

CITY OF PITTSBURG
Redevelopment Agency Minutes
October 4, 2004

Vice Chair Nancy Parent called the meeting of the Redevelopment Agency to order at 7:54 P.M. in the City Council Chambers at City Hall, 65 Civic Avenue, Pittsburg, California after having convened at 5:00 P.M. for Youth Commission Interviews, at 5:15 P.M. for Study Session – Vista Del Mar Environmental Impact Report (EIR), and at 6:15 P.M. for Closed Session pursuant to Section 54956.8 of the Government Code regarding Conference with Real Property Negotiator regarding APN 085-182-007 (337 E. 10th Street), APN 085-182-008 (325-333 E. 10th Street) and APN 085-195-006 (916 Cumberland Street); Conference with Legal Counsel - Existing Litigation pursuant to Section 54956.9 regarding 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, and 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; and Conference with Legal Counsel – Anticipated Litigation regarding one case

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

MEMBERS PRESENT: Beals, Glynn, Kee, Parent

MEMBERS ABSENT: Rios [Excused]

STAFF PRESENT: Executive Director, Marc Grisham
Legal Counsel, Ruthann Ziegler
City Clerk, Lillian Pride
Deputy City Clerk, Alice Evenson
Director of the Redevelopment Agency, Garrett Evans
Director of Development Projects, Randy Jerome
Director of Economic Development, Brad Nail
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 Kee, and carried unanimously to adopt the Consent Calendar, with the removal of Item b, as follows:

- a. **MINUTES** Dated: September 20, 2004
Approved minutes dated September 20, 2004.

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

- b. **RESOLUTION 04-993** Authorization for the Executive Director to Execute a Subordination Agreement Relative to the Securing of Bond Financing for the Marina Heights Apartments

On July 6, 2004, the Agency Board passed Resolution 04-973 authorizing a loan in the amount of \$1,400,000 to Steadfast Companies to aid in the acquisition and rehabilitation of the Marina Heights Apartments. In consideration for the Agency Loan, the developer has agreed to record a deed of trust and a regulatory agreement restricting the use and occupancy of the development to low income households against the development. Further, the developer has requested that Contra Costa County issue multifamily housing revenue bonds in an aggregate principal amount not to exceed \$14,700,000 to provide financing for the acquisition and rehabilitation of the development. To facilitate the bond issue, the Agency Loan and Agency Regulatory Agreement will be subordinated to the deed of trust securing the bond financing.

BEN JOHNSON, Pittsburg, questioned the cost factors to provide financing for the acquisition of the project and suggested that acquisition of the project should have been separated out from the project financing in the draft resolution. He also questioned how the Agency would secure the revenue to pay off the bonds.

Director of the Redevelopment Agency Garrett Evans stated that the actual cost of the project by the Steadfast Companies, which was purchasing the Marina Heights apartment complex was \$25.4 million. Of that, \$14.7 million would involve the issuance of multifamily revenue bonds through the State. An additional \$7.5 million would be provided by Steadfast Companies through equity. The Agency would supply \$1.4 million in a loan for the rehabilitation of the units. While the Redevelopment Agency had authorized the funds in July 2004, a specific procedure was required to allow the process to proceed which was covered in the proforma that would pay off the bonds. The City was not issuing the bonds. The apartments would remain as very low, low and moderate income housing.

Mr. Evans clarified that the County median income was \$82,200 and a family of four could make \$90,420 to qualify for a moderate income affordable unit. For a low income family that total would be \$49,320 and for a very low income family it would be \$41,100. He stated that the apartment complex also included a broad spectrum of seniors and families. The City of Pittsburg's median income was \$50,000. The income levels being set would be for teachers and others working in the community.

On motion by Member Beals, seconded by Member Glynn and carried unanimously to adopt Resolution 04-993.

ADJOURNMENT

The meeting of the Redevelopment Agency adjourned at 8:01 P.M. to the next meeting set for October 18, 2004.

Respectfully submitted,

Lillian J. Pride, Secretary

als

CITY OF PITTSBURG
Pittsburg Power Company Minutes
October 4, 2004

Vice Chair Nancy Parent called the meeting of the Pittsburg Power Company to order at 8:02 P.M. in the City Council Chambers at City Hall, 65 Civic Avenue, Pittsburg, California after having convened at 5:00 P.M. for Youth Commission Interviews, at 5:15 P.M. for Study Session – Vista Del Mar Environmental Impact Report (EIR), and at 6:15 P.M. for Closed Session pursuant to Section 54956.8 of the Government Code regarding Conference with Real Property Negotiator regarding APN 085-182-007 (337 E. 10th Street), APN 085-182-008 (325-333 E. 10th Street) and APN 085-195-006 (916 Cumberland Street); Conference with Legal Counsel - Existing Litigation pursuant to Section 54956.9 regarding 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, and 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; and Conference with Legal Counsel – Anticipated Litigation regarding one case

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

MEMBERS PRESENT: Beals, Glynn, Kee, Parent

MEMBERS ABSENT: Rios [Excused]

STAFF PRESENT: Executive Director, Marc Grisham
Legal Counsel, Ruthann Ziegler
City Clerk, Lillian Pride
Deputy City Clerk, Alice Evenson
Director of the Redevelopment Agency, Garrett Evans
Director of Development Projects, Randy Jerome
Director of Economic Development, Brad Nail
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 Glynn, seconded by Member Kee, and carried unanimously to adopt the Consent Calendar, as follows:

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

Approved minutes dated September 20, 2004.

ADJOURNMENT

The meeting of the Pittsburg Power Company adjourned at 8:03 P.M.

