

**CITY OF PITTSBURG**  
**Housing Authority Minutes**  
**December 20, 2004**

Chair Nancy Parent called the meeting of the Housing Authority to order at 7:21 P.M. in the City Council Chambers at City Hall, 65 Civic Avenue, Pittsburg, California after having convened into Closed Session at 6:00 P.M. for Conference with Legal Counsel – Existing Litigation pursuant to Section 54956.9(a) of the Government Code, regarding Calpine et al vs. State Board of Equalization, San Diego Superior Court Case No. GIC 828751, West Coast Home Builders, Inc., and SEECON Financial and Construction Company, Inc. vs. City of Pittsburg, City Council of the City of Pittsburg, Contra Costa County Superior Court Case No. C03-02777, West Coast Home Builders, Inc. vs. City of Pittsburg, City Council of the City of Pittsburg, Contra Costa County Superior Court Case No. N04-1027, Erin Janes vs. City of Pittsburg et al, Contra Costa County Superior Court Case No. C04-00647, and Bruce Chappell, vs. City of Pittsburg, United States District Court, Northern District of California, Case Number C04 4400 SI; Conference with Legal Counsel – Anticipated Litigation pursuant to subdivision (b) of Section 54956.9 regarding one case and pursuant to subdivision (c) of Section 54956.9 regarding one case; and Conference with Real Property Negotiator pursuant to Section 54956.8 regarding APN 085-195-007, 985 Railroad Avenue.

Chair Parent advised that there was nothing to report from Closed Session.

**MEMBERS PRESENT:** Casey, Glynn, Johnson, Kee, Leatherwood, Wallen, Parent

**MEMBERS ABSENT:** None

**STAFF PRESENT** Executive Director, Marc Grisham  
Legal Counsel, Ruthann Ziegler  
City Clerk, Lillian Pride  
Deputy City Clerk, Alice Evenson  
Housing and Community Programs Manager, Annette Landry  
Director of the Redevelopment Agency, Garrett Evans  
Director of Development Projects, Randy Jerome  
Director of Economic Development, Brad Nail  
Director of Human Resources, Marc Fox  
Director of Public Works, John Fuller  
Director of Recreation, Paul Flores  
Director of Finance, Marie Simons  
Director of Engineering and Building, Joe Sbranti  
Director of Planning, Melissa Ayres  
Police Chief, Aaron Baker

**CONSENT CALENDAR**

a. **DISBURSEMENT LIST** Dated: November 30, 2004

On motion by Councilmember Glynn, seconded by Vice Chair Kee to approve the Disbursement List dated November 30, 2004, carried by the following vote:

Ayes: Glynn, Kee, Leatherwood, Wallen, Parent  
Noes: None  
Abstain: Casey, Johnson

b. **MINUTES** Dated: November 15, 2004

On motion by Councilmember Glynn, seconded by Vice Chair Kee to approve the minutes dated November 15, 2004, as submitted, carried by the following vote:

Ayes: Glynn, Kee, Leatherwood, Wallen, Parent  
Noes: None  
Abstain: Casey, Johnson

### **ADJOURNMENT**

The meeting of the Housing Authority adjourned at 7:25 P.M. to the next meeting set for January 18, 2005.

Respectfully submitted,

Lillian J. Pride, Secretary

**CITY OF PITTSBURG**  
**Redevelopment Agency Minutes**  
**December 20, 2004**

Chair Nancy Parent called the meeting of the Redevelopment Agency to order at 7:26 P.M. in the City Council Chambers at City Hall, 65 Civic Avenue, Pittsburg, California after having convened into Closed Session at 6:00 P.M. for Conference with Legal Counsel – Existing Litigation pursuant to Section 54956.9(a) of the Government Code, regarding Calpine et al vs. State Board of Equalization, San Diego Superior Court Case No. GIC 828751, West Coast Home Builders, Inc., and SEECON Financial and Construction Company, Inc. vs. City of Pittsburg, City Council of the City of Pittsburg, Contra Costa County Superior Court Case No. C03-02777, West Coast Home Builders, Inc. vs. City of Pittsburg, City Council of the City of Pittsburg, Contra Costa County Superior Court Case No. N04-1027, Erin Janes vs. City of Pittsburg et al, Contra Costa County Superior Court Case No. C04-00647, and Bruce Chappell, vs. City of Pittsburg, United States District Court, Northern District of California, Case Number C04 4400 SI; Conference with Legal Counsel – Anticipated Litigation pursuant to subdivision (b) of Section 54956.9 regarding one case and pursuant to subdivision (c) of Section 54956.9 regarding one case; and Conference with Real Property Negotiator pursuant to Section 54956.8 regarding APN 085-195-007, 985 Railroad Avenue.

Chair Parent advised that there was nothing to report from Closed Session.

**MEMBERS PRESENT:** Casey, Glynn, Johnson, Kee, Parent

**MEMBERS ABSENT:** None

**STAFF PRESENT** Executive Director, Marc Grisham  
Legal Counsel, Ruthann Ziegler  
City Clerk, Lillian Pride  
Deputy City Clerk, Alice Evenson  
Housing and Community Programs Manager, Annette Landry  
Director of the Redevelopment Agency, Garrett Evans  
Director of Development Projects, Randy Jerome  
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Director of Finance, Marie Simons  
Director of Engineering and Building, Joe Sbranti  
Director of Planning, Melissa Ayres  
Police Chief, Aaron Baker

**PUBLIC HEARING**

1. **RESOLUTION 04-1014** Adopting the Implementation Plan for the Los Medanos Project Area 2004-2009 for the Redevelopment Agency of the City of Pittsburg

Executive Director Marc Grisham advised that pursuant to California Redevelopment Law Health and Safety Code 33490, redevelopment agencies are required to adopt a five-year implementation plan every five years. The Redevelopment Agency of the City of Pittsburg is bringing forth the Implementation Plan for the Los Medanos Project Area 2004-2009.

Director of the Redevelopment Agency Garrett Evans reported that copies of the plan were available in the Council Chambers for members of the public. He advised that the plan had been prepared by McGill Martin & Self. The plan was a requirement of every Redevelopment Agency in the State to have a Five Year Implementation Plan, technically the General Plan showing the City's goals and programs to eliminate blight and provide affordable housing. The public hearing as required by State law had been noticed and posted in six locations; the Civic Center, the Chamber of Commerce, the Pittsburg Unified School District (PUSD) , the Housing Authority, the Public Library and Buchanan Park. Three weeks of public hearing notices had also been published in the Ledger Dispatch. Two non-required workshops were held on July 14 and August 23, 2004 to solicit community input on the process.

Some of the implementation plan projects identified in the current plan varied from the Capital Improvement Program (CIP) List and included the West Leland Road Extension, the Pittsburg Public Library, Neighborhood Preservation and Improvement, Citywide Pavement Reconstruction, Reclaimed Water Downtown Infrastructure Replacement, Marina Shoreside, the First Time Homebuyer Program, Commercial Rehabilitation Loan Program, Housing Counseling and Services, and Business Counseling Services free to all residents. There was also residential development or rehabilitation projects such as Tenth and Railroad Avenue, the Black Diamond Project, the Crestview Avenue Project, the Cumberland Unified Development Area, Vista Del Mar and West Boulevard.

The programs and projects identified would assist in eliminating blight. Amendments to the programs and projects would be allowed to what would be a flexible program offering housing strategies that would be needed throughout the community.

There was no fiscal impact to adopt the Implementation Plan. Programs and projects identified in the Implementation Plan that had not been approved nor had received funding would be brought to the Agency Board for project approval and allocation of funds.

Mr. Evans recommended that the Agency Board adopt the Implementation plan.

Member Johnson questioned the timing of the acquisition on some of the properties as shown on Page 2 of the staff report.

Mr. Evans stated that he would provide that information on each of the properties referenced, which he noted had occurred in the 1999-2004 Implementation Plan.

Chair Parent opened the public hearing for Resolution 04-1014.

WILLIE MIMS, Pittsburg, representing the Black Political Association (BPA), referred to Page 27 of the document and the comment that the law required that at least 20 percent of the tax increment revenue allocation must be used to increase and improve the supply of Low and Moderate Income housing in the community. He noted that the City had decided to use the special exemption allowed by the Health and Safety Code Regulations. That special exemption would only set aside 4 percent of the revenue for housing. He questioned why the special exemption had been implemented.

Mr. Evans stated that in 1980 the cities of Pittsburg and Richmond had received a special exemption for older project areas since those two communities had a plethora of affordable housing in existence in portions of each community. As a result the funds were allowed to be used for road repairs and other types of activities since the communities had such a predominance of affordable housing. Four percent of the housing stock was receiving a subsidy in the community. Los Medanos II and III Project Areas were required to set aside 20 percent of the funds representing \$2 million this year. He stated that the Agency Board had also authorized the issuance of \$16 million of net bond proceeds that would be immediately used for affordable housing in the community.

As to the findings required by the Agency, Mr. Mims suggested that an outside agency should be utilized for making those necessary findings.

WILLIAM LEE, Pittsburg, referred to the northeast corner of the site, stated that there were fuel tanks and old gas tanks in that area, and urged the City to take care in the development of that area as a result.

