Day, Mayor Beals invited the public to the Los Medanos College Recital Hall on January 20, 2003 from 10:00 A.M. to 12:00 Noon for a special commemorative ceremony to recognize Dr. King's life work.

CITY MANAGER REPORT

City Manager Willis Casey reported that he would be attending the Public Managers Association Meeting on January 9 when the main topic would be the status of *Shaping Our*

Future and the League of California Cities Legislative Advocacy Teams. He also planned to attend the January 8 meeting of the Community Advisory Commission (CAC) to openly discuss issues of concern. He had also been in contact with the Antioch City Manager and would begin discussing the concept of having city staff work together in yet undetermined areas. He also advised that Public Works Director John Fuller would make a presentation on the Contra Costa Consolidated Fire Department Confined Space Rescue Team Project.

Public Works Director Fuller explained that the City Public Works Department had been working on a safety program in compliance with federal and Cal-Osha and one of the outstanding items yet to be resolved was the Confined Space Policy Statement. He gave a brief presentation on Confined Space, and stated the City's commitment to the Fire District's project, which would provide better emergency rescue resources for all of East County.

PRESENTATION

1. CCTA Presentation on State Route 4 East Corridor Transit Study

Susan Miller, Engineering Manager for the Contra Costa Transportation Authority (CCTA), co-leads on the State Route 4 East Corridor Transit Study and co-managing the study in partnership with BART, introduced Ellen Smith of BART. She advised that the CCTA and BART had been working on the study for eighteen months during which a great deal of work had been done. She took this opportunity to thank Councilmembers Glynn and Rios for their involvement in the process and for their participation on the Policy Advisory Committee (PAC).

Ms. Miller stated that the premise was to consider all transit options that could be employed in East County to address transportation issues related to growth and economic growth. She referred to the draft Executive Summary, stated that the document would be finalized in the next couple of weeks, and stated that the study would also be posted on the web site. She described the large public outreach study and identified some of the final alternatives that had been considered. She described those options and explained that the preferred alternative was the eBART option, Package C that would put in place a new double track system of the diesel multiple unit (DMU) to Byron. There would be potentially five stations as part of that option, in the Somersville Road area, the Hillcrest Site, Empire/Neroly, downtown Brentwood and Byron. Staff was continuing to work with Union Pacific Railroad with respect to the Mococo line. She emphasized that what had been proposed would not preclude classic BART.

ELLEN SMITH, BART, clarified that the project had been ongoing for eighteen months. It would now proceed with further environmental and planning studies through the Environmental Impact Report (EIR)/Environmental Impact Statement (EIS) process.

Ms. Smith stated that staff would continue to work with UP to address their concerns with respect to the future use of the Mococo corridor, would initiate planning efforts with the cities working on transit oriented development (TOD) at the station sites and work

specifically with the cities on ridership development plans, further investigate transfer station options and work to make sure that funding for the future development of the project was in place, specifically the Measure C renewal package, the Bay Bridge \$3 bridge toll package and any other potential funding opportunities.

Councilmember Parent acknowledged that the Council had received the whole report. She commented that the choice should have been made fifteen years ago. She also questioned the DMU as opposed to electric trains, to which Ms. Smith noted that there was a cost difference of \$2 to \$3 million more per mile for an electric system, although she noted that electrified light rail as an option would be considered as part of the EIS/EIR process, along with other alternatives.

PROCLAMATIONS

1. Centennial Celebration

Mayor Beals read the proclamation for the City's year long Centennial Celebration in honor of the City's incorporation on June 25, 1903 and noted Pittsburg had been a City in progress for over a century. She stated that the City was proud of its history, its culture and its diversity. She proclaimed 2003 as the City of Pittsburg's Centennial Year and urged all citizens to join in with the City's celebration.

The Mayor took this opportunity to thank all of the industries that had helped to build the City as well as all those who had worked in those industries. A calendar of events would begin with a free Faith Community Breakfast on January 11 at Good Shepherd Church, 9:00 to 11:00 A.M. in honor of the faith community and the stability that had been provided to the City and its residents, which would be the first of many events to honor the City's Centennial Celebration. She sought the participation of the community and urged members of the community to incorporate other events into the year-long celebration.

Mayor Beals advised that commemorative coins would be for sale and other Centennial memorabilia would be available for purchase throughout the year.