Respectfully submitted,

Lillian J. Pride, Secretary

als

CITY OF PITTSBURG
City Council Minutes
October 4, 2004

Vice Mayor Nancy Parent called the meeting of the City Council to order at 8:04 P.M. in the City Council Chambers at City Hall, 65 Civic Avenue, Pittsburg, California after having convened at 5:00 P.M. for Youth Commission Interviews, at 5:15 P.M. for Study Session – Vista Del Mar Environmental Impact Report (EIR), and at 6:15 P.M. for Closed Session pursuant to Section 54956.8 of the Government Code regarding Conference with Real Property Negotiator regarding APN 085-182-007 (337 E. 10th Street), APN 085-182-008 (325-333 E. 10th Street) and APN 085-195-006 (916 Cumberland Street); Conference with Legal Counsel - Existing Litigation pursuant to Section 54956.9 regarding 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, and 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; and Conference with Legal Counsel – Anticipated Litigation regarding one case

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

MEMBERS PRESENT: Beals, Glynn, Kee, Parent

MEMBERS ABSENT: Rios [Excused]

STAFF PRESENT: City Manager, Marc Grisham
City Attorney, Ruthann Ziegler
City Clerk, Lillian Pride
Deputy City Clerk, Alice Evenson
Director of the Redevelopment Agency, Garrett Evans
Director of Development Projects, Randy Jerome
Director of Economic Development, Brad Nail
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

Vice Mayor Parent considered the following general City Council items at 7:09 P.M. prior to pursuing the Redevelopment Agency agenda.

PLEDGE OF ALLEGIANCE

Bette Boatmun led the Pledge of Allegiance.

PROCLAMATION

1. STAND! Against Domestic Violence

Vice Mayor Parent proclaimed the month of October 2004 as Domestic Violence Awareness Month and presented the Proclamation to STAND! Against Domestic Violence.

JULIE MASON, East County Regional Director with STAND! Against Domestic Violence stated that the organization served a number of clients in Pittsburg, and fielded over 460 calls from 94 clients including 122 children. She explained that Pittsburg participants entered through the crises line and through the Pittsburg Family Alliance. She described the programs offered to clients and stated that many were from the City of Pittsburg. On behalf of STAND! she thanked the City Council for its support and invited Councilmembers to join its Rebuilding Lives Luncheon which showcased the importance of addressing the domestic violence in every day life.

2. Betty and Douglas Conner

Councilmember Beals read the proclamation in honor of Betty and Douglas Conner, who are relatives of hers, in honor of their service to the Pittsburg community. For the last six years the Conners have made a tradition of providing free weekly back to school lunches for as many as 115 neighborhood children using their own funds.

Councilmember Beals reported that Betty and Douglas Conner were also the recipients of the Humanitarian Award for the Martin Luther King, Jr. Holiday of 2004.

Since Betty and Douglas Conner were not available, Councilmember Beals accepted the proclamation on their behalf.

PRESENTATION

1. Overview of Contra Costa Water District (CCWD) Water Quality Improvement Projects – Bette Boatmun

Betty Boatmun, Division 4 Director and Pittsburg's representative on the Contra Costa Water District (CCWD) Board of Directors, highlighted the CCWD's Water Quality Improvement Projects. Of particular interest to Pittsburg was the educational program offered by the CCWD in the form of the science resource boat and for which at least half of all Pittsburg Fifth Graders would be able to experience.

Ms. Boatmun advised that on October 14 the CCWD would offer a tour of Los Vaqueros and other East County facilities. She also took this opportunity to commend the City for its arrangement with Delta Diablo, the City of Antioch and the CCWD in the use of recycled water for its golf course.

Ms. Boatmun highlighted the CCWD organization and its system, reported that the

CCWD was currently serving approximately 450,000 residents within the District. She stated that \$800 million had been spent in the last year maintaining facilities at Los Vaqueros, Contra Loma Lagoon, the Contra Costa Canal, two treatment plants and the multi-purpose pipeline. She provided a description of each facility, and explained that Los Vaqueros reservoir had dramatically improved water quality for CCWD customers. Los Vaqueros currently provided a three to six month supply of water for emergency and water storage purposes. She noted that recreation at the reservoir had been increasing daily.

Ms. Boatmun summarized the many threats to the Delta from population growth, competition for water during drought years and planned Central Valley development, less freshwater inflow into the Delta and more urban runoff. She explained that wastewater flowing to the Delta had created more stringent regulations and the need for new and costly treatment, along with restrictions on water diversion. She noted that the CCWD was seeking CalFed funding to improve water quality.

Ms. Boatmun commented that an expansion of the Los Vaqueros Reservoir would expand the facility from 100,000 acre feet up to 500,000 acre feet, improve drought supplies and drinking water quality for CCWD and Bay Area water, enhance the Delta environment and help the CCWD continue cross containment and rate controls. In March 2004 Contra Costa County voters had approved the expansion with the CCWD to examine ways to improve drought supplies, drinking water quality and protect the Delta environment. She stated that the CCWD would continue to operate the facility, no water would be exported to Southern California or a Peripheral Canal and CCWD water rates would not increase as a result of the expansion.

COUNCILMEMBER REMARKS

Councilmember Kee reported that he had attended a Habitat Conservation meeting. A draft report on the Habitat Conservation Plan would be presented for review by the public in the next few months. He had also attended two ribbon cuttings for Winter Honda/Winter Chevrolet and for the Empire Business Park.

