

CITY OF PITTSBURG
Redevelopment Agency Minutes
August 2, 2004

Chair Aleida Rios called the meeting of the Redevelopment Agency to order at 7:35 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, 5:30 P.M. for a Workshop on the Trans Bay Cable Project, and 6:30 P.M. for Closed Session pursuant to Section 54956.8 of the Government Code regarding Conference with Real Property Negotiator regarding APN 085-105-016-1 (306 and 318 Railroad Avenue), APN 073-230-007-4 (1301 Standard Oil Avenue); and Conference with Legal Counsel - Existing Litigation pursuant to Section 54956.9 regarding West Coast Homebuilders v. City of Pittsburg, Contra Costa County Superior Court Case No. C0-3-02777.

Chair Rios reported that the City Council had authorized an appeal of the West Coast Homebuilders Case No. C0-3-02777 by a vote of 4 to 1, with Mayor Rios the dissenting vote.

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

MEMBERS ABSENT: None

STAFF PRESENT: Executive Director, Marc Grisham
Legal Counsel, Michael Dean
Deputy City Clerk, Alice Evenson
Director of the Redevelopment Agency, Garrett Evans
Director of Planning and Building, 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
City Engineer, Joe Sbranti
Planning Manager, Melissa Ayres
Police Chief, Aaron Baker

PUBLIC HEARING

1. **RESOLUTION 04-981** Adopting a Unified Development Area at the Northeast Corner of Tenth Street and Railroad Avenue for a Mixed Use Development Project

Executive Director Marc Grisham reported that the Redevelopment Agency of the City of Pittsburg established the Los Medanos Community Development Project Area to alleviate blighting conditions in the Project Area.

The Redevelopment Plan for the Project Area had identified redevelopment activities that would assist in alleviating blighting conditions which include stimulating economic development, enhancing the quality of residential life in Pittsburg, and building a mixed-use downtown. The proposal to adopt a Unified Development Area of approximately 27,000 square feet located at the northeast corner of Tenth Street and Railroad Avenue would assist the Agency in addressing blight in the Project Area.

Mr. Grisham stated that there would be no fiscal impacts.

Redevelopment Agency Director Garrett Evans explained that the area in question was highly visible and the Agency was attempting to create a mixed-use redevelopment project in the Downtown Gateway project area as discussed in February and during the Implementation Plan. The property was located on the northeast corner of Tenth Street and Railroad Avenue consisting of three properties commonly known as the Chet Paige building, a 10,000 square foot building on the corner. The Cellar building was also located adjacent thereto. The three properties together formed 27,000 square feet.

Mr. Evans explained that the Agency was trying to initiate through the City's Owner Participation Program a redevelopment Mixed Use project of up to possibly 36 residential units and 8,000 square feet of commercial space. The public hearing was pursuant to the Owner Participation Program and business preferences that the Agency had previously adopted.

Mr. Evans recommended that the Agency open the public hearing and adopt the Unified Development Area and authorize the Executive Director to pursue proposals and development of a mixed use residential and commercial property on the site and proceed with solicitation of an owner participation interest as outlined in the Redevelopment Plan for the Project Area, and determine the method for seeking development proposals.

Chair Rios opened the public hearing for Resolution 04-981.

BRUCE OHLSON, Pittsburg, representing East County Bicyclists, noted that he had no problem with the project as long as bicycle lanes were included on Tenth Street.

HARRY FREES, Redding, Trustee of the Dante Viscuso Estate, the owner of the property in question on the east corner of Tenth and Railroad Avenue, stated that he was obligated to sell the property as part of the Trust Agreement. He understood that Reverend Frank Newsome had a plan to develop the site. He noted that his obligation was to sell the property not to identify a use for the property. Noting the number of attempts that had been made to develop the property over the years, he questioned the City's redevelopment plans for the site.

PASTOR FRANK NEWSOME, Sr., representing Operation Bootstrap, a local group interested in purchasing the building at the corner of Cumberland and Tenth Streets, advised that Operation Bootstrap was working to address the problems in the area including prostitution, drug use and the like.

Pastor Newsome explained that for the past ten years Operation Bootstrap had worked with the County Sheriff's Office to address those issues, Operation Bootstrap received recognition from the Contra Costa County Board of Supervisors and had a large anti-drug celebration in Buchanan Park each year.

Pastor Newsome proposed a multi-purpose center similar to Glide Memorial Church in San Francisco, consisting of a center that would tend to the needs of the young people and senior citizens of the area. He wanted to open a bakery in the middle of the project to train those coming out of jail and those who had dropped out of school how to put together résumés and to counsel families to address a number of concerns. He offered brochures to the Council to identify Operation Bootstrap's programs.

ALBERT CARROWAY, Antioch, noted that he had previously been a drug addict and had a stroke as a result. He stated that Operation Bootstrap had helped him get off drugs and become ambulatory after his stroke. He explained that Operation Bootstrap would help those in need around the Tenth Street area.

Chair Rios closed the public hearing for Resolution 04-981.

Member Beals questioned whether or not Operation Bootstrap's interest had been brought up to staff prior to this date, to which Mr. Evans stated that he had not been aware of that proposal prior to this time although its needs could be considered as part of the ultimate development process.

When asked by Member Beals, Reverend Newsome expressed a desire to retain the existing building and to bring it up to a state of the art condition. He planned to utilize some of the expertise throughout the City to make a beautiful building. He added, when asked, that he was aware of the potential costs involved with such an endeavor.