CONSENT CALENDAR

City Attorney Daube reiterated the policy that had been adopted by the previous City Council and in accordance with the Brown Act allowed members of the public to speak to Consent items before or during consideration of those items. She stated that the change that had been made was the matter that the public could address the items from the Consent Calendar prior to the time that the Council considered it. If the Council wanted to remove any item from the Consent Calendar based on a comment, that could be done and the item would be considered after the consideration of the Consent Calendar.

City Attorney Daube referred to Item b on the Consent Calendar, reported that she had received a call from Risk Management and noted that Claim #1483 Frank P. Natale, was untimely and was not properly before the Council. She stated that Mr. Natale would be

notified by the City that his claim was untimely and he would be required to submit it for reconsideration.

Mayor Beals advised that Mr. Mims had waived the three minutes on the Consent item when he had agreed to nine minutes under Citizen Remarks.

On motion by Councilmember Parent, seconded by Vice Mayor Rios and carried unanimously to approve the Consent Calendar, with the exclusion of #1483 under Claims for Frank P. Natale, as follows:

a. **MINUTES** Dated: December 16, 2002

Approved Minutes dated December 16, 2002.

b. **CLAIMS** #1477 Howard Anthony Brown; #1496 Michael Gonzalez;
#1498 Diana A. Hale; #1500 Joseph A. Grinzi

Denied claims #1477 Howard Anthony Brown; #1496 Michael Gonzalez; #1498 Diana A. Hale; #1500 Joseph A. Grinzi.

c. **RESOLUTION 03-9730** Award of Contract for the Filter Media Replacement at the Pittsburg Water Treatment Plant

Adopted Resolution 03-9730.

d. **RESOLUTION 03-9731** Declaring the City Council's Intent to Abandon a Portion of a Slope Easement Accepted in 1974 as Part of the West Assessment District

Adopted Resolution 03-9731.

e. **RESOLUTION 03-9732** Authorizing for City Manager to Execute an Agreement for the Purchase and Installation of Two Modular Buildings to be Installed at the Delta View Golf Course

Adopted Resolution 03-9732.

f. **RESOLUTION 03-9733** Approving an Indemnification Agreement By and Between the Metropolitan Transportation Commission and the City of Pittsburg

Adopted Resolution 03-9733.

g. **RESOLUTION 03-9734** Awarding Contract No. 02-05, Golf Course Electrical Improvements to WICE, Inc. of Oakland, California for Electrical Work at Delta View Golf Course

Adopted Resolution 03-9734.

- h. **RESOLUTION 03-9735** Authorization to Reimburse the Chamber of Commerce

Adopted Resolution 03-9735.

- i. **RESOLUTION 03-9736** Award Purchase Contracts for Police Patrol Cars and Sedans

Adopted Resolution 03-9736.

- j. **RESOLUTION 03-9737** Award of Purchase Contract for Pickup Trucks

Adopted Resolution 03-9737.

- k. **RESOLUTION 03-9738** Award of Purchase Contract for Jet Rodder

Adopted Resolution 03-9738.

- l. **RESOLUTION 03-9739** Support of Contra Costa County Proposed Funding Measure to Protect Open Space, Parks and Farmlands

Adopted Resolution 03-9739.

CONSIDERATION

- 1. **RESOLUTION 03-9740** Pittsburg High School Varsity Songleaders Community Funding Request

City Manager Casey reported that the Pittsburg High School Varsity Songleaders have been invited to participate in the 2003 Pro Bowl. To assist with the cost of attending this event the Songleaders are requesting Community Sponsorship Program funding in the amount of \$1,000.00.

Mr. Casey recommended the approval of a City contribution to the Pittsburg High School Songleading Squad in the amount of \$1,000 and presenting each songleader with a City logo pin to wear as they appeared in the 2003 Pro Bowl game's half time program.

Representatives from the Songleading group introduced themselves and responded to the Mayor's request for the grant approval.

When asked, ALEX HALE, the Songleading coach advised that the PUSD had been asked to match the contribution but had declined because they did not have the funds. As to what had to be done to qualify for the Pro Bowl activity, it was reported that the squad had to receive all superior awards in every section of cheerleading camp. The opportunity was added to all squads that attended the camp but only if the superior awards were

received. Each songleader had to attain his/her own funding.