Vice Mayor Parent stated that in addition to the ribbon cuttings, the Senior Center, Recreation Department staff and the Fifty Plus Club had sponsored a dinner honoring the volunteers who helped keep the Senior Center operational. She noted that the Senior Center had a staff of two and there were a tremendous number of people using the center. Sixty plus people had attended the volunteer dinner. She emphasized the volunteer opportunities all over the community and thanked the Fifty Plus Club for sponsoring the dinner.

Vice Mayor Parent also reported that the Creative Arts Building had presented an Adopt a Seat Concert on October 3 when a number of local groups and local personalities had participated. The event was to raise funds so that all of the seats in both theaters could be refurbished at a cost of \$300,000, which funds were being provided by community groups.

Vice Mayor Parent emphasized that the Creative Arts Building was larger in size

than all but the Berkeley Community Theater on the UC Berkeley campus. Since the Creative Arts Building had been built in 1958 and needed work, additional fundraising performances would be scheduled in the future. She highlighted the programs scheduled at the Creative Arts Building in the coming weeks.

Vice Mayor Parent also urged all residents to register to vote and to vote in the November election.

CITY MANAGER REPORTS/REMARKS

City Manager Marc Grisham referred to a recent TV news story based on the fact that two Pittsburg Police Officers, after investigation, had been recommended for termination. He noted that the District Attorney had reviewed those charges. Part of the TV commentary of that situation included some strong remarks by the Public Defender related to the Pittsburg Police Department and a possible investigation of the entire Department.

While serving as the City Manager for only four months, Mr. Grisham stated that he had found those he had worked with in the Police Department during that time to be outstanding individuals who cared and were committed to the community. Given the high visibility comments by the Public Defender, he recommended to the Council that the Police Department be reviewed in concert with the Public Defender. He expected that the Pittsburg Police Department would be found to operate appropriately.

CITIZENS REMARKS

WILLIE MIMS, Pittsburg, representing the Black Political Association (BPA), expressed his disappointment that the City Council had approved the use of prime lands in the downtown area for an Elks Lodge.

RALPH HERNANDEZ, Antioch, Chair of Citizens for Democracy and representing the Alliance of California Taxpayers based in Sacramento, urged the Council not to support Measure J [the Measure C renewal authorization] in that it would not do what it was reported to do which was to help solve traffic problems. He suggested that the weaknesses in Measure J included the Growth Management Plan, the Urban Limit Line, too many projects and not enough money, and accountability weaknesses. He stated that he would work with the City Council, the Contra Costa Transportation Authority (CCTA) or others to shore up the weaknesses to create a good measure. He sought real solutions to real problems.

NORMA HERNANDEZ, Antioch, also spoke with respect to Measure J and noted that the arguments against Measure J which she and Mr. Hernandez had prepared would not be made available to the electorate due to a coin toss. She expressed the importance of offering all sides of the Measure J issue. She emphasized that new development (growth) was to have paid its own way in infrastructure and service costs.

Ms. Hernandez suggested that the lack of development paying its own way in

infrastructure and services was a result of non enforcement of the Growth Management Program. She commented that if Measure C were implemented, as written, there would not be the transportation, police, water, sanitation, school, library and other problems. Given that Measure C would not expire for another five years, she urged that Measure J be reconsidered to create a better plan.

BEN JOHNSON, Pittsburg, referred to the study session regarding the Vista Del Mar EIR and inquired what had been discussed during that study session. He also asked what had occurred with the Youth Commission interviews.

Vice Mayor Parent advised that the study session offered an opportunity for the City Council to be apprised of the EIR and to ask questions, which was what had occurred. During that study session the Council had asked questions of the contractor of the EIR, the subcontractor, those proposing the development and other developers. Council questions had been answered, members of the public had been allowed to make any comments he/she wished and the study session had been adjourned.

City Attorney Ruthann Ziegler clarified that the purpose of the study session was to allow the City Council to ask questions and have give and take. The item would be submitted to the Planning Commission at its next meeting for review and the EIR would be submitted to the City Council after that time for review and possible certification.

With respect to the Youth Commission interviews, Vice Mayor Parent reported that the Council had interviewed the applicant who had appeared for that interview. An appointment would be made at the next Council meeting.

The City Council reconvened at 8:04 P.M.

PUBLIC HEARING

1. **RESOLUTION 04-10150** Local Law Enforcement Block Grant Proposal

City Manager Marc Grisham stated that the Pittsburg Police Department was seeking City Council approval of the application to the Bureau of Justice Assistance for funding under the Local Law Enforcement Block Grant Program and authorization for the City Manager, or his designee, to act on behalf of the City in this application. He corrected the staff report dated October 4, 2004 that had shown a 10 percent cash match of \$2,149,18, which should have been shown as \$2,170.89.

Mr. Grisham reported that the Advisory Board [consisting of the presiding judge over Delta Court, the District Attorney, a member of the Pittsburg Unified School District (PUSD) Board of Directors, the Director of the Boys and Girls Club and the Pittsburg Police Chief] recommend the City Council's approval of the application to the Bureau of Justice Assistance for funding under the Local Law Enforcement Block Grant.

Vice Mayor Parent opened the public hearing for Resolution 04-10150. There was

no one to speak to the resolution. The public hearing was closed.

On Member Beals' inquiry, Police Chief Aaron Baker explained that the \$29,000 grant would be used primarily for mobile data computer equipment.

On motion by Councilmember Glynn, seconded by Councilmember Kee and carried unanimously to adopt Resolution 04-10150.