Member Beals asked staff to consider the alternatives to rehabilitate the building versus helping Operation Bootstrap to participate in the redevelopment of the site.

Mr. Evans expressed the willingness to work with Pastor Newsome to explore all options to help Operation Bootstrap in the community.

Executive Director Grisham noted that Reverend Newsome's proposal sounded very much like the Rubicon Project in Richmond, which had established a non-profit successful bakery operation to help people from a rehabilitation standpoint. Noting that the opportunity was there, he was uncertain whether or not it would be feasible to the subject site, although staff could assist in the creation of a potential project, to return to the Agency in the future.

Vice Chair Parent commented that the buildings had been vacant and in disrepair for a long time and that the feasibility study for the area had identified a potential mixed-use proposal.

While she understood that Operation Bootstrap was interested in one of the three

buildings, the Vice Chair explained that the City was interested in the development of the three buildings for a unified project. Based on that vision, she recommended the adoption of the resolution to create a unified development area for a mixed-use development project.

On motion by Vice Chair Parent, seconded by Member Glynn and carried unanimously to adopt Resolution 04-981.

CONSIDERATION

Mayor Rios CONVENED JOINTLY the CITY COUNCIL and the REDEVELOPMENT AGENCY to consider the following:

1. **RESOLUTION 04-976** Allocating Additional Redevelopment Agency Funds for
Combined w/CC 04-10122 the Construction of Contract 2004-05, Marina Center
Parking Lot, Adding to the Scope of Work, and
Changing the Name of Contract 2004-05 to "Marina
Center Parking Lot/Fifth Street Parking Strip" and
Making Certain Findings in Connection Herewith

City Engineer Joe Sbranti advised that on May 3, 2004, the City Council and Redevelopment Agency had approved \$750,000 to be allocated to fund Contract 2004-05, the Marina Center Parking Lot project. The resolution would allocate an additional \$250,000 to fund a parking strip located adjacent to 500 Railroad Avenue between Fifth and Sixth Streets. The combined project would achieve an economy of scale, and be renamed "Marina Center Parking Lot/Fifth Street Parking Strip."

The total cost for the design, bid, and construction of the improvements had been estimated to be \$1,000,000. The resolution before the Council/Agency would allocate an additional \$250,000 to the already approved \$750,000 of Redevelopment Agency tax increment funds for the improvements. The improvements would have undetermined operation and maintenance costs for the landscaping and other improvements. Staff would return to the Council prior to bidding and also for award of a construction contract.

Mr. Sbranti recommended that the Agency approve the allocation of an additional \$250,000 from the Redevelopment Agency tax increment reserves. It was further recommended that the additional funding and scope of work be added to Contract 2004-05, Marina Center Parking Lot and that the project be renamed, "Contract 2004-05, Marina Center Parking Lot/Fifth Street Parking Strip", and that the City Manager be authorized and directed to execute document and take such further actions as may be necessary or appropriate to carry out the City's obligations pursuant to construction of the improvements.

WILLIAM LEE, Pittsburg, questioned the need for another parking lot in the area of the Marina.

Mr. Lee noted that he had participated in the building of a temporary parking lot at the Marina for the law enforcement academy and he was concerned about the cost of the

parking lot, as proposed. He requested an explanation of what he perceived as the high cost of the proposed parking lot and suggested that it cost three times what it should. He objected to the use of City funds for that type of project.

BEN JOHNSON, Pittsburg, requested some clarification of the proposal and how it would be laid out, how the parking lot would be spaced and how it could impact other projects along the same roadway. He questioned why the City had spent \$80,000 on a feasibility study that was not being used. He also questioned the expenditure of City funds.

In response, Mr. Sbranti expressed a desire to show Mr. Johnson the layout of the parking lot. He noted that at this time the Black Diamond Project had not yet been designed. The location of the subject parking lot would probably be appropriate for most any design for the Black Diamond Project.

Vice Chair Parent noted her understanding that the parking lot would be located immediately behind the building at Fifth and Sixth Streets. She stated that several loans had been offered to several tenants going into that property and that the agreement was conditioned that the parking lot would be provided.

Mr. Sbranti explained that the City had an agreement with the property owner, part of which was to include the development of the parking strip, and several loans with different potential tenants for the property had been included.

City Manager Grisham stated that the more appropriate parking would be public parking as opposed to parking for a single building. He noted the intent to integrate the drive aisle and the parking with whatever was built into the Black Diamond Project on that site, which was consistent with Redevelopment Law to build and control public parking. He stated that was why the scope of the project had been changed to maintain control of the site and to ensure that the parking was purely public parking that could be used by all buildings in the area, not just the building at 500 Railroad Avenue.

Mr. Grisham clarified that the property owner had a proposal for residential development although the loan had been for commercial only development, which required the opening or access to the rear of the building. Those who lived in the building could park anywhere in the downtown, as would be the case with any mixed-use development. There was to be no dedicated parking as part of that residential proposal.

In response to the Vice Chair as to whether or not there was a waiver for the requirement of parking for the residential uses, Mr. Grisham explained that was not a function of the waiver. There was parking in the area and it was a function of specific parking spaces being used by this type of use.

Member Glynn noted that the City Council had previously adopted a resolution to appropriate \$250,000 for a parking lot behind the building in question, although nothing had occurred between then and now.

Mr. Sbranti stated that the item had been bid and had been submitted to the City Council, although the Council had chosen not to accept that bid.

