

CITY OF PITTSBURG
Housing Authority Minutes
October 18, 2004

Chair Aleida Rios called the meeting of the Housing Authority to order at 7:48 P.M. in the City Council Chambers at City Hall, 65 Civic Avenue, Pittsburg, California, after having convened at 6:15 P.M. into Closed Session pursuant to Section 54956.9 of the Government Code for Conference with Legal Counsel – Existing Litigation regarding 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, Erin Janes vs. City of Pittsburg et al, Contra Costa County Superior Court Case No. C04-00647, and Calpine et al vs. State Board of Equalization, San Diego Superior Court Case No. GIC828751.

There was nothing to report from Closed Session.

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

MEMBERS ABSENT: Leatherwood

STAFF PRESENT Executive Director, Marc Grisham
Legal Counsel, Ruthann Ziegler
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
Planning Director, Melissa Ayres
City Engineer, Ron Sbranti
Police Chief Aaron Baker

CONSENT CALENDAR

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

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

Approved Disbursement List dated September 30, 2004.

b. **MINUTES** Dated: September 20, 2004

Approved Minutes dated September 20, 2004.

ADJOURNMENT

The meeting of the Housing Authority adjourned at 7:49 P.M. to the next meeting set for November 15, 2004.

Respectfully submitted,

Lillian J. Pride, Secretary

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CITY OF PITTSBURG
Redevelopment Agency Minutes
October 18, 2004

Chair Aleida Rios called the meeting of the Redevelopment Agency to order at 7:50 P.M. in the City Council Chambers at City Hall, 65 Civic Avenue, Pittsburg, California, after having convened at 6:15 P.M. into Closed Session pursuant to Section 54956.9 of the Government Code for Conference with Legal Counsel – Existing Litigation regarding 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, Erin Janes vs. City of Pittsburg et al, Contra Costa County Superior Court Case No. C04-00647, and Calpine et al vs. State Board of Equalization, San Diego Superior Court Case No. GIC828751.

There was nothing to report from Closed Session.

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

MEMBERS ABSENT: None

STAFF PRESENT Executive Director, Marc Grisham
Legal Counsel, Ruthann Ziegler
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
Planning Director, Melissa Ayres
City Engineer, Ron Sbranti
Police Chief Aaron Baker

PUBLIC HEARING

1. **RESOLUTION 04-994** Hearing on the Proposal to Designate a Unified Development Area Near the Southeast Corner of Tenth Street and Cumberland Street

Director of the Redevelopment Agency Garrett Evans advised 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 consisting of approximately 136,800 square feet located near the southeast corner of Tenth Street and Cumberland Street would assist the Agency in addressing blight in the project area, and enhance the quality of residential life in Pittsburg. The area included eight vacant parcels, five single family homes and one business. This would be the first stage in the process to improve the area. There was no fiscal impact.

Mr. Evans recommended that the Agency Board adopt the Unified Development Area and authorize the Executive Director to determine the feasibility of developing a mixed use residential and commercial 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.

Mayor Rios opened the public hearing for Resolution 04-994. There was no one to speak to the item. The public hearing was closed.

On motion by Member Glynn, seconded by Vice Chair Parent and carried unanimously to adopt Resolution 04-994.

CONSIDERATION

1. **RESOLUTION 04-995** Approving the 2004-2005 Program and Project List Established by the Redevelopment Agency of the City of Pittsburg

Mr. Evans stated that the Redevelopment Agency of the City of Pittsburg was constantly pursuing opportunities to fight against blight. Therefore, it had established the proposed project list to help to improve the quality of life for Pittsburg residents. The proposed projects included affordable housing; infrastructure improvements; development in the downtown, waterfront, and along the Railroad Avenue Corridor; feasibility studies; construction of public facilities; and the pre-development of commercial spaces including potentially two hotels.

Mr. Evans explained that the Agency had over \$70 million of ongoing Agency activities in the Project Area, which consisted of both the Agency assisted 5-Year Capital Improvement Program (CIP) projects and traditional redevelopment projects and activities. There were also 459 new affordable housing units being pursued by the Agency. Overall the Agency was very busy and active and would approach the Council for a more extensive list of new projects to cover the next three years. He stated that the Agency had a large capacity and would like to engage in projects in the near future. A \$20 to \$25 million bond issue for housing activities was expected to further increase affordable housing units throughout the City

Mr. Evans recommended that the Agency Board approve the 2004-2005 Project List and authorize the Executive Director to allocate \$3,754,614 for the implementation of the programs and projects that had not been allocated to date.

On motion by Vice Chair Parent, seconded by Member Beals and carried unanimously to adopt Resolution 04-995.

2. **RESOLUTION 04-996** Neighborhood Improvement Program Recommendations and Funding Allocation

Executive Director Marc Grisham explained that a Neighborhood Improvement Team consisting of staff from all departments in the City had been put together, had been out to the neighborhoods and had been working with people. Out of that as a group a comprehensive list had been developed to identify a variety of activities and programs that were important to improve the City's neighborhoods.

Public Works Director John Fuller stated that the Redevelopment Agency had previously authorized \$1,500,000 to fund projects and activities associated with the Neighborhood Preservation Program. Approval of the resolution would reallocate those previously allocated funds to sub-funds for minor projects in broad categories and specific project accounts to resolve problems and to improve older neighborhoods.

Five target neighborhoods had been identified including West Boulevard, West Tenth Street, the Carpino area and the Heights/Los Medanos area. Neighborhood meetings had been conducted in all areas. The neighborhood meetings had provided the improvement team with positive suggestions and positive feedback about the City's direction. The recommended projects were small and large from speed humps to funding of code enforcement efforts. The proposed resolution would reallocate the existing funds just authorized to provide funds to the Engineering Department to conduct some long overdue major street repair, such as on York and Cutter Streets on the south side of the West Tenth Street neighborhood, along with other much needed improvement projects.

There was no financial impact at this point given that the Redevelopment Agency and the Pittsburg Power Company had previously allocated a total of \$663,000 to fund the recommended projects along with the just allocated funds. The action related to an accounting transaction to allow more rapid and expeditious expenditures of small amounts of money to deal with smaller neighborhood issues and to more accurately track expenditures associated with larger specific capital projects over \$100,000.

Mr. Fuller recommended the adoption of the resolution reallocating previously allocated Neighborhood Preservation Program funds to sub-accounts and specific project accounts to allow better accounting and more expeditious expenditure of funds for small projects.

Chair Rios supported the creation of sub-accounts for accountability purposes.

On motion by Chair Rios, seconded by Member Glynn and carried unanimously to adopt Resolution 04-996.