2. **RESOLUTION 04-10152** Supplemental Law Enforcement Services Fund (SLESF)

Mr. Grisham stated that the Pittsburg Police Department was seeking City Council authorization to accept and appropriate funds from the Supplemental Law Enforcement Services Fund 2002-2005 (SLESF).

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

Councilmember Beals clarified that the funds would not be used to purchase animals; i.e. dogs or horses.

Vice Mayor Parent opened the public hearing for Resolution 04-10152. There was no one to speak to the item. The public hearing was closed.

On motion by Councilmember Glynn, seconded by Councilmember Beals and carried unanimously to adopt Resolution 04-10152.

3. **RESOLUTION 04-10164** Amendment to General Plan/General Plan Clean-up

Mr. Grisham presented the staff report and noted that on September 14, 2004, the Planning Commission adopted Resolution No. 9516 recommending that the City Council amend Chapters One through Twelve of the General Plan to incorporate various revisions and other needed mapping, formatting and technical changes and corrections to the document. The revisions recommended by the Planning Commission had been incorporated into a new Hearing Draft General Plan, dated September 2004.

Planning Director Melissa Ayres noted that Assistant Planner Dana Hoggatt had worked hard to incorporate all the changes to the document that the City Council had authorized since November 2001 and for which the Planning Commission had conducted multiple meetings to consider during that time.

There was no fiscal impact associated with the General Plan amendment/clean-up. Mr. Grisham recommended that the City Council adopt the Negative Declaration and adopt the draft resolution approving the revisions to Chapters One through Twelve of the General Plan, as identified in the September 2004 Hearing Draft General Plan.

Vice Mayor Parent opened the public hearing for Resolution 04-10164.

BRUCE OHLSON, Pittsburg, the City's bicycle advocate identified an error on Attachment 3 in the agenda packet, Page 4 of 4, related to two areas that had not been designated for bike routes; bike lanes on West Tenth Street east of Herb White Way and the designation of Willow Pass Road west of Enterprise Circle as a bike route. He added, however, that the draft hearing plan of the General Plan was correct in that Willow Pass Road between Range Road and Herb White Way had been designated as a Class III bicycle facility.

Ms. Ayres stated that the General Plan document submitted to the Council was the document to be adopted. The exhibit summarized some of the changes that had been made to the original plan. The exhibit was not being adopted.

WILLIE MIMS, Pittsburg, representing the BPA, asked where the public notices were posted at City Hall. When advised by Ms. Ayres that all public notices were posted in the newspaper, the Public Library and the Police Department lobby since State law required posting in an area accessible to the public 24 hours a day, he requested that notices also be posted in the lobby at City Hall.

Mr. Grisham stated that staff was looking at other ways to create a permanent posting board outside City Hall to give access to notices without having to go through the Police Department lobby.

Mr. Mims also noted that staff had worked hard on the item and had to accommodate different City Councils and different Planning Commissions with different agendas. He stated therefore that if acceptable to the Council as is, he would support the adoption of the resolution.

Vice Mayor Parent closed the public hearing on Resolution 04-10164.

Councilmember Kee referred to a Hillside Development Policy on Page 4-11, Policy 4-P11, which indicated that it would limit grading of hillside areas over 30 percent slope to elevations less than 900 feet. It was his understanding that the elevation to protect the hillsides had been identified as 500 feet.

Ms. Ayres referred to the bottom of Page 4-10 and the statement to be added at the direction of the Council where "All hillside development policies in the General Plan apply to land above the 500 foot elevation only" which she noted was the trigger point when that policy would apply. She otherwise explained that Policy 4-P11 related to the elevation above which grading could not occur.

On motion by Councilmember Kee, seconded by Councilmember Glynn and carried unanimously to adopt Resolution 04-10164.

4. **ORDINANCE 04-1226** Introduction of an Ordinance to Rezone Approximately

Five (5) Acres from GQ District to RS District (Highlands Ranch Rezoning AP-04-103)

Mr. Grisham presented the continued public hearing on an introduction of an ordinance to rezone approximately five acres from GQ (Governmental/Quasipublic) District to RS (Single-Family Residential) District; APN 089-050-069 and explained that it specifically pertained to the 5 acres of the site that had previously been designated for a school which would no longer take place. He stated that would in no way impact the 10 acre park that the City Council had already approved and for which Engineering staff was moving forward to produce. He expressed his hope that the 10 acre park could be completed soon, potentially through the use of Redevelopment Agency funds.

There was no fiscal impact to the City as a result of the project. Mr. Grisham recommended that the City Council introduce, waive further reading and pass to second reading the ordinance to rezone approximately five acres of the Highlands Ranch Residential Subdivision from GQ (Governmental/Quasipublic) District to RS (Single-Family Residential) District.

Vice Mayor Parent opened the public hearing for Ordinance 04-1226.

RICHARD SESTERO, representing West Coast Home Builders, Inc., the developer of Highlands Ranch, clarified that the park site was not affected by the proposed action. He anticipated the same size of lots as those in the surrounding project, which was also consistent with the tentative map for Highlands Ranch if the school site was not to be developed as a school.

WILLIE MIMS, Pittsburg, noted that if having an additional 21 homes on the property, he questioned whether or not more runoff would be created as a result.

In response, Mr. Grisham reported that the project had taken into consideration the design of a school, which would have created more runoff than the residential buildings that could now be developed on the property if the application was approved.

BRUCE OHLSON, representing the East Bay Bicycle Coalition, and a member of the Pittsburg Planning Commission, suggested that in exchange for changing the zoning to allow the developer to build more houses the City might ask the developer to build the adjacent park.