Member Glynn referenced the prior discussions having to do with providing parking in that area which had included lengthy discussions with the property owner. The \$250,000 grant had been given and there was an issue at that time dealing with the Black Diamond project, specifically issues related to access to the entire building and efforts to avoid the existing situation where trucks were parking in the middle of the street to either deliver or to pick up garbage. Several of the plans and specifications he had reviewed and which had identified the need for an alleyway in that entire block dealt with the issue of public parking, access and garbage removal, among other issues. He therefore suggested that the situation was premature at this time pending some clarification and acceptance of the Black Diamond project.

Mr. Grisham stated that there was clearly a need for parking behind the building, clearly a need for truck traffic to get traffic off of Railroad Avenue and clearly a need for a trash site for pickup, which the subject project would provide. Given the location of the drive aisle and the parking, he suggested in many ways the proposal would be comparable to an earlier design for Black Diamond. If placing commercial with residential over the top, parking would likely be in the center of the structure to be built, with the drive aisle a logical way to provide that. He did not see that any design would be contrary to that concept. The parking had been needed for a long time and the completion of 500 Railroad Avenue had also been needed for a long time. There was a need to ensure the avoidance of impacts to Black Diamond.

Member Beals inquired what would occur under the current agreement with the property owner and the \$250,000 that had been given in terms of the conditions that had been placed on the requirement for parking under that agreement versus the request for additional funds now before the Agency.

Mr. Evans noted that the agreement would have to be amended and restated to document the correct conveyance of either property or leases because a trash enclosure would still be required. The property owner would have to adhere to whatever planning and building restrictions were placed on the residential units.

Member Glynn suggested that this was the wrong time to pursue the project. He stated that once the Black Diamond Project had been approved, all the associated issues would be known and could be addressed at that time. He suggested that the proposal was premature. He recommended that the item be tabled pending the completion of the design for the Black Diamond Project.

On motion by Member Glynn, seconded by Vice Chair Parent and carried unanimously to **TABLE** Resolution No. 04-976, until such time as the Black Diamond Project has been finally designed and submitted for Agency approval.

On motion by Councilmember Glynn, seconded by Vice Mayor Parent and carried unanimously to **TABLE** City Council Resolution 04-10122, until such time as the Black

Diamond Project has been finally designed and submitted for Agency approval.

2. **RESOLUTION 04-982** Authorization for the Redevelopment Agency to Enter into an Exclusive Negotiating Agreement with A.F. Evans Development, Inc. for the Development of the Black Diamond Project Area

Executive Director Grisham stated that having established developer qualifications through the issuance of a Request for Qualifications (RFQ); and having received nine developer submittals, five of which were deemed to have met the initial submittal requirements; and having established a ranking mechanism for determining the most qualified and thus the preferred developer; and having further identified A.F. Evans Development, Inc. as the preferred developer, the Redevelopment Agency was requesting that the Agency Board authorize the Executive Director to enter into an Exclusive Negotiating Agreement with A.F. Evans Development, Inc. for the development of the approximately seven acres of real estate commonly referred to as the Black Diamond Project Area.

Mr. Grisham advised that there was no fiscal impact at this time in as much as the request was an authorization for negotiation. He recommended that the Agency Board authorize an Exclusive Right to Negotiating Agreement by and between the Redevelopment Agency of the City of Pittsburg and A.F. Evans Development Inc. for the development of the Black Diamond Project Area and that such agreement shall be effective for 180 days from the date of execution, with an allowance for an extension not to exceed 90 days beyond the original exclusive negotiating period.

Alternatively, the Agency could select a limited number of the project developers who had submitted qualifications and have those parties prepare a response to the Request for Proposal (RFP), and continue with that process.

Mr. Evans stated that what had been included in the 170 RFQ's distributed was that the Agency would conduct a developer process and was the sole and final decision maker regarding the selection and could accept or reject all or none of the options. He emphasized that six different department heads had reviewed the submittals and all had accepted A.F. Evans Development, Inc. as number one. Two other submittals had also received favorable recommendations.

BEN JOHNSON, Pittsburg, stated that since the process had been started all over again the City would not be using a prior \$80,000 feasibility study. He expressed his hope that the process would not be repeated.

With his understanding that five proposals had been accepted out of the ten submittals, Mr. Johnson questioned why some of those candidates had not been notified that their submittals had been declined. He therefore questioned the process and rules for eligibility, who had submitted packages and the qualifications required to be considered for the process. He requested that the scope of the project be widened and that the public be

apprised of the qualifications and opportunities.

Mr. Evans stated that on June 16, 2003, the Agency Board by Minute Order had requested an RFP when Economic and Planning Systems (EPS) had been selected through a competitive project. The EPS study had identified a medium density up to 70 units, up to a high density of 140 units, with approximately 15,000 square feet of commercial space on Railroad Avenue. EPS' recommendations had been molded into a study as well as an RFQ to be submitted to 150 different developers, which had been presented to the Agency Board on March 1, 2004. The Agency Board at that time had authorized the issuance of the RFQs for the Black Diamond Project area, utilizing the EPS findings.

Nine responses had been received to the RFQ, two were late and immediately disqualified, two more were not for master developments, and five responses had remained. Those five responses had then been distributed to the six-member panel, which had graded those candidates on the five major categories, which categories he described at this time. After that process the scoring analysis had been completed.