3. **MINUTE ORDER**

Authorization of the Youth Service Program Within the
Pittsburg Neighborhood Improvement Project

Mr. Grisham stated that a new youth program was being proposed as part of the existing Pittsburg Neighborhood Improvement Project. Youth involved in this project will assist residents and the City in targeted neighborhoods with clean up projects, curbside painting, weeding, and planting and beautification projects. Youth would be able to earn \$7 per hour for each hour of community services performed to benefit his/her school or community organization. Youth could also earn personal bonus points toward City-sponsored community oriented projects, activities and excursions.

Eighty thousand dollars would be allocated from the Pittsburg Neighborhood Improvement Project to cover salaries, necessary materials and supplies, dumpsters, signage, and incentives to implement the program.

Mr. Grisham recommended the authorization of the Youth Service Program within the Pittsburg Neighborhood Improvement Project and direction to the Executive Director to implement the program.

Member Kee questioned whether or not there was any maximum amount a group could earn, to which Mr. Grisham noted that there were many who wanted to participate and no limits had been placed on the program although the intent was to get as many people involved as possible.

Vice Chair Parent referenced the report and the possibility that young people could earn \$7 an hour for his/her school or organization. She questioned whether or not that organization had to be a Pittsburg based organization.

Mr. Grisham noted the desire to have Pittsburg youth participate. He suggested that the key factor was that the youth live in Pittsburg, but most importantly the intent was to work with young people, particularly if those young people lived in Pittsburg.

Member Beals commented that all but one of the City's Youth Commissioners attended school outside of the City. She therefore suggested that some opportunities could be opened to youth overall because if the City's Youth Commissioners could not participate that would be inconsistent with the program. She otherwise suggested that the program was great, a win-win, although she wanted to see a bigger problem addressed - that of jobs. She noted that the money would go back into the City's improvements but not back into the youth's life, to contribute to his/her family or his/her own survival. She recommended that there be an opportunity for the youth to win as well. She requested that the department work with the City Manager and the Youth Commission to address those needs.

On motion by Member Kee, seconded by Vice Chair Parent and carried unanimously to authorize the Youth Service Program within the Pittsburg Neighborhood Improvement Project.

4. **MINUTE ORDER** Approving the Redevelopment and Property Improvement Strategy for the West Boulevard Multifamily Residential Area

Mr. Grisham stated that the Neighborhood Improvement Program had identified the West Boulevard multifamily residential development as one of the target neighborhoods for various small improvement projects. Conditions in this neighborhood had warranted the need for additional public and private physical improvements beyond the smaller activities identified by the Neighborhood Improvement Team including redevelopment of existing buildings. Staff had prepared a strategy identifying these improvements and redevelopment projects.

Director of Development Projects Randy Jerome explained that the West Boulevard area had been targeted as an area of special need and was one of the target areas of the Neighborhood Improvement Team. He explained that meetings had been held with West Boulevard residents who had conducted a survey, which survey had expressed a desire for a community/neighborhood center on West Boulevard to address some of the needs of the community. A West Boulevard Improvement Strategy had been developed to address the needs of the West Boulevard community, which included efforts to redevelop some of the housing in the area.

There was no financial impact associated with the action. Funds previously allocated from the Redevelopment Agency and the Pittsburg Power Company had been allocated to include initial improvements associated with the West Boulevard Improvement Strategy, which would allow staff to retain the services of a civil engineer and an architect to commence design studies as included in the Strategy.

Mr. Jerome recommended that the Agency Board approve the West Boulevard Improvement Strategy and direct staff to retain the services of a civil engineer and an architect to commence design studies as shown in the Strategy.

ROBERT LACK, one of the majority landholders on West Boulevard, commented that he supported the City's plans and was willing to help the City meet its goals in that area. He supported the development of a community center in the West Boulevard area given the high crime in that area. He acknowledged the help from the Police Department and from code enforcement although he suggested that there would need to be more code enforcement in the area. As a landlord, he stated that landlords would have to be held accountable to help clean up and address neighborhood problems.

WENDY CERVANTES and JENNIFER BONDS of the West Boulevard neighborhood offered a PowerPoint presentation to summarize the West Boulevard Survey Report. Ms. Bonds offered a heartfelt thank you to the City Council and City staff as a whole for the help directed to the West Boulevard community.

Ms. Bonds explained that West Boulevard residents had been directed by the outgoing City Manager to conduct a survey of the types of things West Boulevard residents wanted to see in his/her community. To that end 100 residents had been approached and 79 completed surveys had been presented for the study. She emphasized the high turnover rate and noted that 89 percent of the respondents were renters and the remainder were homeowners in the six block survey area.

The survey reported that 89 percent supported the creation of a neighborhood services center on the vacant lot at 14 West Boulevard. Of those that responded to the six choices provided on the survey, health services, translation services and educational services ranked as the top three. Drug and alcohol support and teen mentoring programs followed. Ninety three percent of those surveyed indicated that 14 West Boulevard was the best location for the service center and would be willing to actively participate in bringing that center to the neighborhood. Survey respondents also identified a need for better lightning, code enforcement and a program to keep the neighborhood clean at all times.

Ms. Bonds stated that the City had responded almost immediately with a community clean-up two weeks ago which had been a huge success. Further with respect to the survey, she stated that a need for more City services with more police on foot getting to know and become familiar with the community, code enforcement, redevelopment, recreation and parks had been cited as issues of concern. Survey respondents also wanted to see the area become safer, sought improvements to housing and street conditions and requested more community interaction and educational services. A large majority of respondents were willing to participate in Neighborhood Watch and in neighborhood gang avoidance.

Ms. Bonds thanked the City for its help and efforts.

RUBEN ROSALEZ, Pittsburg, stated that he had been invited to see what the Pittsburg Unified School District (PUSD) could do to help with the vacant lot at 14 West Boulevard. He stated that West Boulevard was full of hardworking and dedicated families who wanted to see changes in the neighborhood. He had attempted to talk to the non-profits in the area that would be willing to have a presence on West Boulevard. He reported that One Day at a Time (gang services program), Future Leaders of America (mentoring for youth), and Lifetime (helping women on welfare go on to college) had all agreed to come into the neighborhood free of charge, as had others. Other services would include PUSD After School Programs, Adult Education ESL classes, East County Boys and Girls Club, and a potential site for police officers to allow officers to begin to know the community. He emphasized the wealth of services that could locate in the area.

RODNEY BEST, Newark, agreed that the area needed a lot of work. He commended the Pittsburg Police Department who had responded to his property in the West Boulevard area on a number of occasions. He noted that a number of improvements had been made to those properties.

As a property owner, Mr. Best stated that he had not been aware of the City's work

in the West Boulevard area. He requested that the property owners be notified of the City's plans, particularly so that property owners could assist in the process.

Vice Chair Parent thanked staff for its continuing hard work on the project. She also thanked the West Boulevard residents who had conducted the door to door survey for getting involved since the residents were assisting each other and caring about his/her area to make it easier for an institution like a City to get things done.