Mr. Grisham stated that at this point the developer would have to be asked to donate funds to build the park since there was already an agreement in place that there would be either housing or a school and there was a parkland dedication formula in place to collect fees. He otherwise agreed that it would be a nice gesture if West Coast Home Builders, Inc. were asked to build the park.

Vice Mayor Parent closed the public hearing on Ordinance 04-1226.

Councilmember Beals asked of staff whether or not there had been any progress

with the developer in regard to the construction of the 21 homes, the in-lieu fees for the park and other efforts to generate funds to be able to build the park.

In response, City Engineer Joe Sbranti reported that staff had conversations with the developer on that matter and the developer's position had been represented in the staff report dated October 4, 2004. The developer had agreed to pay the in-lieu fees related to the 21 homes. No other concessions had been made.

Mr. Grisham stated that in reviewing the proposal the City had no leverage beyond what was allowed in the payment of the park fees.

Vice Mayor Parent stated that the developer had been asked to contribute to the park and the developer had declined to do so.

In response to Councilmember Kee as to whether or not the additional homes would require Planning Commission approval, Ms. Ayres stated that the applicant had design review approval for the homes within Highlands Ranch as long as the approved models were used. She stated that the Planning Commission had delegated to staff administrative design review of new models in a subdivision in order to expedite those reviews.

Councilmember Kee questioned whether or not the approval could be conditioned so that the 21 new homes were not built until the remaining developer or the park had been completed.

In response, City Attorney Ziegler verified that the City could not impose conditions now that had not been approved as part of the original mapping process.

Vice Mayor Parent questioned whether or not the Council could direct in any situation that anything other than the pre-existing models would have to be reviewed by the City Council as opposed to an administrative review.

Ms. Ayres stated that a rezoning request could not be conditioned although staff could be alerted that the Council could call a staff decision.

On motion by Councilmember Glynn, seconded by Councilmember Kee and carried unanimously to introduce Ordinance 04-1226 by title only and waive further reading.

5. **MINUTE ORDER** Consideration and Acceptance of the Annual Progress Report on the Implementation of the General Plan Goals and Policies

Pursuant to State Government Code Section 65400(b), a "progress" report on the implementation of the General Plan must be submitted to the City Council, State Office of Planning and Research and State Department of Housing and Community Development on the City's progress in implementing its General Plan in October of each year.

Vice Mayor Parent opened the public hearing.

There were no comments.

Vice Mayor Parent closed the public hearing.

On motion by Councilmember Beals, seconded by Councilmember Glynn and carried unanimously to accept the Annual Progress Report on the Implementation of the General Plan Goals and Policies.

6. **RESOLUTION 04-10165** Approval of a Quit Claim Deed by the City of Pittsburg in Favor of the Redevelopment Agency of the City of Pittsburg

Mr. Grisham reported that the Redevelopment Agency of the City of Pittsburg submitted Minor Subdivision Application No. AP-04-151 which had been approved by the City of Pittsburg Planning Commission at a public hearing held on September 28, 2004. Sixteen of the 17 parcels to be subdivided were owned by the Agency. A single parcel was owned by the City (APN 085-102-023). In order for the Final Map to be approved and recorded, there must be a single owner of record for all 17 parcels. He noted that one parcel was the public parking lot, one parcel was the police training center and the third parcel was the previously approved Elks Lodge facility.

There would be no charge to the Agency for the City owned parcel because once the Final Map was recorded the Agency would transfer two newly created parcels to the City, at no charge. The two new parcels were greater in area than the City owned parcel and therefore of much greater value. Ultimately there would be a positive fiscal impact in favor of the City by obtaining new land assets.

Mr. Grisham recommended that the City Council approve the Grant Deed and authorize and direct the City Manager to execute the Grant Deed on behalf of the City. It was further recommended that the City Manager be authorized to execute such further documents and take such further actions as may be necessary or appropriate to carry out the City's obligation pursuant to the Grant Deed.

Vice Mayor Parent opened the public hearing for Resolution 04-10165. There were no public comments. The public hearing was closed.

On motion by Councilmember Glynn, seconded by Councilmember Beals and carried unanimously to adopt Resolution 04-10165.

CONSIDERATION

1. **RESOLUTION 04-10153** Approving Amendment No. 2 of the City of Pittsburg's 2000 Water System Master Plan

Mr. Grisham stated that Carollo Engineers had prepared a second amendment to

the City's Water System Master Plan in response to changes in the proposed land uses in the southwest annexation.

With respect to financing, Mr. Grisham stated that it would be appropriate for staff to recommend in the very near future that \$15 million worth of bond financing be put toward Water Master Plan Improvements to ensure that the improvements were placed in a timely manner, particularly related to capacity issues and transmission facilities and the concern as to whether or not capacity would be available for other properties in the San Marco area.

He stated that West Coast Home Builders, Inc. had expressed a concern for the availability of capacity in the San Marco area. He noted that staff would recommend as part of the development agreement on the Vista Del Mar project that the developer would bond for water improvements.

Mr. Sbranti stated that Amendment No. 2 had originally been submitted to the City Council in September after which the Council had requested a continuance and a brief presentation. He stated that Tony Akel, the author of the original and amended Water System Master Plan, specifically Amendment No. 2, would make that presentation.

TONY AKEL, Carollo Engineers, presented a PowerPoint presentation to describe the major facilities making up the City's water system and to explain how that system worked, and to identify the pressure zones, particularly in the southwest area west of Bailey Road. He stated that Amendment No. 1 related to changes in land use and in the number and placement of homes. Amendment No. 2 related to similar changes in the southwest area when the costs of the improvements had also been updated. He stated that a cost allocation model in Amendment No. 2 related to the fair share of the allocation of costs for the storage, the pipelines and the pumps and an identification of who would pay for those costs.