GEORGE HARRIS, Pittsburg, referred to the RFQ and read a prepared statement for the record. He expressed his concern that staff had not considered his application for keeping local dollars in the City. He expressed a number of other concerns including that the review had been done internally with no outside involvement from local community members. He stated that the RFQ clearly stated that the Agency would conduct the selection process and was the sole and final decision-maker. The RFQ stated that approximately five applicants would be asked to submit formal applications allowing a design to be reviewed by the Agency. In his opinion, staff had bypassed the Agency and was recommending only one developer. He requested that the Agency invite the five applicants and allow those five applicants to represent their proposals, allowing the Agency to select the plan for the community. Mr. Harris noted that the RFQ had been mailed to all other applicants and two weeks later only after he had expressed a concern had he received a copy of the RFQ.

WILLIAM LEE, Pittsburg, stated that in 1993 the Council had placed an ordinance in effect with respect to hiring local contractors and local workers, which he suggested should have but had not occurred. He emphasized the need to ensure the hiring of Pittsburg residents. He also commented that \$55 million in bonds had been used to make local loans to property owners who would not have to pay back those loans until the property had been sold. Staff had selected the merchants who would receive those loans. He suggested that the City was selling its future off with the bonds and that the City was losing money in the process.

Vice Chair Parent emphasized the importance of the issue to the City as a major building block to rejuvenate the downtown. She assured the public that the Agency was making the decision and that more than two weeks ago every Agency member had been given a full and complete copy of each of the five proposals. Having read every proposal, in her opinion A.F. Evans Development Co. not only presented a complete proposal but

offered the assurance that it was ready to commence the proposal and had the means to do so since it had the financing to commence with the project.

Vice Chair Parent stated that A.F. Evans Development Co. also had the vision, experience and had developed projects of the size being proposed which were successful projects. She suggested that A. F. Evans' vision would create a terrific project for the downtown. She emphasized that the feasibility study had included the community's input in terms of what should be built and what the community wanted in the Black Diamond area.

While she was ready to move ahead, Vice Chair Parent expressed concern that there could be an extension to the agreement not to exceed 90 days. She requested that the Agency eliminate or amend that provision because she did not want the current proposal to repeat what had occurred with the last Black Diamond proposal.

Member Kee concurred and added that to the best of his knowledge no bonds would be issued for the project as was earlier intimated. He also noted that whether or not the project should be awarded to a local team was only one of the facts to consider when selecting a project.

Mr. Harris inquired whether or not anyone had presented a design of what was to be built. He questioned why the City would be selecting a firm that was only being chosen because it had the financing to proceed.

In response, Vice Chair Parent stated that no designs had been submitted by anyone, including Mr. Harris.

Member Kee added that oftentimes during the design process, plans were not submitted as part of the proposal. The architecture was based on a quality selection process based on the quality of the applicant's experience or design when a fee or contract was negotiated, after which the developer would consider the design of the project in working with the contracting entity, the City or the client, to design the project.

Chair Rios clarified that the RFQ stated that the applicants who were selected would be called back for a full proposal. In this case with the five submittals, she questioned whether the Agency would have to go through that process or whether the Council might legally bypass that process. She also questioned whether or not the Agency would be liable if pursuing that approach.

Mr. Evans explained that it was within the Agency's rights and as stated in the RFQ, that the Agency was able to do what it pleased in the process. In this instance, the City had sent out an RFQ and the most qualified would move forward. The RFQ had referenced five submittals as a general number since it was unknown how many submittals would be received.

LYNN HUTCHINS, an attorney with Goldfarb & Littman, serving as the Special Agency Counsel added that the Agency was within its rights, as stated in the RFQ, to do

what it pleased within the process. The Agency had the right to reject any or all of the applications. She affirmed that the RFQ had indicated approximately five submittals because it was unknown how many would be received. She added that the Agency could choose to move forward with one developer or it could open the process for additional proposals.

Vice Chair Parent reiterated that she did not like the possibility of a 90-day extension, although at the end of 180 days if more time was needed she might consider an extension. She proposed an amendment to the resolution to allow an extension not to exceed 30 days.

Member Beals acknowledged the Vice Chair's motion but asked that any extension at all be stricken. When asked, she stated that if an extension was required she might consider an extension.

Chair Rios concurred. She too would like to see the process move forward. She noted that the Agency was not bypassing any process. The Agency had been provided the proposals that had been submitted and had reviewed those proposals. Based on the information provided, staff had recommended that the Agency take the action being proposed and as reflected by the maker of the motion.

On motion by Vice Chair Parent, seconded by Member Beals and carried unanimously to adopt Resolution 04-982, as amended, by striking the clause allowing an extension.

CONSENT CALENDAR

On motion by Member Kee, seconded by Member Beals, and carried unanimously to adopt the Consent Calendar, with the removal of Items b and c, as follows:

- a. **MINUTES** Dated: July 19, 2004

Approved minutes dated July 19, 2004.

The following items were removed from the Consent Calendar:

- b. **RESOLUTION 04-983** Authorize Appropriation of Funds for the Director of
Combined w/CC 04-10129 Development Projects Position

BEN JOHNSON, Pittsburg, sought a clarification of the item.

Mr. Grisham reported that the current plan was to have Randy Jerome, the current Director of Planning and Building, assume the new position Director of Development Projects, given that Mr. Jerome would be retiring in the next few years. He noted that a senior department head familiar with planning and engineering would be of immeasurable value. The position would be a department head position. He listed the potential projects

involved. With respect to the filling of Mr. Jerome's current position, Mr. Grisham advised that no final recommendation had been created at this point. He noted that the building function had been transferred from the Planning Director position to the City Engineer position. No final decision related to the Planning Director position had yet been made. He also noted a current salary savings in that the Assistant City Manager position had not been filled and would not be filled for some time. He suggested that the funds would be well spent to get the projects going very quickly.