Member Kee agreed and noted that residents in the West Boulevard neighborhood had recently come to the City to ask for help. He wanted to make certain that those on West Boulevard had an opportunity to participate and be in agreement with the proposals. He applauded all for the work that had been done and recognized that the process was well on its way.

Chair Rios commented that she had worked in the community for the last eight years to get something done. She commended those who had conducted the survey, and particularly Wendy Cervantes and Jennifer Bonds and the other West Boulevard residents who had worked hard to make something happen.

On motion by Vice Chair Parent, seconded by Member Kee and carried unanimously to approve the Redevelopment and Property Improvement Strategy for the West Boulevard multifamily residential area.

CONSENT CALENDAR

On motion by Member Glynn, seconded by Member Kee and carried unanimously to adopt the Consent Calendar, as follows with the removal of Item c.

- a. **MINUTES** Dated: October 4, 2004

Approved minutes dated October 4, 2004.

- b. **RESOLUTION 04-999** Authorizing the Redevelopment Agency of the City of Pittsburg to Amend the First Time Homebuyer Program

Adopted Resolution 04-999.

The following item was removed from the Consent Calendar for discussion.

- c. **RESOLUTION 04-1000** Award of a Consultant Agreement by and between the Redevelopment Agency of the City of Pittsburg and Lamphier-Gregory

On August 2, 2004 the Redevelopment Agency of the City of Pittsburg adopted

Resolution No. 04-982 approving an Exclusive Negotiating Agreement (ENA) by and between the Agency and AF Evans to negotiate the terms of a Disposition and Development Agreement for the development of the Black Diamond Project.

Section 3.4 of the ENA required that the developer prepare and submit the necessary information to perform the environmental review process required by the California Environmental Quality Act (CEQA). Due to the complexities of the environmental review and planning entitlement process, the Agency would like to retain the services of Lamphier-Gregory to assist staff in the coordination, review and preparation of activities associated with the approval of the project. The Agency and the Consultant propose to enter into a Consultant Agreement to memorialize the relationship between the Agency and the consultant.

ROGER RILEY, Pittsburg, asked how the contract would work. He was advised by Mr. Grisham that the contract would require full cost recovery on the part of the developer. The developer would pay the full cost.

On motion by Member Beals, seconded by Member Glynn and carried unanimously to adopt Resolution 04-1000.

ADJOURNMENT

The meeting of the Redevelopment Agency adjourned at 8:34 P.M. to November 1, 2004.

Respectfully submitted,

Lillian J. Pride, Secretary

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CITY OF PITTSBURG
City Council Minutes
October 18, 2004

Mayor Aleida Rios called the meeting of the City Council to order at 8:35 P.M. in the City Council Chambers at City Hall, 65 Civic Avenue, Pittsburg, California, after having convened at 6:15 P.M. into Closed Session pursuant to Section 54956.9 of the Government Code for Conference with Legal Counsel – Existing Litigation regarding 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, Erin Janes vs. City of Pittsburg et al, Contra Costa County Superior Court Case No. C04-00647, and Calpine et al vs. State Board of Equalization, San Diego Superior Court Case No. GIC828751.

There was nothing to report from Closed Session.

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

MEMBERS ABSENT: None

STAFF PRESENT: City Manager, Marc Grisham
City Attorney, Ruthann Ziegler
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
Planning Director, Melissa Ayres
City Engineer, Ron Sbranti
Police Chief Aaron Baker

Mayor Rios considered the following general City Council items at 7:16 P.M. prior to pursuing the Housing Authority agenda.

PLEDGE OF ALLEGIANCE

Phyllis Gordon led the Pledge of Allegiance.

PROCLAMATION

1. Shri Guru Ravidass Temple

Councilmember Kee read the Proclamation honoring Shri Guru Ravidass Temple and presented the Proclamation to a member of the Temple, who received the Proclamation and pledged thanks and help to the City, when needed.

PRESENTATION

1. District Attorney Robert J. Kochly

District Attorney Robert Kochly referred to a recent incident which had resulted in the conviction of two former Pittsburg Police Officers for numerous felony charges for falsifying information in arrest reports. He stated that the District Attorney's Office of Contra Costa County had full faith and confidence in the Pittsburg Police Department and the leadership of that Department. He added that he had always had a good relationship with the Pittsburg Police Department.

Mr. Kochly offered the perspective of how the incidents had incurred and what had transpired when suspicions had arisen. As the chief law enforcement official of Contra Costa County, it was his Deputy Attorneys who had first noticed similarities in one police officer's reports, which had been reported to his department and to the Pittsburg Police Department. He characterized the Pittsburg Police Department's response and investigation as incredible and stated that a number of officers had been investigated. The results of the investigation after an exhaustive audit of Department reports had resulted in numerous incidents involving two police officers. He described the Pittsburg Police Department's investigation as extremely thorough and professional, done without any regard for what it might disclose.

In light of that investigation and as a result of the action by the District Attorney's office, Mr. Kochly did not believe that the current matters needed to be reinvestigated, although any further review or audit regarding policies and procedures to prevent a similar occurrence in the future would be at the discretion of the City.

Mr. Kochly clarified the differences between the roles of the Offices of the County District Attorney and the County Public Defender. While the District Attorney's office handled all criminal matters in the County for the people and the State of California to see that justice was done, the role of the Public Defender's office was not necessarily to see that justice was done but to represent each client individually to the best result possible.

Police Chief Aaron Baker publicly thanked the District Attorney for attending the meeting and for the insight into the criminal investigation that related to two former Pittsburg Police Officers. With respect to the inflammatory comments by the County Public Defender, which included a comparison to the Abu Ghraib prison atrocities in Iraq, he stated and he and the Pittsburg Police Department would accept nothing less than an apology for those statements which were false, misleading, insulting, self-serving and with no basis in fact.

Chief Baker stated that the Police Department worked in conjunction with the District

Attorney's office as well as the City Attorney's office throughout the entire course of the investigation, had conducted an extensive internal audit spanning over four years, had reviewed over 1,000 police reports and were looking for any acts of misconduct, including collusion by supervisors. He stated that the fact was that two Pittsburg Police Officers abused their authority, violated their sworn duty and were subsequently brought to justice. He emphasized the fact that the Department took its Code of Ethics seriously. Insofar as all public agencies relied on a series of checks and balances, he welcomed any review that would answer any lingering concerns.

Chief Baker acknowledged the men and women of the Pittsburg Police Department for all his/her hard work, dedication and commitment to work every day to make the community safe.