Mayor Beals noted that a group of young ladies had been sent to the Pro Bowl last year. She asked that the School District Liaison Subcommittee address the issue. As a Pittsburg High School (PHS) graduate and a former cheerleader, she was aware of the athleticism necessary to be a songleader and the etiquette involved where performers were representing the school and the City. She had attended most of the games this year and was very excited about the team's performance but had been concerned with the attitude of some of those involved. She emphasized that the Pro Bowl would be a privilege and she emphasized the importance of representing the City.

A parent volunteer explained the situation where the girls had worked together to earn the highest awards in what had been a very difficult year for them. She stated that the Pro Bowl situation was the only saving grace in the girls' season.

Mayor Beals expressed her hope that the PUSD would contribute to the situation.

Councilmember Parent clarified that a total of eight Songleaders, a coach and two parents would be going to the Pro Bowl.

On motion by Councilmember Parent, seconded by Mayor Beals and carried unanimously to adopt Resolution 03-9740 and urged those involved to know that they were representing not just their school but the City of Pittsburg and as such were asked to wear the City pin throughout the event. It was also requested that staff contact the PUSD to address the issue through the School District Liaison Subcommittee.

3. **MINUTE ORDER** Council Committee Assignment

Mr. Casey stated in accordance with the City of Pittsburg "Policies and Procedures for the City Council" adopted by the City Council on September 4, 2001 by Resolution No. 01-9475, the Mayor and Vice Mayor shall appoint individual Councilmembers to standing and ad hoc committees and such appointments shall be approved by the entire Council at its first meeting in January following reorganization.

Mr. Casey recommended by Minute Order the adoption of the City Council Committees - 2003 shown attached to the staff report dated January 6, 2003.

Councilmember Glynn thanked the Mayor and Vice Mayor for the assignments.

On motion by Councilmember Glynn, seconded by Councilmember Kee and carried unanimously to accept the Council Committee Assignments.

4. **MINUTE ORDER** Community Advisory Commission Concerns

Mr. Casey advised that on September 3, 2002, the Council adopted Ordinance No. 02-1200 that created a fifth sector to the Community Advisory Commission ("CAC"). As

provided in Exhibit A attached to the staff report, staff had redesignated CAC members and appropriately placed them in the sectors in which they lived. There were currently nine CAC vacancies and only six candidates so additional advertising for candidates was required. Further, the start of the Commission terms and the election of the CAC Executive Board was currently in January which, under the present circumstances, was impossible given the number of vacancies. By adoption of this Minute Order, staff sought to extend the time to review these issues and bring back to the Council appropriate ordinance amendments to these and other pending issues.

Mr. Casey recommended by Minute Order the 1) reorganization of members into the appropriate sectors as set forth in Exhibit A to the staff report dated January 6, 2003; 2) direction to the CAC that it postpone its election of Executive Board members until its July meeting; 3) direction to staff to draft appropriate ordinances addressing certain concerns of the CAC including attendance and start of Commissioner's terms to be presented at the January 21, 2003 meeting; and 4) extend the terms of current Commissioners to July pending the adoption of the amendments to the ordinance regarding the conduct of CAC business. Because of the number of applications received as a result of recent advertising, it was recommended that Council conduct interviews on the January 21 meeting, with appointment to be made at the February 3, 2003 meeting.

On motion by Vice Mayor Rios, seconded by Councilmember Glynn to allow the necessary time to review Community Advisory Commission concerns, with the exclusion of extending the election of the CAC. The motion carried by the following vote:

Ayes: Glynn, Rios, Beals
Noes: Parent, Kee
Absent:None

5. **RESOLUTION 03-9745** Approving the Issuance and Sale of Not to Exceed \$125,000,000 Aggregate Principal Amount of Redevelopment Agency of the City of Pittsburg, Los Medanos Community Development Project Tax Allocation Bonds, Series 2003a and Additional Bonds of One or More Series

The proposed City Council action is to authorize staff to move forward with establishment of the foundation for the Agency financing program (Series 2003 and beyond) through December 31, 2004.

Agency staff and the financing team to begin the tasks necessary to bring before the Agency Board the Los Medanos Community Development Project Tax Allocation Bonds, Series 2003. The action does not grant final approval for any specific new money financings. Subsequent meetings are required in the future for that action.

The item had been considered in Joint Session with the Redevelopment Agency and had been approved on motion by Councilmember Parent, seconded by Councilmember

Glynn and carried unanimously to adopt City Council Resolution 03-9745, as modified not to exceed \$200 million.