Chair Parent closed the public hearing for Resolution 04-1014.

On motion by Member Glynn, seconded by Member Casey and carried unanimously to adopt Resolution 04-1014.

2.     **RESOLUTION 04-1015**     Hearing on the Proposal to Designate a Unified Development Area Near the Northwest Corner of Railroad Avenue and West Boulevard

Mr. Grisham stated that to further the goals and objectives of the Redevelopment Plan for the Los Medanos Community Development Project Area, staff had identified redevelopment activities that would alleviate blighting conditions and stimulate economic development within the Project Area. The proposal to adopt a Unified Development Area (UDA) consisting of approximately 20,450 square feet located near the northwest corner of Railroad Avenue and West Boulevard would assist the Agency in addressing blight in the Project Area, and would enhance the quality of residential life in Pittsburg.

Mr. Evans noted that the area in question was the vacant lot on West Boulevard and the two parcels on each side. The Agency would review the best way to use the three parcels totaling almost a half-acre and create a unified plan to create affordable housing opportunities.

Vice Chair Kee questioned whether or not the members of the West Boulevard community group had worked with the City in the development of the unified plan, to which Mr. Evans stated that staff and members of the Neighborhood Improvement Team had met with many of the neighbors in the area to discuss the plan. Work would continue in that regard.

Mr. Evans also clarified that the owners of those two parcels had been invited to participate in the discussions although there had been no response from those owners to date. He had not spoken to the owners of those two parcels at the time staff had met with the members of the Neighborhood Improvement Team and neighbors of the area.

There was no fiscal impact. Staff requested that the Agency Board adopt the UDA and authorize the Executive Director to determine the feasibility of developing a multi-family residential project on the site, solicit owner participation interest as outlined in the Redevelopment Plan for the Project Area and determine the method for seeking development proposals.

Chair Parent opened the public hearing for Resolution 04-1015. There was no one to speak for or against the resolution. The Chair closed the public hearing for Resolution 04-1015.

Chair Parent questioned whether or not concurrent code enforcement was being conducted in the neighborhood, to which the Executive Director affirmed that code enforcement was being pursued.

Chair Parent did not want to imply that property owners in the area could sit and wait for the City to acquire properties since that might not occur.

Mr. Grisham acknowledged the accuracy of the Chair's statement and noted that the City would be very aggressive in pursuing code enforcement.

On motion by Member Glynn, seconded by Vice Chair Kee and carried unanimously to adopt Resolution 04-1015.

## **CONSIDERATION**

1. **RESOLUTION 04-1016** Award of Consulting Agreement by and between the Redevelopment Agency of the City of Pittsburg and Associated Right of Way, Inc.

The Redevelopment Agency of the City of Pittsburg was in need of consulting services to conduct appraisals of several properties in which the Agency had an interest in acquiring for the purpose of rehabilitation and/or general development. Associated Right of Way Services, Inc. (ARWS) had been working in partnership with Rosenow Spevacek Group, Inc. (RSG) under RSG's consulting agreement with the Agency. However, the Agency had a need to have properties appraised that had not been included in the RSG Scope of Work. Therefore, the Agency desires to enter into an on-call consulting agreement to provide appraisal services as set forth in the Scope of Services attached to the Agreement as Exhibit A in the staff report dated December 20, 2004.

When asked by the Vice Chair, Mr. Evans stated that the fee for the appraisals would generally be in the range of \$3,000 to \$5,000 each unless it involved an easement which would be considerably less.

Mr. Evans stated that staff proposed to amend the Agency Budget to allocate an additional \$100,000 from the 2004 Tax Allocation Bond proceeds to Account 75-2070-0760-4326.

Mr. Evans recommended that the Agency Board authorize the Executive Director to enter into the Agreement with ARWS for an amount not to exceed \$100,000 to provide property appraisals on an as-needed basis for properties in which the Agency had a rehabilitative and/or development interest.

On motion by Vice Chair Kee, seconded by Member Johnson and carried unanimously to adopt Resolution 04-1016.

## **CONSENT CALENDAR**

Member Kee advised that he would need to have Items b and c removed given the need to recuse himself since he had a client interested in one of the spaces at the Railroad Avenue property of Item b and a client involvement with respect to Item c. All items were removed from the Consent Calendar, as a result.

City Attorney Ruthann Ziegler verified that whenever there was a conflict of interest with an item on the Consent Calendar, the member in question did not have to leave the Council Chambers.

a. **MINUTES** Dated: December 6, 2004

On motion by Member Glynn, seconded by Vice Chair Kee to approve the minutes dated December 6, 2004, carried by the following vote:

Ayes:	Kee, Glynn, Parent
Noes:	None
Abstain:	Casey, Johnson

- b. **RESOLUTION 04-1017** Approval of a Consultant Agreement by and between the Redevelopment Agency of the City of Pittsburg and James Miller and Associates

On motion by Member Casey, seconded by Member Glynn to adopt Resolution 04-1017, carried by the following vote:

Ayes: Casey, Glynn, Johnson, Parent  
Noes: None  
Absent: Kee [Recused]

- c. **MINUTE ORDER** Authorization of an Emergency Loan to Assist the Completion of the Rehabilitation of 319 Railroad Avenue

When asked by Chair Parent as to the City's position on the increase of the loan, Mr. Grisham understood that the position would not change since the Agency would remain in a second position.

Mr. Evans explained that the City's position would not be jeopardized since there would be considerable improvement to the structure. The emergency loan would allow the building to be opened up even more.

Mr. Grisham stated that staff was looking at areas of the structure that needed to be clarified and were still trying to lock in the final number of the loan. There had been some inspection work done underneath the building and staff was confident that some satisfactory conclusion could be reached.

Member Johnson inquired of the percentage of value of the property in terms of the loan.

Given the detailed discussion, Member Kee left the dais and left the Council Chambers at this time.

Mr. Evans stated that the agenda item related to a minute order to determine whether or not the Agency Board would be willing to offer an additional loan beyond the rehabilitation loan to 319 Railroad Avenue. He sought the Agency Board's willingness to evaluate the situation given that several items needed to be completed to allow building occupancy to be pursued. He stated that details of the loan, loan to value ratio, and the like would have to be evaluated and identified if the Agency determined to pursue an emergency loan given the prominence of the building on the corner.

Member Johnson did not want to see the City placed in a negative position in this case. He inquired what percent the City would be willing to loan against the building.

Mr. Grisham stated that if action was taken, staff would not present a proposal

where the loan to value ratio would exceed the value of the building.

Mr. Evans added that generally an 80 percent value was the City's standard although there were greater ratios on occasion only with a very strong realization that the value of the improvements would dramatically improve the Agency's position.

Chair Parent stated that the concern was clear that the City not be placed in a negative position in this case.

On motion by Member Glynn, seconded by Member Casey to authorize an Emergency Loan to Assist the Completion of the Rehabilitation of 319 Railroad Avenue, carried by the following vote:

Ayes: Casey, Glynn, Johnson, Parent  
Noes: None  
Absent: Kee [Recused]

Vice Chair Kee rejoined the Agency Board at this time.

- d. **RESOLUTION 04-1018** Approval of a Consultant Agreement by and between the Redevelopment Agency of the City of Pittsburg and Main Street Property Services, Inc.

On motion by Member Johnson, seconded by Member Glynn and carried unanimously to adopt Resolution 04-1018.

### **ADJOURNMENT**

The meeting of the Redevelopment Agency adjourned at 7:57 P.M. to January 3, 2005.

Respectfully submitted,

Lillian J. Pride, Secretary

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**CITY OF PITTSBURG**  
**City Council Minutes**  
**December 20, 2004**

Mayor Nancy Parent called the meeting of the Redevelopment Agency to order at 7:58 P.M. in the City Council Chambers at City Hall, 65 Civic Avenue, Pittsburg, California after having convened into Closed Session at 6:00 P.M. for Conference with Legal Counsel – Existing Litigation pursuant to Section 54956.9(a) of the Government Code, regarding Calpine et al vs. State Board of Equalization, San Diego Superior Court Case No. GIC 828751, West Coast Home Builders, Inc., and SEECON Financial and Construction Company, Inc. vs. City of Pittsburg, City Council of the City of Pittsburg, Contra Costa County Superior Court Case No. C03-02777, West Coast Home Builders, Inc. vs. City of Pittsburg, City Council of the City of Pittsburg, Contra Costa County Superior Court Case No. N04-1027, Erin Janes vs. City of Pittsburg et al, Contra Costa County Superior Court Case No. C04-00647, and Bruce Chappell, vs. City of Pittsburg, United States District Court, Northern District of California, Case Number C04 4400 SI; Conference with Legal Counsel – Anticipated Litigation pursuant to subdivision (b) of Section 54956.9 regarding one case and pursuant to subdivision (c) of Section 54956.9 regarding one case; and Conference with Real Property Negotiator pursuant to Section 54956.8 regarding APN 085-195-007, 985 Railroad Avenue.

Mayor Parent advised that there was nothing to report from Closed Session.