COUNCILMEMBER REPORTS/REMARKS

Vice Mayor Parent highlighted a recent trip to Atlanta, Georgia on behalf of Tri-Delta Transit in her role as a City member of Tri-Delta's Board of Directors, at which time she had a chance to review transit oriented development through the American Public Transit Association. She noted that while Tri-Delta Transit did not win the Bus Rodeo this year both Tri-Delta teams scored higher than last year when it had won the Bus Rodeo. Vice Mayor Parent reported that there would be another concert at the Creative Arts Building at 7:00 P.M. on October 25 to further the rehabilitation of that building. She also took this opportunity to commend the Auto Mall display announcement urging a vote for Proposition 1A to keep local funds local.

Mayor Rios reported that over 4,000 people had attended the first Hispanic Heritage Discovery Festival on October 10. She stated that the festival was a tremendous success. She commented that participants leaving the event were overheard talking about the event as the best family event to happen in Pittsburg for many years. She thanked the Public Works and Police Departments, sponsors and volunteers for making the event memorable since participants had come from throughout Contra Costa County. She also thanked the Make a Wish Foundation who were able to grant an eight year old's dream to meet a performer at the event, before that eight year old succumbed to leukemia the next day.

CITY MANAGER REPORTS/REMARKS

City Manager Grisham reported that the City had just received a letter from the State Housing and Community Development Department (HCD), Housing Policy Development, a portion which he read into the record to advise that the City's Draft Housing Element was in compliance with State Housing Element Law. A final certification would follow. He stated that showed the commitment that the City Council had for the provision of appropriate housing in the City. The letter also thanked Planning Director Melissa Ayres for her expertise and willingness to assist with the revisions during the course of review.

CITIZENS REMARKS

BEN JOHNSON, Pittsburg, referred to the City's recent slurry seal efforts and stated that the recently completed slurry on his street had already cracked and split. He advised the City of the need to address that situation.

EREN MENDEZ, Pittsburg, representing the Alzheimer's Association for Northern California/Northern Nevada, shared some information of the Association's programs. She noted that the Month of November was Alzheimer's Awareness Month. She stated that there would be a series of programs to create awareness of the disease. To kick off the national awareness month educational series there would be a forum in Pittsburg in Spanish for the Latino community at the old Vogue Theater. Other programs throughout the Northern California/Northern Nevada Chapter were also highlighted.

WILLIAM LEE, Pittsburg, referred to the Kirker Creek project and noted his concern that the project cost had approached \$13 million. He asked that all payments related to that project be deferred pending a complete accounting of what was to originally have been a \$7 million contract.

Mayor Rios adjourned to the Redevelopment Agency at 7:48 P.M. and reconvened as the City Council at 8:35 P.M.

PUBLIC HEARING

1. **ORDINANCE 04-1227** Introduction of an Ordinance to Rezone 7.4 Acres at 1055 North Parkside Drive from IL District to PD District (Willow Brook Residential Development AP-03-79)

Planning Manager Melissa Ayres stated that on October 12, 2004, the Planning Commission adopted Resolution No. 9528 recommending that the City Council rezone a 7.4 acre site located at 1055 North Parkside Drive (APNs 086-020-017, 086-020-018, 086-020-019 and 086-020-020) from IL (Limited Industrial) District to PD (Planned Development) District, in order to allow construction of a 62-unit, small lot single family infill development comprised of 54 detached single family homes and eight duets. She reported that the applicant had agreed to include a 15 percent affordable housing component for Moderate Income households.

Ms. Ayres advised that there were policies in the General Plan to support residential development on industrial lands when those lands had not been able to generate a suitable industrial type use for any given time. The site had currently been used for auto storage for fifty years. No interest had been expressed by the development community in developing the site for a high quality industrial property.

There were no direct fiscal impacts associated with the rezoning request.

Ms. Ayres recommended that the City Council adopt the Mitigated Negative Declaration and Mitigation and Monitoring Program and introduce, waive further reading and pass to second reading the recommended ordinance rezoning the 7.4-acre property from IL District to PD District.

Mayor Rios opened the public hearing for Ordinance 04-1227

SAYED BASHIR RAHIMI, Pleasant Hill, stated that he owned the property adjacent to the subject property. He noted that the City had changed the zoning of all the property in the area to Industrial in 2001. He commented that just his property and the church had been left in the current Industrial zoning designation which would limit his use of the property to recycling or for an automotive yard. The surrounding property was single family residential. He supported the change in zoning and requested that his property also be changed.

Ms. Ayres stated that Mr. Rahimi had presented his request to the Planning Commission at the public hearing. The Planning Commission had directed Mr. Rahimi to file a separate application. The current project's environmental review did not cover an assessment of Mr. Rahimi's property and no proposal had been submitted for his property. She added that the Council could consider rezoning those properties to residential if it could be shown that the properties were no longer suitable for industrial use.

DAN BOATWRIGHT, Castle Companies, the applicant, expressed his agreement with the staff report and the staff recommended conditions of approval.

Mayor Rios closed the public hearing for Ordinance 04-1227.

Councilmember Kee referred to the 15 percent affordability component of the project and noted his understanding that the park area was being traded for affordable housing. He verified with Ms. Ayres that was the case. He also noted that there were a couple of parcels to be deeded to the City but which would actually be maintained by the project homeowner's association (HOA).

Ms. Ayres affirmed that was the intent of the ordinance. She stated that the landscape strips along Parkside Drive had utility easements and could not be used for the construction of homes.

Councilmember Kee verified that the Planning Commission had reviewed and approved the Mitigated Negative Declaration and that there had been no comments on that document.

In response to the Vice Mayor, Ms. Ayres affirmed that the developer would pay an in-lieu fee for parks. She added that the developer had been encouraged to create a pedestrian path between the subject project and the Willow Heights project to the south, although the Willow Heights developer was not interested in providing a pedestrian connection to create a shortcut to the school.

On motion by Councilmember Kee, seconded by Councilmember Beals and carried unanimously to introduce Ordinance 04-1227 by title only and waive first reading.

2. **RESOLUTION 04-10168** Certification of the Final Environmental Impact Report for the Vista Del Mar Development (AP-03-3)

Ms. Ayres stated that the Planning Department was seeking City Council certification of the Final Environmental Impact Report (EIR) for the Vista Del Mar development proposal, located on the Alves Ranch property in the Southwest Hills planning sub-area. She stated that the proposal had been in process for over a year. The City had hired a consultant, John Wagstaff & Associates, to prepare an EIR for the project that included 1,100 residential units, 257,000 square feet of commercial development, and a K through 8 elementary school in the Mt. Diablo Unified School District (MDUSD).

A Draft EIR (DEIR) had been completed in June 2004 after which a 45 day comment period had ensued during which time the Planning Commission had held a study session and provided comments as did members of the public. Those comments had been reviewed, responded to and had been included in a Final EIR (FEIR) that had been made available to the public on September 14, 2004. The City Council had held a study session on the project and the EIR on October 4. The current hearing was to review those comments and ask the Council to certify the EIR as being prepared in compliance with State law. The Planning Commission would then be directed to complete its review of the actual project and then make recommendation to the City Council.