Mr. Akel explained that the existing Water Master Plan determined whether or not the pressures were adequate for the existing system, whether the system was reliable, whether the system could fight fires, what facilities would be needed to fix the system, what level of service was to be provided, and the level of improvements and what those improvements would cost. Those questions would also be posed to future developments to ensure the provision of reliable water service.

With respect to the letters from Seeno Construction, Mr. Akel summarized the letters dated September 20 and September 23, 2004, through the law offices of William Ross and with a reference to Stephen Reich of Stetson Engineers. He commented that there was no reference to Tad Talbert of Gregan and Angelo which had previously represented Seeno Construction and which Carollo Engineers had worked with until two weeks prior to the September 20, 2004 Council meeting. He had worked with Mr. Talbert over an extended period of time to resolve all of the issues that had previously surfaced through that extended period of review.

Mr. Akel specifically addressed the issues that had been identified as a concern;

hydraulic model not used in Amendment No. 2, an erroneous number representing peak hour demand and a 24 inch pipeline in the hydraulic model computer program as opposed to a 20 inch line reflected in the Amendment.

Mr. Akel clarified that the model that had been developed in 2004 and reflected a skeleton of the system and had been developed to allow an evaluation of the existing system. For Amendment No. 2 he stated that model was not applicable given that several stakeholders were involved and a custom application had been required to address the specific concerns of those stakeholders. He referenced the tables in the Amendment that identified the specifics related to Amendment No. 2 to determine how to allocate the cost of development.

Mr. Akel explained that Table 5 had been mentioned in Seeno's September 23, 2004 letter. He acknowledged that the number at the bottom of that table was a typo in that a peak hour demand of 13.4 million gallons a day (mgd) had been shown as opposed to the correct reference to 16.3 mgd. That number had now been corrected. He added with respect to the reference to a 24 inch pipe in the computer model as opposed to a 20 inch pipe shown in the Amendment, that the pipe diameter had been changed two weeks prior to the submittal of Amendment No. 2 to the Council, which situation had been negotiated with the engineer representing Seeno Construction at that time.

Mr. Akel further explained that Amendment No. 1 had been initiated based on a request from Seeno Construction and he stated that Albert Seeno himself had supported the City's Water System Master Plan and Amendment No. 1. Mr. Seeno's representative had also supported the Master Plan and Amendment No. 1 at that time.

Mr. Akel emphasized that Amendment No. 2 included necessary updates to proposed developments in the southwest annexation and special effort by staff to include stakeholders and their engineers in the review process. The Amendment contained custom applications that provided a "road map" for financing the proposed developments.

Vice Mayor Parent verified with Mr. Akel that he had met with two stakeholders who were interested in the findings of Amendment No. 2; the representatives of the Alves project and representatives of the Seeno company. She also verified with Mr. Sbranti that the representatives of Bailey Estates, which was the third remaining large development in the southwest hills, had also received the document.

Councilmember Glynn verified that Seeno Construction and the Alves Ranch property had responded although Bailey Estates had not.

WILLIAM ROSS, Palo Alto, representing Seecon Financial and Construction Company and West Coast Home Builders, Inc., referred to the communications earlier referenced and noted that he had expressed a willingness to work with staff and any other agency to clarify the situation.

Mr. Ross reiterated the information included in his communications, commented that

he was willing to work with staff or any City representative on the issues of clarification, and stated that they were moving forward with the component of the Capital Improvement Plan (CIP) involving \$63 million in improvements in both public and private financing. He looked forward to the additional information about applicable bond financing.

With respect to the phasing of the document, Mr. Ross sought clarification on accuracy and stated that the critical reason for the amendment was to respond to land use changes in the land use of the southwest area. He noted that Table 5 had identified the total number of units proposed for the amendment and related to phasing. Referring to the last two columns utilizing the City's own assumptions, he referred to the subtotal future developments and the total existing plan plus future plans. He commented that what had been planned for development had not been coordinated with what had been planned for infrastructure, particularly related to Segments 1 and 2 of the six segments that had been identified.

Mr. Ross suggested that the proposed developments would not be adequately served and that potentially 1,300 units might not be adequately served. He suggested that related to capacity agreements that he had referenced and which he stated should be part of the plan. He sought an integration of the issues set forth in the text in that there was insufficient infrastructure for what had been planned which was the very purpose for Amendment No. 2.

DOUG FLETT, Lafayette, a representative of the engineer for the Vista Del Mar project, stated that he had been working with City staff and its consultants for the last year and a half to two years when there had been 10 to 15 meetings. While there had been no initial agreement, through those meetings and in working with the technical details he complimented the City Engineer, City staff and the City's consultant for developing a system that was technically adequate to serve the entire area. He stated that the proposal was not weighted to serve any one particular project. It was designed to serve the southwest area. He added that the demand was set by the basic standards used to serve the entire City of Pittsburg and not just the southwest area.

Mr. Flett emphasized that those involved had worked through the process diligently, and through discussions and resolutions of issues. He supported the plan as submitted as being an adequate measure of the facilities required to serve the southwest area. He added that Amendment No. 2 had identified the demands and allocated the costs and responsibilities to the correct projects, which had been done in a reasonable manner that was scientifically and numerically correct.

Mr. Flett thanked the engineering staff for their cooperation and supported what he characterized as an exemplary document.

STEPHEN REICH, Stetson Engineers, Mill Valley, representing West Coast Home Builders, Inc. commented that Mr. Talbert was on vacation for the month. As a result, he had then become involved in the project.