**MEMBERS PRESENT:** Casey, Glynn, Johnson, Kee, Parent

**MEMBERS ABSENT:** None

**STAFF PRESENT:** City Manager, Marc Grisham  
City Attorney, Ruthann Ziegler  
City Clerk, Lillian Pride  
Deputy City Clerk, Alice Evenson  
Housing and Community Programs Manager, Annette Landry  
Director of the Redevelopment Agency, Garrett Evans  
Director of Development Projects, Randy Jerome  
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Director of Human Resources, Marc Fox  
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Director of Finance, Marie Simons  
Director of Engineering and Building, Joe Sbranti  
Director of Planning, Melissa Ayres  
Police Chief, Aaron Baker

Mayor Parent considered the following general City Council items at 7:07 P.M. prior to pursuing the Housing Authority agenda.

## **PLEDGE OF ALLEGIANCE**

Lou Rosas led the Pledge of Allegiance.

## **COUNCILMEMBER REPORTS/REMARKS**

Vice Mayor Kee highlighted the recent Teen Summit at Central Jr. High School, which had been well attended with speakers from Central and Hillview Junior High Schools. The theme for the summit was respect for the students and other people. Eagle pins from Central Junior High School were presented to the attendees and to the Vice Mayor to present to the entire Council.

Councilmember Glynn reported on his attendance at a Christmas Party at Mr. Seeno's personal home with a Christmas party with the Pittsburg Historical Society, a Good Shepherd Church Concert, the Senior Center Exercise Class, and the 60<sup>th</sup> Anniversary of the Battle of the Bulge in San Francisco, which had also been attended by the Pittsburg Color Guard and representatives of Luxembourg and Belgium.

Mayor Parent reported that she and Councilmember Johnson had attended a Senior Center Christmas Luncheon where the seniors had been served by many volunteers from local organizations. She noted the City's appreciation to the volunteer seniors who helped run the programs at the Senior Center. She had also attended the Good Shepherd Concert and stated that there would be another in the spring when local talent would again be showcased.

Mayor Parent also reported that she had attended the City of Antioch City Council's reorganization meeting as had Councilmember Johnson when she had offered the City of Pittsburg's commitment to cooperate on East County issues. Additionally, she had attended the Pittsburg Unified School District (PUSD) reorganization where she had offered the same message of cooperation.

## **CITY MANAGER REPORTS/REMARKS**

City Manager Grisham had nothing to report at this time.

## **CITIZENS REMARKS**

LOU ROSAS, Pittsburg, noted that he had commented at the last meeting that Mayor Aleida Rios had not been asked to be the Grand Marshall of the Holiday Parade which he had indicated was inappropriate. He had since learned that his comments were not accurate. He stated that he would work in the future to offer accurate information. He took this opportunity to wish all a Happy Holiday and wished the new Council well in doing good things for the community.

WILLIE MIMS, Pittsburg, representing the Black Political Association (BPA) welcomed the two new members of the City Council; Councilmembers Casey and Johnson, and wished them well in the New Year.

CHARLES SMITH, Pittsburg, referred to the Mayor's remarks from the last meeting with respect to progress in the City and with respect to the Mayor's desire to preserve the hills surrounding the community. He noted that one judges a tree by the fruit it bore and he would look to the Council in the next year to see what fruit it would bear. He also characterized the City as a multi-colored rainbow which reflected the citizens of the City and what happened in the community.

WILLIAM LEE, Pittsburg, spoke with respect to the Kirker Creek Project and suggested that an independent audit be initiated given the concerns that he had been expressing to the City Council for the last two years. He commented that the City was not at fault. He suggested that the contractor was at fault and he did not want a precedent to be set in this case. He urged the City Attorney to pursue the necessary actions to address the concerns with the situation where the contract had gone over budget by approximately \$2 million.

Mayor Parent advised that Mr. Lee's comments would be forwarded to the appropriate staff member.

### **PROCLAMATION**

1. Volunteer Blood Donor Month - January

Councilmember Casey read the Proclamation for the Volunteer Blood Donor Month for the Month of January. There was no one present to accept the Proclamation.

Mayor Parent advised that the Proclamation would be sent to the Red Cross.

Mayor Parent adjourned to the Housing Authority at 7:21 P.M. She reconvened the City Council at 7:58 P.M.

### **PUBLIC HEARING**

City Attorney Ruthann Ziegler stated that the desire was to consider Item 2 prior to Item 1. She would present the item as staff and Mike Dean of her office would advise the Council on the matter. She noted that neither she nor Mr. Dean had discussed the case in any way, shape or form.

2. **RESOLUTION 04-10197** Code Enforcement Hearing Regarding 6 and 7 Industry Road

Ruthann Ziegler, serving as staff for the item, requested that the City Council conduct a hearing and, based thereon, order Clayton Manning, the owner of the property located at 6 and 7 Industry Road, to abate the nuisance thereon, and if not abated, direct staff to take appropriate action thereafter. She referred to pertinent parts of the City's Municipal Code and a collection of documents that were distributed to the Council at this time.

The property owner was also provided copies of the documents presented to the City Council.

Ms. Ziegler referred to both 6 and 7 Industry Road, owned by Clayton Manning, and reported that there were years worth of problems related to the property. She referred to an undated chronology prepared by staff to identify the history of the property.

Ms. Ziegler reported that in August 2004 the City had obtained a warrant to inspect the property, which inspection had found that the problems identified in a May 2003 letter sent to the property owner still existed. On October 21, 2004, City staff issued a Notice to Abate to the property owner. Included in that notice was a copy of the May 2003 letter, which had identified the various concerns with the properties. She summarized the documents presented which included evidence of City staff's service of the documents, a copy of the notice by Certified Mail Return Receipt Requested, declaration by the Building Inspector on the service of the Notice by Return Receipt and posting on the property.

There had been some progress by the property owner in response to the October 2000 notice. The problems that had been noted in both the May 2003 notice and the October 2004 notice had been abated since the building had essentially been leveled although the debris from the building remained on the property and needed to be removed.

Prior to the City issuing the November 22, 2004 Notice of the Hearing City staff had gone to the property to see the status of the property and had taken photos of the site. Ms. Ziegler presented those photos to identify the significant amount of debris on the property, which would have to be removed. Six photos of the property were displayed at this time.

Subsequent to staff's inspection City staff issued a November 22, 2004 Notice of Hearing, which hearing was currently being conducted. The proof of service and proof of notice had been documented in the material presented to the Council. A photo of the notice placed on the property had also been provided.

Ms. Ziegler stated that while Mr. Manning had made progress, it had been insufficient progress since the debris needed to be cleaned up. She requested that the City Council adopt the resolution in the Council packet with certain modifications to indicate that there was no building that needed to be brought into compliance since the building no longer existed. The debris needed to be removed from the property in accordance with applicable law including the City's Municipal Code and any non-conforming structures on the property that were out of conformance with no permits from the City would have to be removed.

The property owner would be allowed a 45 day period to abate the nuisance, after which staff would proceed to clean up the property and remove the debris if the property owner did not do so within that 45 day period. If the City did the work, the costs of that work would be recouped from the property owner.

Ms. Ziegler stated that there was fencing on the property that had been installed without appropriate City permits and there were (or could be) other structures on the property that had not been placed in accordance with City permits. She affirmed when asked by the Mayor, that the resolution must be clear that fencing was a structure that required a permit. In addition to the staff report and material in the packets, she asked to be included into evidence for the hearing before the Council both the photos or the 8 x 11 inch version of them and the information distributed to the City Council at this time.

In response to the Mayor, Mike Dean verified that the property owner had an appropriate time to present his case. The City's usual limit was 20 minutes. He also stated that the property owner would be allowed sufficient time to respond to the concerns. At the end of the public testimony, the property owner would have 10 minutes to rebut any comments if he so wished.

The fiscal impact to the City would depend on several factors. If, based on the testimony presented during the hearing, the City Council determined that the conditions at 6 and 7 Industry Road do not constitute a public nuisance and therefore should not be abated, there would be not fiscal impact to the City. However, if the City Council found that the properties did constitute a public nuisance and orders the property to be abated, there might be fiscal impact to the City.

In the event Mr. Manning failed to comply with the City's order to abate, the City, pursuant to Pittsburg Municipal Code Section 1.24.070, could proceed to abate the conditions at 6 and 7 Industry Road. If the City proceeded to abate the nuisance, staff estimated that the fiscal impact would be approximately \$80,000, although the City might be able to recover those costs by billing the property owner or by placing a lien on the properties once the abatement had been completed. The City anticipated borrowing money from the Redevelopment Agency for advancing those costs.

Mayor Parent opened the public hearing for Resolution 04-10197.

CLAYTON MANNING, the property owner, verified that he would have 45 days to complete the work to clean the site. He stated that the buildings were down and the debris was gone although he would need to get the brick and stucco to Antioch Building Materials.

Mayor Parent stated that the property owner would also have to remove any structure, including the fence that had been installed without a permit, and which had not been placed in accordance with City required building permits.

Mr. Manning commented when asked, that he had nothing further to add.