Mayor Rios opened the public hearing for Resolution 04-10168.

CRAIG MIX, William Lyon Homes, the project applicant, stated that he had read and reviewed the staff report, was in agreement with the staff recommendation and requested certification of the EIR for the project. He stated that the subject hearing offered the fourth opportunity, which included the Commission hearing on October 12, to provide public input to the project and to the EIR. He therefore believed there had been ample opportunity for the public to review the project and the EIR and he sought approval of the project at this time. Mr. Mix also explained that there had been a number of comments related to water. He requested that his legal counsel be allowed to speak to those water issues.

City Attorney Ruthann Ziegler clarified that the item related to an approval of the EIR only at this time and not to the approval of the project.

DAVID GOLD, Lafayette, Land Use Partner with Morrison and Foerster, Walnut Creek, representing the Vista Del Mar landowners, addressed what had been perceived as confusion with respect to the water capacity reservation agreements. He concurred that the current item related to the certification of the project EIR. Subsequent hearings would address the development agreement and water capacity. He stated that the EIR had thoroughly analyzed water supply and capacity issues.

Mr. Gold emphasized that the water issue had nothing to do with water supply and

had no connection to the water capacity issue. He added that the City Council had approved the water supply assessment for the EIR in February 2004, which had been incorporated into the EIR for the project. It concluded that the City had ample water supply to serve the project and to meet future water demands. In contrast, he stated that water capacity referred to the infrastructure or the hardware such as pumps, storage and water transmission lines needed to convey water to users. The EIR and the responses to the EIR had comprehensively addressed the potential construction, noise, biological and other physical impacts on the environment. He agreed with the Final EIR conclusion that the capacity reservation agreement was a legal issue and not a CEQA issue.

Mr. Gold referred the Council to the Tri-Mont case which he stated was a landmark decision that invalidated a capacity reservation contract between a large landowner and the Truckee Sanitary District and which had attempted to grant excess capacity for the North Star project.

BEN JOHNSON, Pittsburg, referred to the Planning Commission staff report of October 12, 2004 which had directed that the Commission take public testimony, deliberate on the project, provide feedback on the draft conditions and continue the public hearing to the October 26, 2004 Commission meeting. Since that had not been done, he questioned the process.

In response, City Attorney Ziegler stated that there were a series of discretionary approvals related to the overall project although there could be no final action on those approvals until the EIR had been certified. In this case, the City Council would be functioning as the lead agency under CEQA. While the Planning Commission could consider the EIR, she stated that the appropriate process and her recommendation to staff had been that the action for certification be taken by the City Council. Once certified, the EIR would be available for the Commission's reference when it reviewed the discretionary entitlements.

In further response to Mr. Johnson, Ms. Ziegler stated that there were findings of overriding consideration that would have to be adopted as part of the project approval so that when the Planning Commission considered the vesting tentative map it would have to decide the findings in light of the EIR. She explained that there had to be a background document with discretionary actions, such as the vesting tentative map and a Mitigation Monitoring and Reporting Plan. She added that it was not legally required for the Planning Commission to take any action as part of the overall certification process.

Ms. Ziegler commented that she was aware that the City had previously used a different procedure for EIRs and other documents which involved a double certification. When she had become aware of that process she had worked with staff to modify that process because it was not one followed by other jurisdictions. It was not a traditional process. While there was no one right way to handle the review and certification of an EIR, she had a far greater comfort level with the procedure the Council was now following on the Vista Del Mar project than with the procedure followed on other projects.

WILLIAM LEE, Pittsburg, commented that the system that had been used in the past had worked fine up to this time. He wanted to see the Planning Commission finish its process and make recommendation to the Council, which would then address the issue. He suggested that major issues remained with the project in terms of water lines, the roadway and the need to pursue multi-million dollar bonds to install the water lines.

KATHLEEN WEST, Pittsburg, an Oak Hills resident, commented that she had not been informed of the hearing this date although she had learned of the hearing from a notice posted in her neighborhood. She expressed concern with the traffic associated with the proposal and she sought a continued review of the traffic issue affecting the existing homes in the neighborhoods adjacent to the proposal.

WILLIAM ROSS, Palo Alto, representing SEECON Financial Construction Company and West Coast Home Builders, Inc. presented documents to the Council, City Manager and the City Attorney. He recognized that the current procedure was a departure from a past procedure and how an EIR on a major project was developed. He referred to the October 4 Council meeting where the same issue had been raised and where it had been noted that the FEIR would be considered by the Planning Commission at its meeting on October 12. He stated that the notices for that meeting had contained no information that the FEIR would be reviewed, which he suggested was a violation of the Brown Act.

Because of the condition of the FEIR, Mr. Ross suggested that it would have to be recirculated based on the fourth established standard in CEQA Guidelines Section 15088.5. He noted that standard had been omitted from the FEIR itself, where the basis for recirculation had been mentioned.

Mr. Ross stated that the basis where recirculation was appropriate was that even after repeated comments on the areas of traffic mitigation, water supply, and water system and capacity agreements, there was not an adequate analysis of those issues.

In the area of traffic concerns, Mr. Ross advised that the concern related to feasibility, which related to both project alternatives and mitigation. Feasibility included the legal constraints. He stated that the legal issues needed to be addressed. He disagreed with Mr. Gold's analysis and emphasized that the issues needed to be in the record and needed to be analyzed given that project alternatives had an economic component.

Mr. Ross added that SEECON had built 100 percent of the water system that was applicable in the area and had continually raised the issue of reimbursement and the capacity reservation agreements, without analysis, which needed to be addressed.

Stating that the most critical traffic issue was the San Marco Road extension, Mr. Ross referred to Response to Comment Nos. 704, 902 and 903 and related to General Plan consistency in Figures 4.1 and 4.2 in the DEIR and in the FEIR and the alignment of that extension. He stated that would have to be resolved. Other traffic extensions dealt with West Leland Road and Avila Road West, both of which should but had not been analyzed.

In the area of water capacity arrangement agreements, Mr. Ross stated that dealing with the actual delivery of water was critical. The aggregate of all the traffic impacts and the allocation of cost and reimbursements related to the emergency response issue had also been inadequately assessed.

Mr. Ross stated that the City Manager had indicated on October 4 that there would be a utilization of a \$15 million bond to address SEECON's concerns. He sought more specificity associated with recent City action. He submitted into the record copies of communication from SEECON dated October 14, 2004 and October 18, 2004 in response to the City Manager's correspondence this date.

Mr. Ross referred to the City Council's specific adoption of Amendment No 2. to the Water System Master Plan where the cost of allocation had been identified. He noted that the total deficiency in the project had been identified as \$3.6 million, with a Citywide deficiency in excess of \$9.5 million for a total of \$13 million. He suggested that the cost of issuance of the bond for just City facilities could exceed \$15 million. He therefore did not see where the \$15 million would originate. He suggested that recirculation was applicable for the combination of yet unaddressed issues of traffic, circulation and water system.