6. **RESOLUTION 03-9746** Approving the Issuance and Sale of Not to Exceed \$25 Million Aggregate Principal Amount of Redevelopment Agency of the City of Pittsburg, Los Medanos Community Development Project Subordinate Tax Allocation Bonds, Series 2003

The proposed City Council action is to authorize staff to move forward with establishment of the foundation for the Agency financing program (Series 2003 and beyond) through December 31, 2004. Agency staff and the financing team to begin the tasks necessary to bring before the Agency Board the Los Medanos Community Development Project Tax Allocation Bonds, Series 2003. The action does not grant final approval for any specific new money financings. Subsequent meetings are required in the future for that action.

The item had been considered in Joint Session with the Redevelopment Agency and had been approved on motion by Councilmember Glynn, seconded by Councilmember Parent and carried unanimously to adopt City Council Resolution 03-9746.

PUBLIC HEARINGS

1. **RESOLUTION 03-9741** Consent to the Award of Construction Contract No. 02-03 for the Library Improvements

Bids have been opened for the construction of the library restroom improvements of the Pittsburg Library, located at 80 Power Avenue. Proposed improvements for this project include: converting the Men's and Women's restrooms that are not ADA accessible into two Uni-Sex ADA compliant restrooms. The restroom area represents approximately 200 square feet of the entire library, which is approximately 7,000 square feet. The apparent low bidder, California Construction of Pittsburg, California, submitted a Bid Proposal in the amount of Thirty Six Thousand One Hundred Ninety-Seven Dollars and No Cents (\$36,197.00). In addition to the bid for construction, a 10 percent project contingency is to be included. In all, the total estimated cost to complete the project is \$39,900.

The item had been considered in Joint Public Hearing with the Redevelopment Agency and had been approved on motion by Vice Mayor Rios, seconded by Mayor Beals and carried unanimously to adopt City Council Resolution 03-9741.

2. **RESOLUTION 03-9742** Amendment to the Land Use Element of the General Plan and Introduction of a City-initiated Ordinance to Amend the Lot Coverage Standards in Certain Single-Family Residential Districts (GP-02-04 and RZ-02-19)

Mr. Casey advised that the Planning Commission recommends the Council amend

the Land Use Element of the General Plan to eliminate Policy 2-P-18 that limits maximum lot coverage on single-family lots to 40 percent. The Commission also recommends the Council establish an overlay zone for Highlands Ranch and amend the lot coverage standards in seven existing P-D Districts to increase the existing lot coverage standards, on lots less than 8,000 square feet in each of these areas, to 50 percent for two-story homes and 55 percent for one-story homes. He advised that Resolution 03-9742 and Ordinance 03-1204 could be considered together with separation motions on each.

Mr. Casey recommended the adoption of Resolution 03-9742 adopting the Negative Declaration and amending the Land Use Element of the General Plan by deleting Policy 2-P-18. The introduction and waiver of the first reading of Ordinance 03-1204 was also recommended to change the lot coverage standards in seven P-D Districts and Highlands Ranch Development, as recommended by the Planning Commission.

Mayor Beals opened the public hearing for Resolution 03-9742.

CHARLES SMITH, Pittsburg, suggested that the Council should notice what it was receiving from the Planning Commission from now on. He suggested that the amendment was the type of thing that the Commission would be referring to the Council and would be challenging the Council on every step. He questioned the need for an amendment.

Councilmember Kee suggested that was a very important issue and he would like to give the public an opportunity to make further comment. He recommended a continuance to allow the public to comment at a later meeting.

For the record, Mayor Beals stated that she did not wish to speak but Doris Bedford had submitted comments to include in the record, as follows: "The 7 P-D Districts are all less than 10 years old. Per Item J of the proposed ordinance, the lot coverage was exceeded on several lots that now want to add a patio or shed, etc. and can't because the lot coverage was exceeded when built. How did that happen? I don't see any reason to change the lot coverage from 40 percent from this time forward to correct a previous problem for a few property owners. The proposed ordinance may need more research before adoption. Thank you. Doris Bedford."

Councilmember Parent had several concerns and she had spoken to the Planning Director about them. She agreed that the consideration was important and she had concerns personally about sizes of lots, had concerns with the policy, and she sought more time to read the material. She would like to contact the Board of Realtors to address the situation with respect to lot sizes. She wanted to determine whether or not there should be more than one level of coverage, and she was particularly concerned with sloped lots and the need to ensure that the hillsides would be protected. Given that limited changes to the General Plan were allowed, she agreed with the need to keep the public hearing open for sixty days.