Member Glynn verified that Mr. Jerome's salary would be continued under the new appointment. He also verified that the position involved related only to Mr. Jerome.

Mr. Grisham advised that no new department would be created as part of the proposal.

On motion by Member Beals, seconded by Chair Rios and carried unanimously to adopt Redevelopment Agency Resolution 04-983.

On motion by Councilmember Beals, seconded by Vice Mayor Parent, and carried unanimously to adopt City Council Resolution 04-10129.

Member Kee recused himself from the next item given that he had a client seeking to occupy one of the tenant spaces in the proposed facility that was the subject of the next agenda item. He left the dais and left the Chambers at this time.

- c. **RESOLUTION 04-984** Approval of Preliminary Architectural Studies Consultant Agreement By and Between the Redevelopment Agency and James Miller & Associates

Vice Chair Parent referred to Article 3.5, Owner of Documents, as part of the agreement and inquired of staff if that was standard language where the Consultant and not the Agency owned the documents prepared for the Agency.

Mr. Grisham advised that was typical of architectural projects.

On motion by Member Beals, seconded by Vice Chair Parent to adopt Resolution 04-984, carried by the following vote:

Ayes: Beals, Glynn, Parent, Rios
Noes: None
Absent:Kee [Recused]

Member Kee returned to the dais at this time.

ADJOURNMENT

The meeting of the Redevelopment Agency adjourned at 8:46 P.M. to the next

meeting set for September 7, 2004.

Respectfully submitted,

Lillian J. Pride, Secretary

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CITY OF PITTSBURG
Pittsburg Power Company Minutes
August 2, 2004

Chair Aleida Rios called the meeting of the Pittsburg Power Company to order at 8:47 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, 5:30 P.M. for a Workshop on the Trans Bay Cable Project, and 6:30 P.M. for Closed Session pursuant to Section 54956.8 of the Government Code regarding Conference with Real Property Negotiator regarding APN 085-105-016-1 (306 and 318 Railroad Avenue), APN 073-230-007-4 (1301 Standard Oil Avenue); and Conference with Legal Counsel - Existing Litigation pursuant to Section 54956.9 regarding West Coast Homebuilders v. City of Pittsburg, Contra Costa County Superior Court Case No. C0-3-02777.

Chair Rios reported that the City Council had authorized an appeal of the West Coast Homebuilders Case No. C0-3-02777 by a 4 to 1 vote, with Mayor Rios the dissenting vote.

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

MEMBERS ABSENT: None

STAFF PRESENT: Executive Director, Marc Grisham
Legal Counsel, Michael Dean
Deputy City Clerk, Alice Evenson
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Director of Planning and Building, Randy Jerome
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City Engineer, Joe Sbranti
Planning Manager, Melissa Ayres
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CONSIDERATION

1. **RESOLUTION 04-113** Approving and Authorizing the Executive Director to
Combined w/CC 04-10123 Execute a Project Development Agreement for the Trans Bay DC Transmission Line Project Between the City, Trans Bay Cable LLC and the Pittsburg Power Company

Pittsburg Power Company Manager Garrett Evans advised that the Pittsburg Power Company (PPC) had negotiated a joint powers development project with Trans Bay Cable LLC, a subsidiary of Babcock and Brown Power Operating Partners LLC on a direct current transmission line between the City of Pittsburg and the City of San Francisco. The tentative preliminary site in Pittsburg was the old Camp Stoneman Treatment facility located on Standard Oil Avenue with the DC Transmission Line running under San Francisco Bay to the vicinity of the Potrero Power Plant and station. Participation in the project would provide significant benefits to both the City of Pittsburg's General Fund and the Pittsburg Power Company. Staff and McDonald Partners, PPC's Energy Consultants, recommended the approval of the project development agreement.

The financial impact to the City of Pittsburg's General Fund from the project would be in terms of normal development fees associated with construction, sales and use taxes, in-lieu property taxes and franchise fees as part of a comprehensive payment in lieu of fees of from \$3.5 million to \$5.5 million to the Pittsburg Power Company, depending on the final DC Line design capacity. In addition, assuming PPC ultimately exercises its option to purchase the project assets as reflected in the Agreement, the PPC would be paid a \$500,000 annual management fee for the continued operation of the DC Transmission Line and the Converter Stations in Pittsburg and San Francisco. The PPC would also receive equipment in the form of a 50 megawatt, 115 kV transformer valued at an estimated \$2 million.

Mr. Evans recommended that the Pittsburg Power Company approve the Project Development Agreement for the Trans Bay DC Transmission Line Project, authorize the City Manager of the City of Pittsburg and the Executive Director to the Pittsburg Power Company to execute the Agreement, and authorize and direct the Executive Director to take such actions necessary to carry out the obligations of the Agreement.

The actual mechanism to be used was presented on the dais to show the audience the quality of technology involved.

Mr. Evans advised that the Purchase and Sale Agreement, Section 8.3.4, Page 28 of 48 was to be modified to read "If negotiations are progressing, with each participating Party using its Best Reasonable Efforts to bring the negotiations to a mutually agreeable conclusion, then the specified time for negotiating and preparing a Purchase and Sale Agreement shall be extended for an additional thirty (30) Days at the written request of a Party, and subsequently for up to three, additional such thirty (30) Day periods. At the conclusion of any such additional thirty (30) Day period, if Company determines that the Parties are unlikely to successfully negotiate such agreement, it might give Pittsburg thirty (30) Days' notice to conclude negotiations after which time Company may pursue a grant of a Senior Option right (as defined in Section 8.5) to another public entity."