WILLIE MIMS, Pittsburg, representing the BPA, spoke in support of Mr. Manning, and his hope that the Council would deny the staff recommendation. He stated that Mr. Manning had occupied the site for 24 years and that Mr. Manning had not been given any support by the City or been allowed the opportunity to participate in any of the small business loans or programs that were offered in the City, such as the Commercial Rehabilitation Loan, Soil Remediation Program, or programs available through the Enterprise Zone. Mr. Mims expressed concern that Mr. Manning was being run out of business. He suggested that Mr. Manning was being treated unfairly and he suggested that it would cost \$80,000 to remove Mr. Manning from his property. He opposed the code enforcement process to remove Mr. Manning from his property. He also commented that he had requested a copy of the additional materials that had just been made available to the City Council in accordance with the California Public Records Act and the lack of receipt of that information, as requested, was in violation of that Act. He asked to receive a copy of that information and he asked that that information be made available to the public as well.

CHARLES SMITH, Pittsburg, commented that the documents before the Council were extensive and might not be completely reviewed. He explained that he had become involved with Mr. Manning's problem since he had an issue with U.S. Steel and how the City Council had treated U.S. Steel with kid gloves versus how it treated other small businesses. He too commented on the fact that Mr. Manning had been at the site for the past 24 years and every violation identified by the City had been corrected by Mr. Manning. He added that few people were aware of Industry Road which was a two block lane. He suggested that it was a stretch to characterize the situation as a public nuisance.

Mr. Smith commented with respect to the statement that the debris at the site was a habitat for rats and vermin and noted that Johns Manville across the street was no better and no code enforcement action was being taken against that property owner. He again commented that the City had been lenient with U.S. Steel and its contamination problems with no deadlines to remove its contamination. He was also aware of the regulations of the Department of Toxic Substance Control (DTSC) and was well aware that staff did not have the power to dictate to an individual how to remediate his/her property. DTSC had also informed him that staff had no power and that although the staff report had indicated the items that needed to be done to correct the problem it was not in the staff domain to take that action but within the domain of the DTSC.

WILLIAM LEE, Pittsburg, commented that as a 50-year resident of the City he was aware of what had been occurring on Industry Road. He commented that some of the ground problems with hazardous materials had been discovered with the work done on Third Street. He noted that the property had been acquired in 1979 and the property owner had been grandfathered into the City until he had started making improvements to the property. He commented that surrounding properties, such as B.G. Marine had similar problems but had not been pursued by code enforcement. He suggested that the issue related to people of color.

LONELL NOLAN, Pittsburg, noted that there were several problems in the area and he objected to the focus on minority landowners and not on all landowners. He suggested that staff should also have shown photographs of the adjacent properties to show the substandard buildings on those properties. He asked the Council not to accept the resolution.

JAMES MANNING, Bay Point, Clayton Manning's father, stated that at this point the ground was clean although there was debris on the north side, which would be moved. He stated that the debris would be gone prior to the 45 day deadline period. He asked what type of fence was required and which type of fence could be installed as required by the City.

Mayor Parent advised Mr. Manning that he would have to check with the Planning Department to see what kind of fence was allowed, which fence would require a permit.

Mr. Lee commented that East County Tow on Tenth Street had placed a tin fence higher than allowed by code with a wooden structure to hold the fence in place. He stated that he had advised the City staff of that situation. He expressed concern that Mr. Manning was being penalized for the same thing.

WILLIE MIMS, Pittsburg, referred to the second page of the staff report, which had listed the codes that Mr. Manning had violated. He noted that many of the references were not applicable to the property since the buildings had been removed. With respect to the storage of vehicles and given that the site had been a former wrecking yard 24 years ago, which Mr. Manning had an original permit to operate, he questioned that situation and suggested that the staff report itself was flawed since some of the items referenced were no longer in existence.

When asked by the Mayor, Mr. Manning stated that there was nothing that had been raised by any of the speakers that he would like to address at this time.

Mayor Parent closed the public hearing for Resolution 04-10197.

In response to the comments, Ms. Ziegler stated with respect to the full record that one of the key points was to have a current record of the status of the property which was why the warrant had been issued for an inspection in August 2004 when the same problems that had been found in 2003 still existed, and when action had been pursued. She acknowledged that the DTSC did have control over soils contamination issues, although the suggestion that the DTSC and not the City had control over the property was incorrect in that the City had the legal authority to enforce its Municipal Code with respect to the debris above ground and the non-conforming fences above ground. She stated that the fence had been built without first obtaining a building permit. She noted that there were other concerns about its stability, which was why staff was focusing on the removal of the debris and the unauthorized fence.

Ms. Zeigler commented that staff was pleased that Mr. Manning had made progress and that the concerns about the building were no longer a concern since the building had been brought down. She commented that the property owner who had the most right to the greatest concern about the staff recommendation had objected in no way to the staff recommendation that would allow the property owner 45 days to remove the debris and the unauthorized fence.

Councilmember Johnson questioned whether or not an inspection of the site had been made within the last two to three days.

Lieutenant Wade Derby stated that he had been at the site three days ago and there was still a large amount of debris that needed to be removed. The fence also remained.

Ms. Ziegler also stated that while some of the debris might have been removed, inspections of the site in the last two or three days found that debris remained. Again, the property owner had not objected to the resolution before the Council.

Lieutenant Derby commented, when asked, that there remained substantial items that needed to be removed including rubble from one of the buildings that had been demolished, auto parts in the yard, and a possible trailer on the site.

Mike Dean noted a desire by staff to amend the proposed resolution. He asked what would remain and what would be deleted from the resolution before the Council.

Ms. Ziegler stated that the resolution before the Council would retain Items a, b, and c unchanged. Under Section 1, Items a and b would remain unchanged. Section C would state that the following violations of the Pittsburg Municipal Code exist on the property; trash debris visible from public or private property and the construction of the fence without the appropriate City permits, and both of those items, the removal of the debris and the removal of the unauthorized fence would have to be abated. Under Section 2, a, b, and c as well as Sections 3, 4 and 5 would remain unchanged.

In response to Councilmember Glynn, Ms. Ziegler stated that the City was not requiring the reconstruction of the fence but was only requiring that any new fence would have to be in conformance with the City's requirements and permits. The timing of that reconstruction, if any, would be at the applicant's discretion.

As to a rebuttal, Mayor Parent stated that the public hearing had been closed after asking Mr. Manning whether or not he had any further comments. There were none.

Mr. Dean stated that the appellant could rebut the final comments from the Council. He stated that there was no rebuttal to the comments that the City Council had made although the appellant could rebut the comments from the City Attorney subsequent to the close of the public hearing which would be appropriate.

When asked, Mr. Manning stated that he had nothing to add at this time.

Vice Mayor Kee asked Redevelopment Agency Director Garrett Evans to make himself available to Mr. Manning should he wish to take advantage of any of the loans or other programs offered by the City that Mr. Manning might qualify. With respect to the remarks that the City had targeted minorities, he did not believe that was the case. He noted that the Council and other past Councils had pursued similar actions in other cases with property owners who were not minorities and he did not see this case as targeting one individual.

Vice Mayor Kee made a motion to adopt the resolution before the Council, as recommended by staff, as amended, with a further amendment for the property owner to abate the nuisance within 60 days given the holiday season.

Councilmember Glynn seconded the motion.

Mayor Parent concurred and stated that the code enforcement issues in this case had gone back years and repeatedly code enforcement and the Building Department had attempted to have property owners comply with the law. She did not believe that minorities were being targeted. She emphasized that businesses in the community had to be run in a legal manner. The Council did not have to go out and tell the property owners in advance of the laws. She was concerned with those who continually appeared before the Council and were now advocates of this property owner, who were well aware of all of the loans that were available to the citizens since those persons were present for each Council meeting when such programs had been discussed. She was concerned that those persons had never informed the Mr. Manning of those programs.

Mayor Parent supported the motion, as stated, which was generous to extend the time period although she recognized the difficulties in getting people to work over the holiday period. She expected City staff to follow up on the matter promptly.

On motion by Vice Mayor Kee, seconded by Councilmember Glynn and carried unanimously to adopt Resolution 04-10197, as amended by staff and with a 60 day period for compliance.

1. **RESOLUTION 04-10196** Code Enforcement Hearing Regarding 5 Industry Road

City staff is requesting the City Council to conduct a hearing and, based thereon, order Bashir Rahimi, the owner of the property located at 5 Industry Road, to abate the nuisance thereon and, if not abated, direct staff to take appropriate action thereafter.

Ruthann Ziegler stated that the property at 5 Industry Road was similar to the previous property, with years worth of problems. She provided additional materials to the City Council including an undated chronology of roughly seven pages in length with items 1 through 86 identifying problems and continuing follow up from staff as to the property. In August 2004, the City obtained a warrant and staff performed an inspection on the property and determined that the problems existing in the November 2002 notice to the property existed unchanged.

Ms. Ziegler stated that the November 2002 notice and the current notices in 2004 had been sent to the same individual, Bashir Rahimi, who was then and now the property owner. Similar to the actions for 6 and 7 Industry Road, she stated that a Notice to Abate had been sent Certified, Return Receipt Requested in October 21, 2004. The October 2004 notice had not been picked up and had been returned to the City. As required by the Municipal Code, the notice had been posted on the property.