Vice Mayor Rios also sought a continuance of the public hearing to evaluate the information. She otherwise inquired where the item had originated.

Planning Manager Melissa Ayres reported that the item had originated from staff after contact from homeowners who had sought the installation of patio covers on their homes and where lot coverage standards had been found to be violated. She noted that most of the requests in the San Marcos Subdivision for such structures had been found to exceed the lot coverage standards, which situation had discovered the overall conflict.

Ms. Ayres referred to the survey of other communities from the staff report, some of which had no lot coverage standards at all while some had lot coverage standards of 50 percent where small lots were concerned. She stated that the situation had been characterized as an oversight on the City's part where smaller lots would require a higher standard. What had been proposed was similar to other communities. A 55 percent lot coverage with a single story was intended to promote single and two-story homes in a subdivision to encourage a mix.

Ms. Ayres explained that the City was stopping developers from building homes in already approved subdivisions. The lot sizes would not be changed in those developments and the proposal was only being applied to existing PD developments that had been approved since 1990. By not approving the proposal, she stated that there were a few homes that had already been inadvertently approved and built with 40 percent lot coverages which was affecting the homeowners and where some homes could not be rebuilt, as is, if they burned down. Patio covers or room additions could not be accommodated in many cases. She stated that the seven PD's involved the approval of large houses based on policies in the General Plan of encouraging executive size homes in the newer subdivisions, although those homes could not be built on some approved subdivisions, some dating back to maps valid since 1990. She stated that the question was the use of the land for smaller homes or balancing the housing stock and allowing the bigger homes in the developments.

Councilmember Glynn noted that a number of PDs had been approved with specific lot sizes and in some cases the homeowner was being penalized for a condition that had been discovered after the fact, which would also put those homeowners' insurance coverage in jeopardy.

Councilmember Glynn suggested that the situation could also delay the construction of some homes given the conflicts involved. He suggested that the issue therefore affected not only existing homes but new homes as well.

Ms. Ayres stated that the policy in the General Plan related to new construction and remodeled homes. The policy was more a zoning matter typically considered under development standards as opposed to a situation typically addressed by a General Plan. She clarified the situation affecting lots approved in 1990.

In response to Councilmember Parent, Ms. Ayres explained that an ordinance had been proposed to amend the lot coverage standards in only seven PDs in Highlands Ranch. It was not intended that the proposal apply to other existing neighborhoods given

that the evaluation of those neighborhoods had yet to occur. The proposal was intended to address the newer subdivisions. She reemphasized that building permits were not being issued until the issue had been addressed.

On motion by Councilmember Kee to continue Resolution 03-9742 to the next meeting on January 21, 2003 to allow the receipt of public testimony and the consideration of Council action or further continuance at that time.

Vice Mayor Rios seconded the motion to allow a more thorough evaluation of the situation.

Councilmember Glynn noted that the Planning Commission had already conducted two or three meetings on the situation at which time virtually every affected lot in the City had been evaluated as a result, including those potential annexations. He was uncertain what other information could be provided to further clarify the situation.

When asked, City Attorney Daube stated that the hearing on the ordinance would have to be opened and a similar motion to continue could be considered.

In response to Vice Mayor Rios as to the impact of postponing the item, Ms. Ayres stated that the impact would be that building permits would be delayed for a longer period of time.

On motion by Councilmember Kee, seconded by Vice Mayor Rios and carried unanimously to continue Resolution 03-9742 to the next meeting on January 21, 2003 to allow the receipt of public testimony and the consideration of Council action or further continuance at that time.

3. **ORDINANCE 03-1204** Amendment to the Land Use Element of the General Plan and Introduction of a City-Initiated Ordinance to Amend the Lot Coverage Standards in Certain Single-Family Residential District (GP-02-04 and RZ-02-19)

Mayor Beals opened the public hearing for Ordinance 03-1204.

WILLIE MIMS, Pittsburg, inquired of the differences between Resolution 03-9742 and Ordinance 03-1204.

City Attorney Daube reported that both would implement the similar type of action. The first would amend the General Plan and the second would amend the Zoning Ordinance. Both would be taken together but each would have different implementing effects.

Mr. Mims suggested that the language should be different for each given their different purposes.

On motion by Councilmember Kee, seconded by Vice Mayor Rios and carried unanimously to continue Ordinance 03-1204 to the next meeting on January 21, 2003 to allow the receipt of public testimony and the consideration of action or further continuance at that time.