Mr. Evans explained that the items had been added today with both attorneys for PPC and Trans Bay clarifying the agreement.

Russ Townsend, the PPC's legal counsel, was available to respond to questions.

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Mayor Rios considered the following general City Council items prior to pursuing the Redevelopment Agency agenda at 7:06 P.M.

PLEDGE OF ALLEGIANCE

John Bedford led the Pledge of Allegiance.

PROCLAMATION

1. National Night Out

Councilmember Kee read the Proclamation for National Night Out 2004 and presented the proclamation to SERGEANT RAMAN who explained that the Neighborhood Watch Program was an effective tool in solving crimes. A celebration event had been planned for Neighborhood Watch Groups in the City of Pittsburg at Small World Park from 5:00 to 8:00 P.M. on August 3, 2003. As the new coordinator for Neighborhood Watch he looked forward to the growth of the program. At this time he recognized the Police Chief and the Pittsburg Police Officers working on the program, along with West Boulevard Block Captains Jennifer Bonds and Wendy Cervantes. He noted that the individuals had committed many hours to the program. He added that National Night Out was out on August 3.

Mayor Rios congratulated all involved on his/her work to make City neighborhoods safe. She also acknowledged the continued efforts of resident Bertha Stobb who could not be available due to her hospitalization.

2. Pittsburg Soccer League

Councilmember Glynn read the Proclamation for the Pittsburg Soccer League, to honor a group of parents, specifically Richard Morales, Odilon Cardona, Jose Voca Negra, Armando Martinez and Enrique Reyes, who along with Father Ricardo Chavez of St. Peter Martyr Church had established the league without outside help. Two of those honored accepted the Proclamation and emphasized the need for more soccer fields in the City of Pittsburg.

Mayor Rios introduced Paul Flores, the City's Recreation Director, who could provide some assistance in the reservation of City parks for use by the soccer league.

COUNCILMEMBER REMARKS

Vice Mayor Parent highlighted upcoming events in the community, including National Night Out at Small World Park on August 3 and the Sunday Ice Cream Social on August 8 at Small World Park. She reported that the Pittsburg Community Theater Company (PCT) was donating its services to refurbish the Creative Arts Building owned by the Pittsburg Unified School District (PUSD). A review of past shows from the PCT would be held later in August. She encouraged the community to attend and support the fundraising efforts.

Mayor Rios commended City Engineer Joe Sbranti who had attended the last City Council meeting even though he had been on vacation. She also reported that she and Councilmember Glynn had attended a homecoming event sponsored by the Pittsburg Chamber of Commerce, the Rotary Club, the City of Pittsburg and a number of other local organizations to welcome home soldiers who had served in Iraq.

Mayor Rios also identified her attendance at the Optic Graduation, a program in its 14th year where low-income females were being trained in computer skills. Fifteen of those trainees had graduated from that program which was offered through the Community Development Block Grant (CDBG) Program.

Mayor Rios clarified that the Council would not meet the second meeting in August. As such, she took the opportunity to report on a number of upcoming events including as previously mentioned, National Night Out on August 3, the Senior Center 50+ Plus Club Rummage Sale on August 7, a Downtown Car Show on August 12 between 6:00 and 8:00 P.M. on Railroad Avenue between Third and Fourth Streets, the Scottish Renaissance Fair on August 14 and 15 at Buchanan Park, the PACO Art Show on August 14 between 6:00 and 7:00 P.M. at the Impulse Gallery, and Hot August Nights each Friday night during the month of August in the downtown. She added that a delegation from Shimonoseki, Japan would be visiting the City during the month of August.

Mayor Rios took this opportunity to welcome a group of exchange students from Pohang, South Korea who were present in the audience.

Economic Development Director Brad Nail introduced a group of high school students from the City's Sister City of Pohang, South Korea. The students had arrived on August 1 and would depart on August 4. Members of the Sister City Committee, Chair John and Doris Bedford, Diana Mason and Diane Gibson Gray were also present.

Members of the Pohang Delegation were presented with a City Pen, City Logo and a Commemorative City Coin.

Mr. Lee, the escort for the group was presented a City Logo made out of California Redwood. Mr. Lee presented gifts to the Mayor at this time.

Two students traveling with the Korean contingent and who were from France were also present and welcomed by the City.

On another matter, Mayor Rios reported that Deputy City Clerk Alice Evenson of the City Manager's Office had prepared a brochure to make it easy for the citizenry to understand Council Meetings.

CITY MANAGER REPORTS/REMARKS

There were no City Manager Reports/Remarks at this time.

CITIZENS REMARKS

BEN JOHNSON, Pittsburg, requested information on the City's position on the landscaping on State Route 4 with respect to damage on the hill as a result of a recent fire. Noting that he had spoken to representatives of the Contra Costa Transportation Authority (CCTA) and the County, Mr. Johnson understood that the company that had installed the

to rezone 10.47 acres (including the 8 acres in the General Plan Amendment) from GQ (Governmental/Quasipublic) District to RS (Single-Family Residential) District; APNs 089-050-069 and 070.

The maintenance of parks had been estimated by staff to cost approximately \$12,000/acre. By reducing the park size by approximately 2.5 acres there would be no indirect fiscal impact. As such, there was no direct fiscal impact to the City as a result of the project.