In November 2004, City staff had visited the site to determine whether or not there had been any compliance. Photos presented showed that essentially nothing had changed. The photos had been included in the Council packet and were displayed to the assemblage. They showed a large number of vehicles on the site. There was also no license to operate any vehicle rehab storage operation on the site. Based on the November inspection, subsequently City staff issued a November 22, 2004 Notice of Hearing which had been posted on the property. The notice had also been issued by Certified Mail, Return Receipt Requested, and photographed. The notice had not been picked up by the property owner and had been returned to the City.

Ms. Ziegler referred to a declaration by Building Inspector Kampton regarding his discussion with Mr. Rahimi, the property owner on or around November 2004 when Mr. Rahimi had contacted the City asking for a copy of the Notice to Abate, which had been mailed to his property on October 21. The Notice had been made available by City staff since Mr. Rahimi had indicated he would come in and pick up the Notice, although it had never been picked up. Inspector Kampton had called Mr. Rahimi on December 4 and had left a message for him with contact had finally been made on December 16, at which time Mr. Rahimi had indicated that he had received no notice of the hearing to abate. She advised that there was a copy in the Council packet of a photograph of the notice posted on the property as well as the declaration under the penalty of perjury by Mr. Kampton of his service of the notice and his efforts to contact Mr. Rahimi.

Ms. Ziegler referred to the November notice which had been served and stated that of everything that had been directed in the October 2004 notice, which had also referenced the 2002 notice, nothing had been completed. She stated that there were a variety of problems with the property as identified in the staff report as well as in the resolution before the Council. She noted, for instance that a trash pile continued to exist on the property, described by staff as 10 feet in diameter and at its highest point 5 feet high.

Ms. Zeigler stated that there had been no effort to comply with the City's notices and she requested that the resolution before the Council be adopted at the conclusion of the hearing which would give the property owner 45 days to abate the nuisance. If that was not done, she recommended that the City take appropriate steps to abate the nuisance and to recoup the costs of abating the nuisance if the City should be required to do so.

The fiscal impact to the City would depend on several factors. If, based on the testimony presented during the hearing the City Council determines that the conditions at 5 Industry Road did not constitute a public nuisance and therefore should not be abated, there would be not fiscal impact to the City.

However, if the City Council finds that the property did constitute a public nuisance, and orders the property to be abated, there may be fiscal impact to the City. In the event, Mr. Rahimi failed to comply with the City's order to abate, the City, pursuant to Pittsburg Municipal Code Section 1.24.070, may proceed to abate the conditions at 5 Industry Road. If the City proceeds with abating the nuisance, staff estimates that the fiscal impact would be approximately \$62,000. The City may be able to recover those costs by billing the property owner or by placing a lien on the property once the abatement had been completed. The City anticipated borrowing money from the Redevelopment Agency for advancing these costs.

Ms. Ziegler recommended that the City Council declare that 5 Industry Road constituted a public nuisance. Staff further recommended that the City Council order Mr. Rahimi to complete the abatement of 5 Industry Road within forty-five (45) days of the Council's order and, if he failed to do so, authorize staff to take action consistent with applicable law and the Pittsburg Municipal Code.

Mayor Parent opened the public hearing for Resolution 04-10196.

BASHIR RAHIMI stated that he had purchased the property in 1993 through an auction although he had experienced problems with the purchase of the property in that he had later found that the power meter was missing. He had immediately approached the City and had informed the City that the power meter was missing and had been advised that he would have to obtain and pay for a use permit for the property. After being informed by staff that he had to appear before the Planning Commission, the Planning Commission had indicated that before the property could be developed, he would be required to improve Industry Way in its entirety and conduct paving, water and drainage improvements to be able to receive power to the site. After speaking to many contractors, he noted the prohibitively expensive cost that would be involved in that case.

Mr. Rahimi described what had occurred since that time and the City staff he had worked with in his efforts to develop his property. He stated that he had applied to participate in the Enterprise Zone but his application had been declined.

Mr. Rahimi commented that in 2002 the City had stopped power and water to his site. In 2003 he had again tried to improve the property with the payment of City fees and he had secured a Civil Engineer. In July 2003 he had spoken with Mr. Jerome and Mr. Little of City staff and had submitted his plans to improve the property. After speaking to a friend he had learned that his property was located in the Enterprise Zone and he was not to pay any fees to the City. Mr. Little had disagreed. On August 4 and 5 he spoke to Mr. Shirazi who directed him to speak to Mr. Jerome who made an appointment for August 15.

Mr. Rahimi stated that after meeting with Mr. Jerome, Mr. Jerome had informed him that although his property was located in the Enterprise Zone, he did have to pay fees. Mr. Jerome had informed him that he had to pay \$1,300, which he then paid to the City. He later contacted legal help and found that if a property was located in the Enterprise Zone, plan checking and fees were not to be imposed upon the property owner.

Mr. Rahimi stated that he had then made a complaint against Mr. Little and Mr. Jerome in Federal Court. He understood that once he had signed the appropriate forms he would be reimbursed all of the monies paid to the City. An appointment had been made for December 18, 2003 at which time he met with City staff and Mr. Little and at which time he had signed a form and was advised of his right to be reimbursed with interest for the fees paid to the City. He added that the City owed him \$12,000 but after several attempts to contact City staff, the City Manager or the Mayor either in person or through letter, the City would not pay him. He commented that he had spoken to a number of City staff during a period when the City had no City Manager and when he had been told that as soon as a City Manager was hired the City would refund all of his money and connect his power and water. That had not occurred.

Mr. Rahimi stated that City Manager Grisham had later contacted him and had visited his property at which time he had informed him of the City's desire to purchase Mr. Rahimi's property for development. He had advised Mr. Grisham of his intent to sell his property to the City for \$450,000. In the meantime, the Code Enforcement Officer had come to his property and he had then informed the Code Enforcement Officer that the City Manager had indicated a desire to purchase the property and he did not have to do anything with the property. Months later, nothing had happened. On December 16, 2004 he had been served by the Police Captain of the notice of hearing to abate his property.

Mr. Rahimi reiterated that his property was located in the Enterprise Zone and although it had been determined by a Federal Judge that he was to be reimbursed monies paid erroneously to the City that had not occurred. He suggested that the City was against minorities. He also suggested that he had not been properly served by the City with 30 days notice which was a violation of the law. He noted that the City's Building Official was not a structural engineer. He added that he continued to pay taxes on his property.

WILLIAM LEE, Pittsburg, commented that Mr. Rahimi owned three properties in Pittsburg. He stated that the City had pursued code enforcement on each of those three properties. He stated that Mr. Rahimi had worked hard and paid the required fees on all of those properties. He suggested that other properties in the City had similar problems although code enforcement had not been pursued in all cases.

Mr. Lee affirmed that Mr. Rahimi had prepared plans for a use permit for the use of the property at 5 Industry Road although the Planning Commission had denied that application. In 2004, the Planning Commission had approved a use for Mr. Rahimi to have auto sales on Tenth and Harbor. Mr. Rahimi had to pave the property but he was allowed to place a trailer on the property. Also, the automobiles must be operational for sale. He understood that project had not yet reached the City Council. He suggested that the City had been after Mr. Rahimi for years. He would like to see the City pursue code enforcement for some of the other non-compliant properties.

WILLIE MIMS, Pittsburg, representing the BPA, noted that this was the same problem as the last item when there was another example of the City's code enforcement bureau working against a small business owner, who he stated was again a minority.

Mr. Mims suggested that Mr. Rahimi had raised serious issues that the Council would have to address, issues related to how staff treated minority developers and small businessmen, particularly in light of the fact that the property was located in the Enterprise Zone. He stated that it would cost the City \$62,000 to run Mr. Rahimi out of the City. He urged that the City offer equitable treatment to all its citizens. He requested that the Council not adopt the resolution.

CHARLES SMITH, Pittsburg, agreed with Mr. Mims' comments that it was extraordinary that two small businesses side by side would end up with the same code enforcement violations. He noted, for instance, that there was a claim of no refuse collection for the Manning property, which he stated would not occur since there was no business allowed on the site.

LONELL NOLAN, Pittsburg, expressed concern that the Enterprise Zone had not assisted Mr. Rahimi in any way. He noted that he had brought the status of the Enterprise Zone to Mr. Rahimi's attention having contacted the State to obtain additional information. He had also called the Economic Development Department to get information and had not had been contacted in a timely manner. He stated that Mr. Rahimi had approached the City on numerous occasions to request City permits but no permits had been allowed. Given that the properties at 5, 6 and 7 Industry Road were owned by people of color, he agreed with other comments that there was a problem with minority small business owners. He pointed out that the properties located adjacent to Mr. Rahimi's property were substandard although nothing had been done with those properties which he suggested should be red-tagged.

In response to the comments, Ms. Ziegler stated that Mr. Rahimi in his presentation had offered a broad discussion of various points, many of which she stated were irrelevant to the issue related to the code enforcement matter before the Council. She noted that she disagreed with many of the points raised or with Mr. Rahimi's characterizations or statements. She was unaware of any written documents to support Mr. Rahimi's characterizations particularly regarding the Federal Judge or the lawsuit that had been referenced or what City staff had said or done. With respect to the fact that she had cancelled an appointment with him, as stated, she had never had an appointment with him nor had Mr. Rahimi requested an appointment with her. She stated that his assistant, legal technician or attorney had a discussion with her assistant, which was Mr. Rahimi's only contact with her office.