4. **RESOLUTION 03-9743** Second Amendment to Agreement for the Operation of Transfer Station Between Contra Costa Waste Service Inc. and the City of Pittsburg

Mr. Casey reported that Contra Costa Waste Services, Inc. operates a waste recovery and transfer station under agreement with the City of Pittsburg. The Transfer Station operation includes wood grinding and recycling. Wood Recycling Center, Inc. also operates a wood grinding and recycling facility under agreement with the City of Pittsburg. Contra Costa Waste Services has purchased the Wood Recycling Center and will consolidate all wood recycling operations at the Transfer Station. The Second Amendment to the Transfer Station agreement is necessary to ensure the services and compensation received by the City under the Wood Recycling Center agreement are continued under the Transfer Station operating agreement.

Mr. Casey recommended the adoption of Resolution 03-9743 and the approval of the Second Amendment to the Agreement for the Operation of a Transfer Station Between Contra Costa Waste Services and the City of Pittsburg.

Mayor Beals opened the public hearing for Resolution 03-9743. There were no comments for or against the resolution. Mayor Beals closed the public hearing for Resolution 03-9743.

On motion by Councilmember Parent, seconded by Councilmember Glynn and carried unanimously to adopt Resolution 03-9743.

5. **ORDINANCE 03-1205** Amendment to Pittsburg Municipal Code Section 15.104 to Include Additional Territory Within the Stormwater Drainage Mitigation Fee Area for the Kirker Creek Watershed (Continue to February 3, 2003)

Mr. Casey advised that it had been proposed that the City of Pittsburg consider amending Ordinance No. 01-1180 to allow that parcel owned by USS-Posco Industries and identified by APN 73-200-19, to drain into Kirker Creek. In consideration of the proposed ordinance amendment, the City prematurely sent out Public Hearing notices to give the public time to respond to the proposed changes. However, it has been determined that additional staff time is needed to finalize the addendum to the EIR. He recommended that the public hearing be opened and be continued to February 3, 2003.

Mayor Beals opened the public hearing on Ordinance 03-1205.

WILLIE MIMS, Pittsburg, representing the BPA, expressed his concern with the creek

itself and with changing or amending the ordinance to allow USS-Posco to drain into the creek, particularly given the historical flooding concerns.

CHARLES SMITH, Pittsburg, retired environmental scientist for the Department of Energy and currently working on the Watershed Committee for Watershed No. 8, which was USS Posco territory stated that USS Posco had polluted grounds and were currently under clean-up conditions. He questioned what had been proposed to drain into Kirker Creek. It was his understanding that USS Posco had not been cleared by the Department of Toxic Substances Control to drain. He urged waiting until more information was available in terms of the pollutants discharged into Kirker Creek. Given the non-action item that staff sought to continue, he urged a deferment of the situation pending the receipt of more information.

Mayor Beals reported that it had been recommended that the public hearing remain open and be continued to February 3.

On motion by Councilmember Kee, seconded by Councilmember Glynn and carried unanimously to continue Ordinance 03-1205 to February 3, 2003.

6. **RESOLUTION 03-9744** Consent to the Execution of a Loan Agreement Between the Redevelopment Agency of the City of Pittsburg and the Mt. Diablo Unified School District

The Redevelopment Agency of the City of Pittsburg (the "Agency"), by Resolution 93-436, authorized a Fiscal Agreement between the Agency and the Mt. Diablo Unified School District (the "District"), stating that the Agency will provide financial assistance to the District for the purpose of constructing a school to help alleviate the negative impact that development in the amended Project Area will bring.

The Loan Agreement provides the Mt. Diablo Unified School District a loan not to exceed Six Million, Two Hundred Thousand Dollars (\$6,200,000) for construction of the school improvements. The repayment of the loan to commence on January 2005, paying the Agency biannually a rate of 24 percent of all developer fees collected from the Agency Project Area until the entire loan has been satisfied.

The item had been considered in Joint Public Hearing with the Redevelopment Agency and had been approved on motion by Vice Mayor Rios, seconded by Councilmember Glynn and carried unanimously to adopt Resolution 03-9744.

SPECIAL REPORT

1. **REPORT** Kirker Creek Status Update

The City Engineer, Joe Sbranti, presented a history of the project, current status and projected schedule.