Mr. Jerome recommended that the City Council adopt a resolution amending the General Plan land use designation on approximately eight (8) acres of the Highlands Ranch Residential Subdivision from Public/Institutional and Park to Low Density Residential. It was also recommended that the City Council introduce, waive further reading, and pass to second reading an ordinance to rezone 10.47 acres of the Highlands Ranch Residential Subdivision from GQ (Governmental/Quasi Public) District to RS (Single-Family Residential) District and that the City Council authorize staff to enter into a Memorandum of Understanding for Highlands Ranch Park with West Coast Homebuilders, Inc., upon approval of the City Attorney.

Mayor Rios opened the public hearing for Resolution 04-10121, Ordinance 04-1226 and Minute Order authorizing a Memorandum of Understanding (MOU) for Highlands Ranch Park with West Coast Homebuilders, Inc.

RICHARD SESTERO, Pittsburg, representing West Coast Homebuilders, Inc., spoke to the history of the Highlands Ranch development. When approved in 1998, it had been anticipated that a school site would be provided. There had been discussion on a possible joint use park with the school and it had been made larger than it normally would have been because of the potential school. Since the school would no longer be a part of the site, the park would be downsized. He suggested that it would be a benefit, since the developer had originally designated the site as a ten-acre park which had fulfilled the developer's park obligation completely. With a smaller park, the developer would then pay in-lieu fees for the balance of the park site which money could be used to build the park.

Mr. Sestero acknowledged that there had been a great deal of discussion before the Planning Commission, although he suggested that most of the neighbors' concerns had been addressed. The requests before the Council would allow the park to be built sooner rather than later. Rather than have a large park site that could not see development for some time, he emphasized that a smaller park site would allow for a part of the site to be developed. He asked the Council to approve the applications that had been submitted.

VICTORIA ADAMS, Pittsburg, a Highlands Ranch resident, commented that she and her son had been waiting for the park. She stated that she had been promised a ten-acre park at the time she purchased her home. She expressed concern that she would not be receiving what had been promised by the developer. She urged the Council to ensure the production of a park that had been promised to the residents and not a hardscape with little softscape. She wanted facilities that could be used by the residents. She also did not want

the developer to be allowed to build more homes on the promised park acreage.

Further, Ms. Adams noted her understanding that a drainage basin would be proposed which could not be used most of the year because of potentially standing water. She urged the Council to consider the fact that residents had been waiting for years for a promised park that was not being delivered.

BRUCE OHLSON, Pittsburg, a Member of the Board of Directors of the East Bay Bicycle Coalition, noted that he was raising a point that the Planning Commission had raised. Indications had been made at that time that there would be sufficient grass in the proposal to allow soccer games. He asked where the cars for the soccer games would park. He stated that staff had assured the Commission that the proposed park was a neighborhood park and not a community park. He advised that bicyclists were concerned that cars would park in the bike lanes on Buchanan Road.

RON JOHNSON, Pittsburg, commented that a sign was still being displayed in the area advertising a future ten-acre park. Having attended the Planning Commission meeting when the item had been discussed it was his understanding that while the park could be developed, it could not be maintained by the City. He questioned the in-lieu fees the developer would receive for not building the originally planned park. He noted that the developer would be putting in more homes and a smaller park, which he opposed since it was not what had been represented to those who had purchased in the Highlands Ranch development.

JATIN BAL, Pittsburg, also a resident of Highlands Ranch, stated that residents had been promised that a school would be constructed and had been promised a park of 10.7 acres, which was the reason why he had purchased his home. He emphasized the need for a park in the development. He questioned the developer's plans for an additional 40 houses and stated that he would rather see that land developed with a park. He emphasized that a bigger park was necessary for the residents of Highlands Ranch. He stated that residents wanted a good size, quality park and suggested that the residents could wait for the park that had been promised. He opposed the resolution as a result.

CARLOS ALVARADO, Pittsburg, a resident of Highlands Ranch, also spoke to the need for a park in the Highlands Ranch subdivision. He had a problem with the developer's purchase of the property for a smaller park. He suggested that a 5-acre park could easily be developed by the developer. He noted that children in the neighborhood were now playing in the street. He suggested that the sale of one house could cover the cost of the park. He emphasized that the community was growing and the need for a park facility would also continue to grow.

Councilmember Kee questioned whether or not any of the new homes being proposed would be considered affordable housing, to which Mr. Jerome stated that had not been discussed although members of the public had raised that concern during the Planning Commission's public hearing.

Mr. Jerome added that residents had been assured that the 40 additional homes

would consist of the same single family development as had been designed throughout the Highlands Ranch development. Highlands Ranch had been approved in 1998. The Environmental Impact Report (EIR) for the project had been approved in 1988.

Councilmember Kee questioned whether or not the detention basin would be a liability for children if it were also used for playing fields.

Mr. Sbranti explained that the joint use of detention basins as recreational facilities was common throughout the state. If held open as a park and recreational facility during the time it retained water there was a possibility that the City would be held responsible, although he added that generally speaking the cities that jointly utilized those facilities did not allow the detention basins to be used as a recreational facility when used as a detention basin.

As to how the use of the detention basin could be defined for use as opposed to no use and whether or not the field would be accessible to those in wheelchairs, Mr. Sbranti stated that the field was designed with a ramp leading down to it, at a 4.8 percent grade that would meet Americans with Disabilities Act (ADA) requirements. Not yet installed, the ramp had been designed and shown on the plans as part of the park project. With respect to the use of the field, he stated that during a winter storm event, the detention basin would not fill up so rapidly that it would be difficult for someone to exit the field when rainfall was directed into the basin. The basin would fill up during the course of several hours and only during a heavy, heavy rainfall, which was the type of storm the basins were designed to handle. Since the low parts of the basins would be muddy during most winters, developers were given only partial credit for detention basins.