Ms. Ziegler spoke to Mr. Rahimi's statements that he had submitted plans at least twice to the City over the last several years and while that was true, the City responded as it did with everyone who submitted plans with problems, where the City staff responded to where the plans were non-conforming with comments. Mr. Rahimi had never responded to the staff comments or submitted revised plans.

With respect to Mr. Rahimi's reference to Interim Building Official Sadler's position, that he was not a structural engineer, she stated that it did not take a structural engineer to indicate that building permits were required for a substandard building or to identify the validity of the number of violations before the Council, issues such as substandard building constructed without required building permits, inspection approvals or approved plans, buildings abandoned for many years with documented history of recent use for illegal and unlicensed auto dismantling or vehicle storage, roof framing sagged beyond values allowed by the Building Code. She noted that it was easy to determine that the determinations could be properly made by a building official along with additional issues such as maintenance of vehicles on site and operating a business related to those vehicles when there was no business license.

Ms. Ziegler added that there was also a debris field on the site approximately 10 feet wide in diameter and at its tallest point 5 feet high on the property which could not be considered as being in conformance with City code.

Ms. Ziegler stated that Mr. Rahimi had submitted no evidence to indicate that the violations did not exist, approved plans, or that the cars, with no licenses, were not currently on the property. She also disagreed with Mr. Rahimi's statement that he had not been notified until December 16, 2004. She referred again to the posting on the property and to the fact that Mr. Rahimi had chosen not to pick up the Certified Mail, Return Receipt Requested letter.

Ms. Ziegler stated that the action requested by staff was to order the abatement of the nuisance and allow Mr. Rahimi 45 days to do it. If the Council were to agree with the position that Mr. Rahimi had not received notice until December 16, a 45-day period to comply would still represent adequate notice.

City Manager Grisham stated with respect to code enforcement procedures that the first code enforcement action he had initiated when City Manager related to the Warren Smith properties, where Mr. Smith was a white property owner and which was considered to be the worst property in the City and the first one undertaken by the City. With respect to the two properties previously mentioned, he stated that the downtown was an important focus and he had noted early on that both properties had condemnation notices. That had been a concern since during his tours of the City when he had observed the properties, he had viewed people working within the condemned buildings which was a concern of City staff.

Mr. Grisham commented that there had been a fundamental difference between how the two property owners had responded to the issue. He stated that he had contacted and had spoken with Mr. Manning and the fact that his buildings were condemned and he had seen individuals utilizing those buildings, at which time Mr. Manning had admitted that situation but had stated that he would take action to alleviate that issue and had started the process and had removed those buildings. He was hopeful that Mr. Manning would complete the aggressive efforts he had taken to abate the nuisance situations on his own property.

Mr. Grisham stated that he and Mr. Rahimi had numerous conversations and had a recent conversation where he had indicated to Mr. Rahimi that the Council would consider such action this date. He noted that Mr. Rahimi had indicated that he had several problems on the property and had characterized the situation where the City had several City Managers and he would continue to do what he had on the property. He also noted that his most recent visit to the City had been with the Police Chief where they had observed people continuing to work in the condemned building and had observed an individual sleeping in the condemned building, actions admitted by Mr. Rahimi. While Mr. Manning had made an effort to work on his problems and the concerns with his property, Mr. Rahimi had failed to take any action to address the serious concerns related to his property.

Mr. Grisham emphasized that the City would continue to have vigorous code enforcement in the City of which staff was aware and that staff looked at the properties and not who owned the properties.

Mayor Parent stated that Mr. Rahimi would have an opportunity to respond to the comments made by the City Attorney and the City Manager.

In rebuttal, Mr. Rahimi reiterated an earlier comment that Mr. Grisham had stated that the City wanted to buy his property. He stated that while he could remove his building and rebuild on the site, the City's recent zoning had made his property worthless. He stated that the new zoning would allow him to have a hotel/motel, restaurant or marine commercial, which he suggested would not be viable on the site. He also noted that the City had only returned \$1,300 of the funds he was due.

Mr. Rahimi stated that since he had only been served on December 16, 2004 he had no opportunity to speak to his attorney.

Mayor Parent closed the public hearing for Resolution 04-10196.

Mayor Parent commented that Mr. Rahimi had long been in violation of the City's Municipal Code. She was amazed that he could come up with anything to justify the violations and Mr. Rahimi had not addressed anything having to do with the alleged violations. She also noted that Mr. Rahimi's version of the history of the business was absolutely inaccurate.

Councilmember Johnson commented that the situation related to the property had commenced in 1993 and had not been resolved in the last eleven years. He noted that one of his issues of concern related to the chronological history. He referenced duplicate statements and requested that those duplicate statements be corrected. He stated that if there was a lawsuit with the City the action taken should also have been identified. He noted, for instance that if the \$12,000 earlier referenced by Mr. Rahimi was to have been returned, there should be some clarification of what action had been taken in that regard. He wanted to make certain that the abatement documents were absolutely correct.

Councilmember Johnson otherwise had no problem approving the abatement

request, which he found to be appropriate.

In response, Ms. Ziegler stated that the federal lawsuit referenced by Mr. Rahimi was irrelevant to the current matter. She also noted that Mr. Rahimi's characterization of the federal lawsuit and its outcome was incorrect.

Vice Mayor Kee noted the allegations against the City. As to whether or not funds were due Mr. Rahimi as a result of the Enterprise Zone, he asked the City Manager that if Mr. Rahimi was due any funds that those funds be refunded to him.

As to the allegation that there was no need for refuse collection at the site if there was no business, Vice Mayor Kee stated that there was a need for refuse collection if there was a 10-foot wide by 5-foot high pile of debris on the site.

With respect to the comment that adjacent properties were also in violation, Vice Mayor Kee stated that while he agreed that might be the case, the City would need to pursue those situations, which would not alleviate the current property owner of his obligations to comply with the Municipal Code. Also, allegations that the property owner was being targeted as a minority were not true in that the City had other property owners in the past who had gone through the same process to have his/her properties mitigated.

Mayor Parent referred to Resolution 04-10196, Page 2 of 3, Section 2. Direction, subsection c, where the word "take" had been left out and should be inserted. That sentence should read "Staff is directed to take all other such necessary actions as to affect Council's directions, consistent with applicable law."

Ms. Zeigler advised that the correction would be made.

On motion by Vice Mayor Kee, seconded by Councilmember Glynn and carried unanimously to adopt Resolution 04-10196, as amended, with a 60 day deadline for compliance.

Mayor Parent declared a recess at 9:46 P.M. and reconvened the City Council with all members present at 9:56 P.M.

### 3. **RESOLUTION 04-10198** Eliminating City Annual Transportation Permits

City Manager Grisham reported that currently the City of Pittsburg issues Single Use and Annual Transportation Permits for commercial vehicles intending to travel on City streets that exceed height, width or weight limits allowed under the California Vehicle Code Section 35780. Because the City had been unsuccessful in getting compliance with Annual Transportation holders and the amount of staff time taken to process Annual Transportation Permits was less than the revenue collected from issuing them, the Engineering Department, in conjunction with the Police Department, recommended that Annual Transportation Permits no longer be issued.

The City would continue to issue Single Use transportation permits.

The recommendation would result in a fiscal savings by reducing the amount of staff time taken to process transportation permits. Also, there might be an increase in transportation permit revenue collected from current annual permit holders applying for more than 5 permits in one calendar year. The increase in revenue was expected to be between \$2,500 and \$5,000 annually.

Mr. Grisham recommended that the Council approve the elimination of Annual Transportation Permits in the City of Pittsburg and direct staff to discontinue issuance of Annual Transportation Permits (i.e. truck permits for oversized/overweight loads.)

Mayor Parent opened the public hearing for Resolution 04-10198.

EPIJAY BELTRAN, District Operations Manager for Baker Tanks, 2121 Piedmont Way, Pittsburg, stated that the City's potential elimination of annual transportation permits for trucks exceeding the legal width would have significant detrimental day-to-day impacts on Baker Tanks. He noted that Baker Tanks had been doing business at its site for more than 15 years and had rented portable liquid storage tanks on site for on site storage of liquids. In the execution of the business, Baker delivered clean and empty storage tanks to customer sites for the use in temporary storage of liquids and subsequently returned clean and empty tanks to the Baker Tanks location.

Mr. Beltran explained that a significant portion of the work involved emergency response to spills and other emergencies in the City and surrounding communities. He stated that the fleet included approximately 160 transportable polyurethane tanks measuring 120 inches in diameter and which required a transportation permit to transport. In the normal course of business, Baker Tanks transported an average of five to seven loads of tanks per day. Many were delivered to customers on short notice due to emergencies or unforeseen events.

Mr. Beltran stated that the impact of having to apply for individual trip permits versus an annual permit would be significant and the manpower and time required would make it difficult to respond to customer needs in a timely manner, affect its revenue and impact the firm's ability to conduct business in the City. As a result, he requested that the City Council not eliminate the Annual Transportation Permit process.