Mr. Gold rebutted, stated that the documents would be reviewed, and explained that Wagstaff & Associates, the City's EIR consultants had heard the same comments and had thoroughly and comprehensively addressed the points in the Response to Comments made by SEECON and the various counsel. With respect to circulation, he described that as a very thorough process. The City had hired a professional firm, many comments had been submitted and the City had been thorough in its process. He disagreed with Mr. Ross' comments with respect to the fourth category in the EIR. He requested the certification of the document.

Mayor Rios closed the public hearing on Resolution 04-10168.

Councilmember Glynn commented that the process had been ongoing for a great deal of time with the Planning Commission for more than a decade to his knowledge. He expressed annoyance with the fact that the process had been changed without due notice to the City Council, the Planning Commission and the public.

Councilmember Glynn commented that it had been stated at the last Council meeting that the EIR would be returned to the Commission for final review before being considered by the Council for certification. The subject of the EIR had not even been raised at the last Planning Commission meeting. If there were no major discrepancies in the EIR and it was sent back to the next Commission meeting for review with proper notice, he suggested it should then return in an expeditious manner to the City Council for certification. He did not see the need to rush to judgment.

Mayor Rios verified with the City Manager that there was no need to rush action on the EIR. She objected to a change in process without proper notification.

While there had been workshops and study sessions, Mayor Rios explained that those sessions had been on the project itself and not on the EIR. She expressed her disappointment that the City Attorney had made a change without notification to the City Council. She acknowledged the announcement at the last Council meeting that the item would return to the Planning Commission for review.

Mayor Rios suggested that the project was being fast tracked. While not in opposition to the proposal, she emphasized that the comments needed to be incorporated. While those comments had been heard she suggested that they had not been addressed. She had a problem certifying an EIR when the Planning Commission would base its decision on a document that did not address the Council's concerns, particularly related to traffic and water. She noted that the project would tie into the SEECON waterline and according to the City's agreement, if excess capacity existed and the City was able to provide reimbursement to the other property developer there would probably be no additional capacity in the facility. She added that there were a number of conflicting concerns and issues that had not yet been addressed. She urged the Planning Department to address those issues before seeking the Council's certification of the EIR.

Mayor Rios made a motion to refer the item to the Planning Commission prior to Council consideration.

Councilmember Beals commented that when the item had last come before the City Council she had asked the City Manager why it was that the item had been referred to the Council. She stated that both the City Manager and the City Attorney had recommended that procedure based on their experience. Noting the comment that the procedure was contrary to what had been done in the City for years, she commented that many things had been done in the City for years without any verification that was the right way to proceed.

With the new leadership in the City, Councilmember Beals stated that if the new procedure was the way to conduct business based on the City Manager's and the City Attorney's experience, she had no hesitation supporting that new way. With respect to sharing water capacity, she stated that was an issue that would be addressed legally.

Vice Mayor Parent commented that it would appear that more people had come to tell the Council that the steps that it had taken were wrong rather than commenting on the substance of what the Council was doing. She stated that the substance was the FEIR, which all Councilmembers had received and read several weeks ago.

Vice Mayor Parent noted, for instance, that of the Planning Commissioners who had attended the workshops about the substance of the EIR, none had indicated that there was something wrong with the substance of the EIR and no individual concerns had been expressed. She stated that the City had hired people to write the EIR to give the best analysis of the project, the alternatives, to identify whether or not there were environmental problems, to report how those problems should be addressed, whether or not they could be mitigated, and if not what should be done. She stated that all those things had been included in the original document.

Vice Mayor Parent reiterated that Councilmembers had read all the comments in writing to the extent that had been submitted within the timelines and even some that had been submitted after the deadlines.

Vice Mayor Parent noted that the City Attorney had indicated that the process used in the past was an extraordinary one. She suggested that the Council would use the process that had been used on this case in the future so long as the same City Attorney was the City's attorney and given the new City Manager and the new City Council.

Councilmember Glynn was not concerned with the legality or illegality of the EIR process. He was concerned with past practice and how long it was done and the fact that no one had indicated that the City's past methodology was illegal. He did not like to see a major change in process even if it was the same that others were following. He wanted to be advised of any changes to the process up front. The only question he would raise about the certification of the EIR was that if certified and it was sent back to the Planning Commission and additional comments were offered relevant to the EIR whether or not that document could be amended.

City Attorney Ziegler stated that there was a legal standard for when a certified EIR would require modification through a Supplemental EIR or a subsequent EIR. She referred to Section 15162 under the CEQA Guidelines that once an EIR had been certified or a Negative Declaration adopted, a subsequent or Supplemental EIR could be prepared only if the lead agency (the City Council) determined on the basis of substantial evidence in light of the whole record that one or more of the following situations existed: substantial changes are proposed in the project requiring major revisions of the previous EIR due to new significant environmental effects or substantial increase in the severity of previously identified significant effects or there are substantial changes with respect to the circumstances under which the project was undertaken which would require major revisions to the previous EIR or new information of a substantial importance that was not known or could not have been known at the time the previous EIR was certified.

Ms. Ziegler acknowledged that she was new to the City. It was her understanding in discussions with the Planning Director that there had been some changes to process as to how the City had handled the review of EIRs. While she had no concerns with the Planning Commission's review, consideration or recommendation related to an EIR, even though none of that was legally required, it was her understanding that both the Planning Commission and the City Council had certified EIRs. It was that specific portion of the process where she had significant objection. She seriously questioned the legal validity of that double certification process.

It was that portion of the process that Ms. Ziegler stated she had worked with staff to modify. She added that when she encountered a City procedure with dubious legality it was her responsibility as the City Attorney to make changes. In the future, she would better notify the City Council of those changes.

Councilmember Glynn stated that he had heard three significant issues raised; traffic, water capacity and water storage, which he suggested were significant and already in litigation. He emphasized that traffic was the top item on the upcoming ballot. He had no problem with the document as long as those issues would be addressed. It was his belief that the situation met the criteria cited for amendment to the EIR because of those issues.

Ms. Ziegler stated that SEECON's attorney, Mr. Ross, had referenced CEQA Guidelines Section 15088.5 on the standard for recirculation as had Mr. Gold, the attorney for the project applicant. She stated that standard was not that the DEIR was so fundamentally and basically inadequate as to make meaningful public review impossible but that there was significant new information requiring recirculation which would include, as an example, a showing that the EIR was so fundamentally and basically inadequate as to make meaningful public review impossible. She emphasized that the test for recirculation was if there was new and significant information. While Mr. Ross had raised several points, she did not believe that any of those points stemmed from the new and significant information standard.