Mr. Sbranti stated that the Kirker Creek project had been ongoing from 1987 to 1997 when the City's consultant had been working to address how to get water through Kirker Creek when a number of studies had been conducted, which studies had determined how the system could be approved as well as funded. In 1998, "Lake Loveridge" had accelerated interest in the project and Caltrans had completed improvements under State Route 4 to increase the capacity of the culvert. He explained what had occurred after that time, the funds received by the State to increase the capacity of the creek and the hiring of Mark Thomas and Company to complete preliminary engineering, to design improvements and the involvement of surrounding agencies to address the problem. After that time, the EIR and other environmental issues had proceeded and other projects had been initiated that affected the project.

Mr. Sbranti detailed what had been occurring since that time and identified the components of the anticipated improvements. To date \$6.2 million had been spent on the project with environmental approvals, design engineering, right of way land acquisition and utility relocation primarily involved and with \$11 million yet needed to complete the \$17.6 million project. Funds received included \$3.5 million in State Transportation Improvement Program (STIP) funds. He described the requirements to qualify for funding and noted that the project financing would have to be secured and the project awarded prior to March 2003. If not awarded by June 30, 2003, the \$3.5 million of STIP funding could be lost. If started in April, the project was expected to last for two years.

Mr. Sbranti also referred to the detention basin that was part of the project east of Carpino, which had raised some concerns. He identified other detention basins in town, including in Highlands Ranch and Oak Hills, which detention basins were designed to drain thoroughly although some drained better than others. He added that detention basins did not represent a safety hazard and did not contribute to concerns related to mosquitoes.

Since the detention basin east of Carpino would be situated near the new development of office space, hotel and outdoor uses, Mayor Beals inquired whether or not the detention basin would look as nice as what had been shown, to which Mr. Sbranti stated that a typical detention basin would be surrounded by trees with a fence, but it would not be a park.

Mayor Beals stated that given the new developments and the existing residents in the area it was preferred that the detention basin east of Carpino be made to look as good as possible.

In response to Councilmember Kee as to how well detention basins drained, Mr. Sbranti stated that detention basins were not part of the normal creek system and would only receive spillover when water reached a very high level. One day out of a hundred years it would fill up and was designed to drain within 24 hours. He added that most of the time water was not intended to fill a detention basin and if that was the case it would create a maintenance problem. In general, he stated that detention basins did not fill up with water.

Referring to the Oak Hills detention basin, Mr. Fuller stated that the basins did not fill up and pool water.

CHARLES SMITH, Pittsburg, stated that the basins involved were retention basins and not detention basins. He stated that retention basins retained the water solely and placed it back into Kirker Creek under a normal flow. Speaking to the Pittsburg Antioch Highway, he stated that was a detention basin designed to collect the overflow of water and slowly release it back when the level goes down. He emphasized the differences involved. He referred to the park at Willow Pass Road, which was a retention basin. Referring to Highlands Ranch he stated that flowers had been proposed and cement had been proposed around it in a park-like atmosphere for that retention basin.

Mr. Smith suggested that there was only one detention basin, which was the one being designed at the Pittsburg/Antioch Highway. He stated that he had repeatedly expressed concern with what had been proposed in that area and he suggested that the water should have been stopped at Highway 4. He suggested that the Council would have the distinction of building a bad project.

Mr. Sbranti stated that the City had no retention basins and only had detention basins. He explained that he and Mr. Fuller would meet with Mr. Smith to discuss his concerns.

Mr. Mims inquired how deep the hole for the detention basin would be, he questioned the acreage involved and he asked whether or not the City's existing detention basins were as close to a school as was the proposed detention basin.

Mr. Sbranti explained that the basin would be 15 feet deep. He expressed a willingness to meet with Mr. Mims to identify the acreage involved and to plot the other sites to identify their relationship to existing schools.

Mr. Mims noted the situation related to the West Nile Virus and the danger of standing water as a result, which would serve as an attractive nuisance and a danger to the adjacent community and school, and which led to issues of environmental justice.

Mayor Beals recommended that staff contact Mr. Smith and Mr. Mims for a separate meeting to address their concerns.

BRUCE OHLSON, Pittsburg stated that Pittsburg's bicycle community would like the City to open a multi-use path between the Pittsburg/Antioch Highway and California Avenue.

ADJOURNMENT

The meeting of the City Council adjourned at 10:26 P.M. to the next meeting on January 21, 2003 at 7:00 P.M.

Respectfully submitted,

Lillian J. Pride, City Clerk

als