Councilmember Glynn inquired whether or not Baker Tanks had any problem submitting the request to obtain the annual permit for its vehicles. He also inquired whether Baker Tanks had received any complaints from the Police Department or the issuing authority with the City relevant to Baker Tanks timeliness or lack thereof regarding the permits.

Mr. Beltran stated that Baker Tanks had no problems with the permit and to his knowledge there had been no problems since the permits had been issued on an annual basis.

To Mr. Beltran's knowledge, Baker Tanks had received no complaints from the Police

Department or the issuing authority with the City relevant to Baker Tanks timeliness or lack thereof regarding the permits nor was he aware of any other organizations in the City that required such permits in the City of Pittsburg.

Councilmember Johnson inquired how long it would take to get a permit, reported by Mr. Beltran that the firm had never had a need to get a daily permit since it had always gotten an annual permit. Most other cities Baker Tanks did business had annual permits. In other areas where wide load tanks were not allowed a smaller 4,000-gallon tank was delivered.

Councilmember Johnson asked if a change in permit process would make the firm move out of the City, to which Mr. Beltran stated that it would be hard to move the tanks out of Pittsburg since the firm responded to spills within the City of Pittsburg and outside of the City. Again daily permits would slow the process and keep the business from operating expeditiously.

Mr. Beltran added that Baker Tanks was situated adjacent to Piedmont Lumber in Pittsburg and they leased the property where they were located.

Councilmember Glynn inquired whether or not other organizations in the City had wide load equipment to transport through the City on a regular basis.

City Engineer Joe Sbranti stated that the City had issued annual permits through the years. He stated that the permit holder must report to the City prior to moving the oversized load on a case-by-case basis. The problem had arisen that the annual permit holder would not always notify the City of the need to move oversized loads. Through the Police Department they had identified approximately five to ten annual permit holders who were in violation over the past year, although it was difficult to identify the number of times when the problem had occurred. He emphasized that oversized loads needed to be identified to allow movement through the City in the safest routes possible with minimal impacts. The City's primary concern was that while there was no issue with annual permits, the annual permit holders often failed to call the City when moving loads through the City.

Councilmember Glynn noted that since the business in question had to move tanks on an emergency basis when responding to material spills and the like, he suggested that there might be times when City staff was not available to call to identify an oversized load. He suggested that the two did not appear to be compatible when taking into account emergency businesses. He suggested that the situation be considered more comprehensively prior to eliminating the annual permits and that the issue be tabled pending further review.

Mr. Sbranti stated that staff would work with the firm in question to address the concern and the need to notify the City of wide load movements.

When asked, Mr. Sbranti stated that the Traffic Division of the Engineering Department would take the calls of notification although staff was not available after 5:00

P.M. He pointed out that after 5:00 P.M. authorization to move wide load tanks would still be required. He also noted that the permits were issued by fax and could be issued within 30 minutes.

As to the cost of the process in response to Councilmember Johnson, Mr. Sbranti stated that approximately 1,200 permits per year were issued under one \$90 annual fee. As a result, the cost benefit would be significantly higher since each and every other loaded or over sized vehicle was to be guided through town rather than have an annual permit holder chose their own route. He stated that the concern was one of safety to avoid taking a vehicle that was too tall underneath a railroad overpass that could not accommodate it or something too heavy across a residential road not designed to handle the load, particularly if done repeatedly.

Mr. Sbranti added that the problem would occur when there was a road closure or a road detour because of construction or other occurrences that an annual permit holder would not be aware unless the City was contacted. He supported contacts on a case-by-case basis as opposed to an assumption where a specific route might work.

Vice Mayor Kee noted that the issue was one of timing. He commented that in this case the business was often on short notice. The other issue was a financial component. If a business made five to seven trips per day, he questioned the number of permits that would be required in that case, which could impact the bottom line. He questioned whether or not any investigation of what other cities did had been considered.

Mr. Sbranti commented that other cities did it both ways. With regards to the financial aspect, if moving 5 to 7 oversized loads a per day, 5 to 7 permits each day would be required. With respect to delivery fees for small packages, he stated that a delivery fee for a small package could run \$25 to \$30. The issue related to oversized loads so big that the loads did not fit on the roadway. As such the cost of delivery was fairly insignificant given the large trucks handling the loads. He emphasized that the issue was one of safety.

Councilmember Casey inquired of the penalty for those not following the rules for an annual permit.

Mr. Sbranti understood that if a business did not notify the City as required considerable fines would result.

Mayor Parent questioned what percentage of the Baker Tanks business was emergency delivery, to which Mr. Beltran stated that 50 percent was emergency deliveries. As to when those deliveries occurred, he suggested that possibly 15 percent occurred at night, although it was not always a wide load. He stated that Baker Tanks had only one tank that was a wide load and was actually an F-10 pick up truck that carried a polyurethane tank that was 120 inches in diameter. He stated that they would comply with all of the rules on the roads and use only those roads they were assigned to occupy.

Mayor Parent agreed with the concerns and suggested that there might be a way to refine the emergency aspect of the process.

Mr. Sbranti stated that staff would be happy to work with Baker Tanks. Given the small percentage of wide load trips in the evening, he expressed his confidence that staff could work with Baker Tanks to resolve its concerns.

Mayor Parent suggested that the issue might be an educational problem with the annual permit holders. She verified with Mr. Sbranti that the number of annual permit holders was small in comparison to the number of permits issued each year.

Based on the comments made, Mr. Grisham recommended that the item be returned to the City Council in sixty days.

Vice Mayor Kee questioned whether or not the permit holders were local businesses, reported by Mr. Sbranti that while he did not have that information he verified that there were 35 annual permit holders. Approximately 500 single user permits had been issued in 2004. Most times there were deliveries to Pittsburg rather than out of Pittsburg.

Vice Mayor Kee noted that the best effort should be taken to work with the local businesses to find a solution that worked with them and with staff.

Mr. Sbranti advised that staff would work on that approach.

A short recess was taken to change the videotape.

Mayor Parent advised Mr. Beltran and the audience that the public hearing would remain open for 60 days.

4. **RESOLUTION 04-10199** Annual Review of the Regional Transportation Mitigation Fee Imposed on New Development

Due to pending litigation on the issue of Regional Transportation Mitigation Fees, it was recommended that the City Council open the Public Hearing noticed for December 20, 2004 and continue the hearing to the next regularly scheduled City Council meeting on January 3, 2005.

Mayor Parent opened the public hearing for Resolution 04-10199.

There was no one to speak to the item.

The public hearing was continued to January 3, 2005

5. **RESOLUTION 04-10200** Annual Review of the Regional Transportation Mitigation Fee Imposed on New Development

Mr. Sbranti presented the annual review regarding the Pittsburg Transportation Mitigation Fee charged to new development under Chapter 15.90 of the City's Municipal

Code. This review indicated that this fee should be increased 5.0 percent to reflect the increase in the San Francisco Construction Cost Index, as published in the Engineering News Record. A similar cost increase had been reflected in the Capital Improvement Program (CIP) construction cost. He emphasized that the fee was the City's local fee and applied to the projects in that fee.

The City collected the Pittsburg Transportation Mitigation Fee from developers and held those fees in an account for the purpose of funding projects on the City's Traffic Mitigation Fee project list. If City Council approved the recommended 5.0 percent Construction Cost Index increase, the current single-family residential fee of \$3,731 would be raised to \$3,918, the current multi-family residential fee of \$2,537 would be raised to \$2,664, the current retirement community fee of \$1,493 would be raised to \$1,568 and current fees for commercial and industrial developments would be raised from \$0.58 to \$0.61 per square foot.

It was recommended that the City Council adopt the resolution approving an annual review of the Pittsburg Transportation Mitigation Fee imposed on new development under Pittsburg Municipal Code Chapter 15.90 and revise the City's Transportation Mitigation Fee Schedule to account for a 5.0 percent increase in the San Francisco Construction Cost Index from October 2003 to October 2004. This increase had been reflected in construction costs for the City's CIP contracts.

Mayor Parent opened the public hearing for Resolution 04-10200. There was no one to speak to the item. The Mayor closed the public hearing for Resolution 04-10200.

On motion by Vice Mayor Kee, seconded by Councilmember Glynn and carried unanimously to adopt Resolution 04-10200.

6. **RESOLUTION 04-10201** Establishing Underground Utility District 04-01 in Connection with Construction of Contract 2004-10, Downtown Infrastructure Project

Contract 2004-10, Downtown Infrastructure Project, was for the rehabilitation of several blocks of residential infrastructure in the downtown area. The rehabilitation was anticipated to include replacement of sewer, water, storm drain, undergrounding of overhead utilities and street/sidewalk rehabilitation. The resolution represented a first step in the process toward undergrounding the existing overhead utilities in the project area and would establish Underground Utility District 04-01 as required by the Pacific Gas & Electric Company for use of Rule 20 funds.

Mr. Sbranti responded to Vice Mayor Kee's comments and explained that there was undergrounding required for the downtown projects that staff was currently working on for other departments. The project was primarily limited from Beacon Street to Railroad Avenue and Tenth to Eighth Streets with the exception of the jog on Black Diamond Street.