With respect to bonds and Mr. Ross' statement that the issue of bonds had first been raised at the October 4, 2004 Council meeting, Ms. Ziegler clarified that the issue of bonds had first been raised in a September 27, 2004 letter to the Mayor and the Council from West Coast Home Builders. She and the City Manager had agreed that was an interesting idea to protect all interests and would insert a bonding requirement in the development agreement to be submitted to the Council in the future as well as the City's commitment to the \$15 million bond.

Ms. Ziegler also stated that she would like to make sure as part of the process that the Planning Director or the environmental consultant Mr. Wagstaff be given an opportunity to respond to the issues related to traffic, water capacity and water storage and any other comments or concerns.

At this time, Mayor Rios clarified that there was no second to her motion to refer the EIR back to the Planning Commission. The motion died.

Councilmember Kee commented that one of his concerns was the way EIRs had been processed in the past which might not place the City in its best legal position. As such, he suggested that the change was warranted. He also noted his understanding that the EIR had been submitted to the Planning Commission at the end of the September meeting but that it had been removed from that agenda. Having attended the Commission meeting on October 12, he stated that the item was on the agenda at that time.

Councilmember Kee noted that one of the questions that had been debated was whether or not the EIR had been part of the project discussion at that time. He asked whether or not that was the case.

In response, Ms. Ayres stated that the DEIR had been submitted to the Commission in July 2004. Once the FEIR had been prepared the Commission had no detailed discussions on the EIR itself. In the same way that the title of public hearing notices did not identify the request to adopt a Negative Declaration or a Mitigated Negative Declaration, the project had not been listed on the agenda because it did not require an entitlement. She stated that it had been made very clear at the October 12 meeting that anyone present to speak to the EIR had an opportunity to do so at that meeting. There had been no specific comments of the EIR although there had been general questions related to traffic and water capacity.

Councilmember Kee verified that the Commission had received the final version of the EIR prior to the Council's receipt of that document. He also noted the workshop at the last Council meeting where members had an opportunity to address the EIR. Many people had spoken to the item although those comments did not relate to the impacts. He commented that with a similar process in renewing the General Plan some time ago the Council had constantly been told that there had been inadequate time to solicit public input for that process, which had gone on for two years. He suggested that this situation was akin to the same thing.

Councilmember Kee emphasized that the Council had to take into consideration that the process had to move forward.

Mayor Rios referred to Impact 7.5 with respect to cumulative plus project impacts at the Willow Pass Road/Avila Road intersection where no mitigation had been identified and where no analysis had been done on the traffic. She also referred to the section on Bailey Road and Myrtle Drive where no analysis on the traffic impacts had been done. She questioned whether or not that would meet the standard of amendment.

JOHN WAGSTAFF, Wagstaff & Associates, the author of the EIR in collaboration with staff, stated with respect to traffic analyses that Fehr and Peers, a transportation and engineering firm with extensive experience in Pittsburg had evaluated that situation on some sixteen intersections, including the Avila Road and Leland Road intersections. He stated that mitigations had been identified for both. As far as the comments made at this time by the representative of SEECON, he stated that two letters had been received on the DEIR and FEIR including comments related to all the remarks made at this time. No new issues that had not been addressed in the EIR had been identified. All the issues, including water, had extensively been addressed in the EIR.

With respect to water, Mr. Wagstaff stated that two Senate Bills required a detailed water assessment that had been reviewed and approved by the City Council and which had been incorporated into the EIR. With respect to capacity, he explained that was an environmental issue only where capacity issues translated into the construction of water lines that would result in an environmental impact. The secondary impacts of water lines into the project and water capacity issues had been addressed as well.

Mr. Wagstaff added that Wagstaff & Associates had prepared EIRs for over 25 years. He characterized the subject EIR as very extensive. He was confident that the EIR would meet the CEQA test and could be certified at this time.

Mr. Wagstaff emphasized that the two intersections referenced by Mayor Rios had mitigations. There were mitigations for both intersections in the DEIR. The FEIR included errata pages only and did not include all intersections. The FEIR included only those pages where changes had been made. The DEIR included all intersections. With respect to the Avila Road intersections he did not believe that significant impacts had been identified. With respect to Bailey Road/Myrtle Drive there was an impact and mitigations to reduce those impacts to a significant level.

Mr. Wagstaff clarified that what constituted the FEIR was the DEIR and the FEIR. The FEIR showed only the changes and did not include the DEIR. He stated that the Avila Road/Willow Pass Road intersection did not change and there was no errata page in the FEIR for that intersection.

Mayor Rios referred to Figure 4.1 towards the back of the FEIR where it showed existing General Plan designations and referred to San Marco Road. Under the General Plan, that was considered to be a blast easement. If that were the case, she questioned how that road could be extended into the blast easement given the safety issue.

In response, Mr. Wagstaff stated that the alignment of the extension of San Marco Road was a diagram and not a fixed road. The General Plan had a specific policy to indicate that was a conceptual alignment that needed to be studied for its feasibility before a final alignment was established. With respect to the blast zone issue, he stated that would go into the northernmost section of the property. The blast zone had easement restrictions with respect to buildings of human occupancy. There was no assurance that those restrictions would apply to a roadway. If there was assurance that the restrictions would apply to a roadway, the roadway would need to be manipulated to avoid the blast easement. He emphasized that there was no fixed alignment at this time. The final alignment would have to be established in the future. At this point the General Plan simply called for a connection between San Marco Road and Bailey Road and the diagram showed where that would go without being a fixed alignment.

Ms. Ayres clarified that the General Plan did have a policy to indicate that was not a final alignment. She stated it had always been the staff belief that that road did not need to be built until the development in the area was actually constructed. It would be in place when San Marco Meadows and San Marco Hills was built. With the review of the EIR for the Bailey Estates project, she stated that SEECON had submitted a diagram to indicate that the current diagram, as shown on the General Plan, was totally infeasible. A more appropriate alignment through the San Marco Meadows project had been offered at that time.

If the San Marco alignment was changed, Mayor Rios questioned whether or not that would represent a significant change.

In response, Mr. Wagstaff stated that one of the points that the General Plan made with respect to the alignment was that when the feasibility studies were conducted in the future separate from the project, one of the components of that evaluation would be the CEQA evaluation, a separate issue from the current project.

To address any confusion, Mr. Wagstaff clarified that the details of the General Plan Amendment requested for the subject project had to do with the transfer of density within the development area only, moving more multifamily closer to the highway without changing the overall residential totals. No amendment had been requested to the roadway alignment because there was no need to amend that alignment.

Ms. Ayres stated that was a staff determination because the written text of the General Plan had shown no specific alignment. The formal final alignment to serve the project would be evaluated as part of the EIR for that project.