Mr. Reich added that he had worked for West Coast Home Builders, Inc. for over ten

years. He noted the references to changes that had occurred since 2000 and the technical issues that needed to be resolved to ensure that water would be available for future development.

Referring to inconsistencies within the document, Mr. Reich stated that the document should be updated to identify and resolve those inconsistencies and to meet the City's criteria. He presented the Council with a letter dated October 1, 2004 which he had prepared for Mr. Ross.

SCOTT HANKS, San Ramon, yielded his time to Mr. Flett, who described his background, stated that he had spent 10 years with the CCWD prior to going into consulting and for the last 20 to 25 years had consulted with other engineers on water system problems.

Mr. Flett did not believe it was a problem to proceed with Amendment No. 2 without updating the 2000 hydraulic model, which was not required to determine the size of the pump stations or the size of the reservoirs. He stated that the hydraulic model would be required to determine pipeline sizes and pressures throughout the system. He accepted the basic Master Plan design criteria that had been adopted in 2000 for the demand gallons per day per person and accepted the hydraulic model that Carollo Engineers had used for the project.

Mr. Sbranti pointed out that the difference between Amendment No. 1 and Amendment No. 2 related to a few small changes on the plan, from 6 million gallons of storage in the southwest hills to 5.75 million gallons, with one additional pump station, and with a change in the size of a pipe from 24 inches to 20 inches. The only other difference was that a cost had been allocated for staff's use as a tool.

Mr. Akel stated in response to some of the technical issues, that the model for the most part had been used to size the facilities back then. Given the fact that the model worked, he stated that the facilities had been scaled down somewhat, such as in the pipeline from 24 inches to 20 inches. He stated therefore that the model was unnecessary. The focus was on capacity allocation. He emphasized the discussions with the stakeholders to reach a compromise, stated that the numbers had been received and approved by Seeno Construction's engineer who had been very much involved in the process and added that the Master Plan had been built and designed for a worst case scenario where compromises had been considered to create a balance.

Mr. Sbranti added that the system could serve all of the homes even though velocity would change and pressures would vary.

Councilmember Glynn questioned whether or not a sufficient number of tanks had been proposed to provide adequate capacity for the area considering the BART Specific Plan. He also questioned why the tank size and pipe size had been reduced further raising a question of capacity issues.

Councilmember Glynn further questioned the prescribed capacity and asked whether

or not the elevation of the tank was tall enough to provide capacity.

Mr. Sbranti stated with respect to storage capacity and the comments related to a reduction of a quarter million gallons, that no tanks were of that size. Amendment No. 1 reflected a 1.7 million gallon tank at one location that had been reduced to a 1.5 million gallon tank to be more efficient. He stated that there was a safety factor or contingency built into the system. As far as the size of the lines, he noted that the developer had questioned oversizing the transmission lines which was why a 24 inch line had been reduced to a 20 inch line. He stated that staff and the consultant were comfortable that there would be sufficient capacity. All of the homes proposed in the southwest area had been included. With that in mind the facilities had been sized accordingly. Since developers could change in the future, the Water System Master Plan might have to be adjusted accordingly. At this time, the facilities that had been proposed were what was needed to handle build out.

With respect to phasing, pipe size and whether or not the proposal could accommodate the potential build out of the southwest area in response to Councilmember Glynn, Mr. Sbranti stated that all buildable land in the City had been included.

In response to Councilmember Kee, Mr. Sbranti added that there had been some redundancy built into the system and there would be adequate capacity to serve what had been planned for the Alves, Bailey Estates, and San Marco projects and the units proposed around the Pittsburg/Bay Point BART Station.

Councilmember Glynn questioned the capacity to produce potable water on the existing treatment facility and its projected needs into the future assuming total build out.

Public Works Director John Fuller stated that the plan had the required capacity and included multiple components. While certain elements would have to be expanded in the not too distant future, he stated that of half a dozen major components of the plan, five of the components could serve the City well into the future.

On motion by Councilmember Beals, seconded by Councilmember Glynn and carried unanimously to adopt Resolution 04-10153.

2. **MINUTE ORDER** Endorsement of Proposition 64 – the Ballot Initiative to Stop Private Lawyer Abuse of California’s Unfair Competition Law

Mr. Grisham stated that the Mayor had received a request from Californians to Stop Shakedown Lawsuits asking for endorsement of Proposition 64. The item had been continued from the September 20, 2004 meeting as the City Council had requested a copy of the ballot language for that proposition.

Vice Mayor Parent stated that the item in question was an embarrassment to her profession which was due to the unscrupulous behavior of some greedy attorneys.

Although those involved had been disciplined, she stated that would not mean that others who were allowed to practice in the State could not do the same.

There was no fiscal impact associated with the request.

On motion by Vice Mayor Parent, seconded by Councilmember Beals and carried unanimously to endorse Proposition 64, the Ballot Initiative to Stop Private Lawyer Abuse of California's Unfair Competition Law.

3. **MINUTE ORDER** Endorsement of Proposition 71 – the California Stem Cell Research and Cures Initiative

Mr. Grisham explained that the Mayor had received a request from Steve Westly, California State Controller, asking for endorsement of Proposition 71. The item had been continued from the September 20, 2004 meeting as the City Council had requested a copy of the ballot language.

There was no fiscal impact associated with the request.

On motion by Councilmember Kee, seconded by Councilmember Glynn and carried unanimously to endorse Proposition 71, the California Stem Cell Research and Cures Initiative.