Mr. Sbranti added that there had been a public hearing held on December 8 when 217 notices had been distributed and when only a few residents had appeared although

there had been positive feedback from those attendees.

Funding for the design and construction of the conversion of overhead utilities to underground would be provided from the Contract 2004-10, Downtown Infrastructure Project budget. The City currently had approximately \$273,795 of Rule 20A allocation credits with PG&E available for use on design works performed by PG&E per Rule 20B.

The resolution in itself offered no fiscal impact as project funds had previously been allocated in the amount of \$2,274,000 with adoption of City Council Resolution 04-10170. Those funds would be sufficient to provide funding for the design work required for the underground conversion and other phases of the project. Staff would return to the Council for the necessary authorizations prior to beginning construction of further phases of the project, including the undergrounding contract. The estimated overall project costs including design and construction of all infrastructure improvements as part of the Contract 2004-10 was \$15,470,000.

It was estimated that an additional \$13,196,000 would be required to complete construction of all phases of the project. The additional funds required would be reduced by the amount of Rule 20A funds that could be applied towards PG&E's design costs.

With the exception of using Rule 20 credits, the expenses associated with converting overhead utilities to underground would be paid by the project budget including conversion expenses on private property within the district.

Mr. Sbranti recommended that the City Council adopt the resolution creating Underground Utility District 04-01 that was required as part of Contract 2004-10, Downtown Infrastructure Project. It was further recommended that the underground project be performed under the provisions of Electric Rule 20B and the equivalent SBC rule 32.A.2 which had similar provisions for payment as Rule 20B.

Mayor Parent opened the public hearing for Resolution 04-10201. There was no one to speak to the item. The Mayor closed the public hearing for Resolution 04-10201. She also asked that City staff notify the Assessor's Office that the Redevelopment Agency's address was not on Marina Boulevard.

The Mayor noted that William Lee had submitted a card to speak to the item although Mr. Lee had left the meeting and was not present at this time.

On motion by Councilmember Johnson, seconded by Councilmember Glynn and carried unanimously to adopt Resolution 04-10201.

7. **RESOLUTION 04-10203** Installation of Piping for Additional Reclaimed Water Irrigation Use on Several City Maintained Recreational Areas

Agreements related to this project had yet to be completed. Therefore, it was recommended that the City Council open the public hearing noticed for this meeting, accept

any public comment, and continue the item to the next regularly scheduled City Council meeting on January 3, 2005.

Mayor Parent opened the public hearing on Resolution 04-10203. She noted that Willie Mims and Michael Lengyal had submitted cards to speak but neither were present at this time. She advised that a letter from Michael Lengyal dated December 20, 2004 would be added to the public record.

The item was continued to the January 3, 2005 meeting.

## **CONSIDERATION**

1. **RESOLUTION 04-10202** Awarding Contract 02-07, Marina Sheet Pile, to L.B. Foster Company, of Hayward, California for Furnishing, Coating and Delivering the Steel Sheet Piles and Channels

Mr. Sbranti explained that City staff opened bids for Contract 02-07, Marina Sheet Pile on December 1, 2004. The material purchase contract was part of Contract 02-07, Marina Dock Replacement Project. The construct would include furnishing, coating, and delivering of the steel sheet piles and channels. The apparent low bidder for furnishing the sheet piles was L.B. Foster Company, of Hayward, California. L.B. Foster Company submitted a bid proposal in the amount of \$366,121.75.

The total Contract 02-07, Marina Dock Replacement Project budget was adjusted to include the material purchase contract for a total budget of \$7,090,000. The project budget was adjusted with adoption of City Council Resolution 04-10137 and Redevelopment Agency Resolution 04-987. The estimated total cost to design, bid, and construct the project was detailed in the staff report.

Mr. Sbranti recommended that the City Council adopt a resolution authorizing the City Manager to execute a contract with L.B. Foster Company, for a total contract amount of \$366,121.75. Staff further recommended that the City Council authorize \$33,000.00 for contingencies representing approximately 9% of the contract.

On motion by Councilmember Johnson, seconded by Councilmember Glynn and carried unanimously to adopt Resolution 04-10202.

2. **RESOLUTION 04-10175** Adoption of a Resolution in Support of Maintenance of the Current Urban Limit Line Through 2011

Mr. Grisham stated that an East County Task Force studying the Urban Limit Line (ULL) had been charged with the task of recommending a new Urban Limit Line through 2011.

Supervisor Glover, who headed the task force, had requested that each East County City Council submit a formal recommendation on where it believed the line should be

through 2011.

There was no fiscal impact to the City. Staff recommended that the City Council adopt a resolution in support of maintaining the current Urban Limit Line through 2011.

Councilmember Glynn noted that there was no jurisdiction that did not have something it wanted to do with the ULL with the exception of the City of Oakley. He stated it was important to understand that the original plan, as submitted, should be retained under the same terms and conditions and not be thrown out at this point. He referred specifically to the piece in addition to the Thomas Ranch, Montreux and others.

Councilmember Glynn stated that he would support the ULL position as shown by staff and as described by staff with those conditions.

Mr. Grisham noted that the resolution could be accepted with the caveat that if the other jurisdictions failed to abide by the existing ULL the yellow areas on the map previously identified by the City Council, as presented, would become the City of Pittsburg's position.

Councilmember Johnson supported a null and void document if one of the other cities violated the rule, as stated, particularly since the cities of Concord and Brentwood had proposed significant changes to the ULL. If those changes should occur, he supported a position that the approved document would become null and void. He otherwise supported Councilmember Glynn's comments.

Vice Mayor Kee understood that per Councilmember Glynn's comments, the City would be willing to accept the current ULL as long as everyone else accepted the current ULL. If a jurisdiction decided to change the ULL, the City of Pittsburg would like to include the areas referenced as well.

Councilmember Glynn affirmed that had been the intent of his comments. He cited the City of Concord as an example, where the great land grab would make the City of Pittsburg's situation null and void.

Vice Mayor Kee stated that he could live with that although it would not be his preferred method of addressing the situation. He suggested that could be rephrased a bit better. He suggested as long as everyone met that intent it would be fine. He did not see any need for the City to have additional land before 2011 although he understood the concern that the City's interests be protected.

Councilmember Johnson commented that in dealing with such issues, he had attended the recent TRANSPLAN Committee meeting, at which time, he had been appalled that the City of Pittsburg was informed they would not get a BART Station and would have eBART instead.

Councilmember Casey noted the reference that each City Council was to have submitted a formal recommendation to Supervisor Federal Glover, the Chair of the Task

Force. He asked whether or not that had occurred.

Mr. Grisham stated that there had been a series of recommendations offered by a number of cities. He noted that Supervisor Glover had sought clarity from all of the cities and had expressed his hope that all of the cities would accept the current ULL in East County without change.

Mayor Parent commented that one of the problems from the meetings she had attended was that there were two charges for the group; the ULL and the criteria for deviation from the ULL. No one could get past the ULL to discuss the criteria for change, since all jurisdictions wanted to reset the ULL now. There was a time limit when it needed to be done and the jurisdictions had to move forward with Measure J requirements, or the local jurisdictions would not receive the funds from Measure J. As Councilmember Glynn had recommended, she agreed that the ULL was acceptable as is, although if a jurisdiction proposed major changes, that would not be acceptable as is. That had been the condition on which the City had approved the current ULL from now to 2011 and they needed to move on with the criteria.

On motion by Councilmember Glynn, seconded by Vice Mayor Kee and carried unanimously to adopt Resolution 04-10175, with a clarification of the language as recommended.

### **CONSENT CALENDAR**

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

- a. **MINUTES** Dated: December 6, 2004 (special meeting) and December 6, 2004 (regular joint meeting)

Approved minutes dated December 6, 2004 (special meeting) and December 6, 2004 (regular joint meeting).

- b. **RESOLUTION 04-10205** Approving a List of Landscape Architectural Firms for On-Call Professional Architectural Services as Required by City Staff, and Authorizing the City Manager to Enter into Agreements with Selected Firms

Adopted Resolution 04-10205.

- c. **RESOLUTION 04-10206** Dissolution of the Criminal Justice Agency of Contra Costa County, A Joint Powers Authority

Adopted Resolution 04-10206.

- d. **RESOLUTION 04-10207** State of California Office of Traffic Safety Sobriety Checkpoint Program Funding

Adopted Resolution 04-10207, as amended to add the word “authority” to the first paragraph.

- e. **RESOLUTION 04-10208** Authorize Allocation of \$85,000 in Water Fund Reserves and Award the Water Services Replacement Contract to W.R. Forde Associates in the Amount of \$68,934 and Approve the Contingency Fund of \$16,066 for a Total Project Budget of \$85,000.

Adopted Resolution 04-10208.

- f. **RESOLUTION 04-10209** Approve Rate Increase at Contra Costa Waste Services Recycling Center and Transfer Station.

Adopted Resolution 04-10209.

### **ADJOURNMENT**

The City Council adjourned at 10:54 P.M. *In Memory of Ruth Buchanan* to January 3, 2005.

Respectfully submitted,

Lillian J. Pride, City Clerk

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