Vice Mayor Parent emphasized that Councilmembers had read the body of the EIR, the Draft and the Final inclusive of the Draft and had seen the mitigation and monitoring checklist. She noted that every Councilmember regularly got the minutes of Planning Commission meetings. Several Oak Hills residents had commented that they were concerned about the environmental effect on their homes so that they know that the developers and staff was aware that construction would occur near existing homes. She thanked all those involved in the process.

Councilmember Kee pointed out the Mayor's earlier comment that there was no mitigation listed for the cumulative plus project impacts at Willow Pass Road/Avila Road. He advised that the mitigation had been listed as follows: "The project applicant shall contribute their fair share to needed improvements at Willow Pass/Avila Road intersection as shown in Figure 7.9 that include configuring the intersection with two left turn lanes and a right turn lane on the westbound Avila Road approach."

On motion by Vice Mayor Parent, seconded by Councilmember Kee to adopt Resolution 04-10168, carried by the following vote:

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

Mayor Rios took the next item out of agenda order.

CONSIDERATION

1. APPOINTMENT Youth Commission Appointment

City Manager Grisham reported that one opening existed on the Youth Commission. The City had advertised for the opening and had received three applications. All applicants had been invited to interview with the City Council on August 2, 2004 and the one applicant who had been present had been interviewed at that time.

On motion by Councilmember Kee, seconded by Councilmember Beals and carried unanimously to appoint **Jackie Estrella** to the Youth Commission.

Mayor Rios declared a recess at 10:10 P.M. and reconvened at 10:25 P.M. with all Councilmembers present.

PUBLIC HEARING

3. **RESOLUTION 04-10169** Public Hearing and Approval of the Issuance of Multifamily Housing Revenue Bonds by California Statewide Communities Development Authority for Financing the Acquisition and Renovation of Fountain Plaza Apartments

Mr. Grisham reported that on July 6, 2004 the Redevelopment Agency of the City of Pittsburg passed Resolution No. 04-082 authorizing a loan in the amount of \$4,880,000 to Micon Real Estate to aid in the acquisition and rehabilitation of the Fountain Plaza Apartments. In addition to the Agency participation, the developer had requested that the California Statewide Communities Development Authority issue multifamily housing revenue bonds in an anticipated principal amount of \$22,000,000 to provide financing for the acquisition and rehabilitation of the development. The Internal Revenue Code of 1986 requires that a public hearing be convened by the duly elected representatives of the jurisdiction in which the development is located and that said representatives approve issuance of the bonds.

There was no fiscal impact and no financial commitment by the City or the Redevelopment Agency at this time by authorizing the issuance of the bonds.

Mr. Grisham recommended the approval of the issuance of \$22,000,000 in multifamily housing revenue bonds by the Authority and authorize the City Manager to take all actions as may be necessary to implement the corresponding resolution.

Mayor Rios opened the public hearing for Resolution 04-10169. There were no comments. The public hearing was closed.

On motion by Vice Mayor Parent, seconded by Councilmember Glynn and carried unanimously to adopt Resolution 04-10169.

CONSIDERATION

2. **RESOLUTION 04-10170** Awarding a Consultant Agreement to Harris & Associates, Inc. for the Design of Contract 2004-10, Downtown Infrastructure Project

Mr. Grisham stated that 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 would award a Consultant Agreement to Harris & Associates, Inc. for design of the project and combine several Capital Improvement Program (CIP) projects for improved coordination and efficiency.

Several CIP projects would be combined into one large project with a total of \$2,274,000 of previously allocated funding.

Mr. Grisham recommended that the City Council adopt the resolution combining several CIP projects and authorizing the City Manager to execute a Consultant Agreement with Harris & Associates, Inc. in the amount of \$1,069,099 for design of Contract 2004-10, Downtown Infrastructure Project.

On motion by Councilmember Kee, seconded by Councilmember Glynn and carried unanimously to adopt Resolution 04-10170.

3. **RESOLUTION 04-10167** Receive Fiscal Year 2003-04 Year End Financial Review and Adopt Resolution Authorizing Year End Adjustments and Reimbursements to and from the General Fund

Mr. Grisham commended Finance Director Marie Simons and her staff for putting the item together. Staff had completed the review of the Fiscal Year 2003-04 year-end financial status for all City and Redevelopment Agency funds in preparation for the annual audit process. The Fiscal Year 2003-04 Financial Year-End Preliminary Report compared all actual revenues and expenses to the amended budget for all City and Redevelopment Agency funds. The report also set forth procedures used in past and current fiscal years for reimbursement by Special Funds to the General Fund for monies advanced by the General Fund for specific administrative support and non-general fund programs.

Mr. Grisham reported that there was an annual surplus of approximately \$691,617. Some adjustments were being requested as to how that money would be realized. One of those adjustments related to the issue of employee benefits. He stated that the Finance Director had shown a recommended adjustment of a portion of the surplus to ensure a proper balance for the fiscal year. A deficit reduction fund had been set up to address the fiscal shortfalls associated with the State budget crises.

Vice Mayor Parent sought a status report as to how revenues compared to projections.

Finance Director Marie Simons advised that the first quarterly report would be presented to the City Council on November 3, 2004.

Mr. Grisham added that staff was hopeful of pursuing a two year budget cycle. The Council would be allowed to make appropriate adjustments during that time.

Mr. Grisham further stated that a trend analysis/projections could be provided to identify what was anticipated within the next two years.

On motion by Councilmember Beals, seconded by Councilmember Glynn and carried unanimously to adopt Resolution 04-10167.

CONSENT CALENDAR

On motion by Vice Mayor Parent, seconded by Councilmember Glynn and carried unanimously to adopt the Consent Calendar, as shown, with a correction to the minutes, as shown.

- a. **MINUTES** Dated: October 4, 2004

Vice Mayor Parent corrected the first paragraph of Page 4 of 19, to read as follows:

Vice Mayor Parent emphasized that the Creative Arts Building was larger in size than all but the auditorium at Berkeley High School.

- b. **ORDINANCE 04-1226** Adoption of an Ordinance to Rezone Approximately Five (5) Acres for Highlands Ranch Rezoning AP-04-103 (RZ)

Adopted Ordinance 04-1226.

- c. **RESOLUTION 04-10172** Accepting Contract 02-04, Presidio Lane Improvement Project as Complete and Authorizing the City Engineer to File a Notice of Completion

Adopted Resolution 04-10172.

- d. **RESOLUTION 04-10173** Awarding Contract 2004-05, Marina Center Parking Lot, to Bay Cities Paving & Grading, Inc. of Concord, CA for Construction of the Parking Lot at the Marina Center

Adopted Resolution 04-10173.

ADJOURNMENT

The City Council adjourned at 10:36 P.M. to the regular meeting on October 4, 2004.

Respectfully submitted,

Lillian J. Pride, City Clerk
Als