4. **MINUTE ORDER** Opposing Proposition 68, Gaming Revenue Act of 2004

Mr. Grisham reported that the Mayor had received a request from Californians Against the Deceptive Gambling Proposition, asking for opposition of Proposition 68.

There was no fiscal impact associated with the request.

Vice Mayor Parent expressed her opposition to any State financed gambling initiative.

On motion by Councilmember Kee, seconded by Councilmember Glynn and carried unanimously to oppose Proposition 68, Gaming Revenue Act of 2004.

5. **RESOLUTION 04-10166** Approve Public Works Department Street Retrofit Program and Authorization to Investigate Purchase of PG&E Streetlight System

Mr. Grisham stated that in response to resident complaints of inadequate street lighting, the Public Works Department had developed a proposal for a long-term systemic approach to address street lighting concerns. The program would increase operational costs and operational savings.

To offset these costs and potentially reduce operational costs, the Department proposed purchasing a majority of the City's streetlight system from PG&E. The

Neighborhood Improvement Team had recommended utilizing \$25,000 of previously allocated Neighborhood Preservation Funds for streetlight upgrades in target areas.

If the entire \$25,000 was expended on new streetlight installations (approximately 50 lights), the Public Works annual operating cost for streetlight utilities would increase approximately \$5,200, or one percent. If the City chose to proceed with a program to purchase the PG&E-owned portion of the streetlight system, a one time capital investment of \$800,000 would be required. Public Works staff would return to the Council for consideration of authorization and funding allocation in approximately 90 days.

Mr. Grisham recommended proceeding with Phase 1 and 2 of the Public Works Department proposed streetlight upgrade program.

Mr. Fuller clarified that any proposal to consider the purchase of a streetlight system would require a detailed inventory of all the streetlights in the City as the City of Concord was currently doing. A fair price would then have to be negotiated with PG&E after which negotiations with the Public Utilities Commission (PUC) would be required. He stated that a consortium to buy the lights in the entire County might be in place and where the City could participate.

As to how that would impact the City's Lighting and Landscaping District, Mr. Fuller stated that the ultimate long term issue of buying out PG&E was that the City would have to finance the capital cost of buying out PG&E at an approximate cost of \$750,000. He added that the City could conservatively save \$75,000 to \$100,000 annually by maintaining the streetlights that were currently being maintained by PG&E. Within 7 to 10 years the capital investment could be recouped and the City would then save significant funds.

On motion by Councilmember Beals, seconded by Councilmember Glynn and carried unanimously to adopt Resolution 04-10166.

6. **REPORT** Consultants Report on User Fee Study

Finance Director Marie Simons stated that at the November 17, 2003 meeting, the City Council awarded a contract to Public Resource Management (PRM) Group to prepare a Comprehensive Cost Allocation Plan and a User Fee Study. The purpose of the cost allocation plan was to determine the indirect administrative costs of the City. The user fee study was to evaluate whether the City was recovering the costs of the services being provided. Overall, the objective was to make sure that user services were not unintentionally subsidized by tax dollars that should be spent for the general public, rather than individuals who received the direct benefit of specific services.

The cost of the study had been approved at \$39,000. There were no additional costs for the City Council to receive the report and to provide direction to staff.

No specific action was recommended beyond the presentation of the report.

BRAD WILKES and MIKE ADAMS of Public Resource Management Group presented the Cost Allocation and General Fund User Fee Study dated October 4, 2004.

Mr. Wilkes explained that the objective of the study was to catalog user fee related City services, calculate direct cost of services and calculate the indirect cost of services. He stated that the process of a cost allocation plan had been established by the federal government 30 years ago for the equitable distribution of indirect costs to federally funded programs. The study had included three exhibits to represent the full cost of selected general fund departments, the current subsidy of user fee services for those departments and the full cost, subsidy and recommended increased revenue resulting from fee increases.

In response to Vice Mayor Parent as to the fact that the Senior Center had not been included in the study, Mr. Wilkes stated that the Senior Center did not have enough data to be able to analyze. He noted that the focus would have to be on what happened now and an analysis of the current services.

Ms. Simons stated that because staff did not have historical trend analyses and because the Senior Center was still in the process of developing programs and fees it had not been included in the study.

Mr. Wilkes added that part of the study provided the City with fully burdened hourly rates. As such, if something had not been addressed in the study, the hourly rates could be used to calculate the costs of activities that had not heretofore been included.

Mr. Grisham stated that one of the pieces of that process would be the Master Fee Schedule where user fees would include Senior Center fees such as the rental of the hall. Acknowledging the sensitivity of fees in the community he stated that as the study moved toward finalization both the City Manager and the City Attorney would address those types of fee issues.

RONALD JOHNSON, Pittsburg, stated that he had reviewed the report which he had found to be very informative. He otherwise questioned some of the costs and assignments.

BRUCE OHLSON, Pittsburg, speaking as a citizen and taxpayer, complimented the Council on the order of the study. He urged that the consultant be directed to adjust its recommendations so that developers would pay all associated costs of development. He noted that those numbers should be 100 percent or higher. He emphasized that existing residents should not subsidize new development.

No action was required at this time.

CONSENT CALENDAR

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

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

Approved minutes dated September 20, 2004.

b. **CLAIMS** #1611 SBC Pacific Bell; #1613 Anitra Brown

Denied claims #1611 SBC Pacific Bell and #1613 Anitra Brown.

ADJOURNMENT

The meeting of the City Council adjourned at 10:10 P.M. to the next meeting set for October 18, 2004.

Respectfully submitted,

Lillian J. Pride, City Clerk

als