Councilmember Kee had reservations with the project. He noted that fees would be waived and the only net gain would be land used to fund only a portion of a park. He commented that a previous park required the additional allocation of City funds, which he suggested might not be sufficient to build a park. While he sympathized with many of the homeowners who had been promised a ten acre park, he stated that was something that the Council and Commission would have to address in the future to ensure that residents were not being promised something that was not being provided.

Noting that the minutes of the Planning Commission meeting had reflected a letter with over 100 signatures in opposition to the proposal, which had been submitted and later retrieved by an individual, Councilmember Kee questioned whether or not that letter had ever been resubmitted to staff. He questioned the accuracy of the representation from the residents of the Highlands Ranch community.

Mr. Jerome stated that a notice of the current public hearing had been submitted to all residents of the Highlands Ranch subdivision, well beyond those within a 300 foot radius, as required by law, to notify most of those in the development of the item. That notice had been mailed more than two weeks ago.

Councilmember Beals suggested that the City was being slighted, not only with the

loss of the school, but with the loss of a promised park. While the loss of the school was a win-win for the Pittsburg Unified School District (PUSD) since the monies would be utilized for other Capital Improvement Projects for the PUSD, the City would get nothing from that loss. With respect to the several phases yet to be built for Highlands Ranch, she questioned whether or not the proposed park would accommodate the yet to be built future phases of that development.

Councilmember Beals inquired of the amenities associated with the proposed park and questioned whether or not those amenities would be similar to what would have been provided in association with the school. She agreed that the residents should be provided something, that three acres were unacceptable, and that the land to be used for homes should be converted with the land proposed for a park to provide a park larger than three acres. She requested that staff revisit the issue and work with the developer to create some compromise to develop a greater acreage park and to include some amenities to benefit the residents. She did not want to lose the opportunity to show good faith to the residents of the area.

Councilmember Glynn commented on the acreage involved and the State requirements for a K-6 school along with a playground, which mandated 10.3 acres. While 10.7 acres had been involved in this case, the PUSD had declined the use of the property for the school. Since the PUSD was no longer interested in the school site and based upon the total acreage, he suggested that a five-acre park should be provided. He noted that the initial purpose of the park relevant to the school had been to have the park become a part of the school with some maintenance agreement with the City. He questioned why there was a need to sell the developer five acres for \$500,000 to build more homes.

Planning Manager Melissa Ayres explained that five acres had represented the school site. There were five acres for the City park site and five acres had been designated as a detention basin. The five acres for the school site was not needed by the PUSD and had not been dedicated by the City. The acreage is owned by the developer. The developer was simply asking the City to recognize that the PUSD no longer desired the school site. The developer had requested to develop that area consistent with its other development in the Highlands Ranch neighborhood.

Based upon policies in the General Plan and workshops with the City Council last summer where the Council had supported expedited park development including a willingness to look at an exchange of less park for a faster turnaround, Ms. Ayres explained that City staff had questioned whether the developer would be building the school site or whether the developer would be interested in retaining some of that land for housing in exchange for the equivalent in-lieu fee to put those funds into physical improvements.

Ms. Ayres pointed out that when referring to a three-acre park, that was a portion of the improvements, including the five-acre detention basin, which would represent over 7.5 acres of parkland when completed. She explained that some of the improvements could be a tot lot, a playground for middle school age students, basketball courts, potentially a baseball diamond or sport courts, a picnic area and gazebo, restrooms, and barbeque pits

as part of a conceptual plan. The final design would go through the public review process with the Recreation Commission and the residents of the neighborhood would participate in that process.

As to the whether or not the detention pond could be smaller, Mr. Sbranti stated that the detention pond existed, had been built and was functioning. It was a fixed size in terms of water detention for the development.

Ms. Ayres reiterated that the developer had been provided only a partial credit for the detention basin since it would likely only be used as a multi-purpose field. As to what could be done to increase the acreage of the park in addition to the five-acre detention basin, she stated that one of the options could be to change the General Plan and zoning designation for the school site. That trade off was something that staff had initiated with the developer based on prior discussions with the Council and General Plan policies. The City could also land bank the ten acres, although the City did not have the funds to build a ten-acre park at this time.

To clarify her comments that the size of the park was being reduced because of direction from the Council to expedite the park in response to Councilmember Beals, Ms. Ayres stated that staff had brought a number of issues before the Council during a joint workshop with the Planning Commission in the summer of 2003. Some of the issues had related to the City's requirement for full dedication in anticipation of the General Plan and land bank park area or allowing developers to dedicate less land than required under the General Plan in exchange for turnkey types of parks with some improvements. The direction from the Council and the Planning Commission had been to allow developers to consider the dedication of less land in exchange for improved parks maintained at a minimum of two acres. The same direction had been offered when the Bailey Estates development had recently been processed, when the General Plan had called for five acres and only two acres had been approved.

Councilmember Beals clarified with Ms. Ayres that the proposal was an alternative using that rationale to create a park sooner than later. She emphasized the need to accommodate the residents as soon as possible because the residents had patiently been waiting for a park. She did not want to offer a lesser proposal to do that. If there was a way to preserve the ten acres, she supported the retention of the park as is. While she was pleased to see that staff was listening to the Council and its direction, she stated that all things did not apply all the time. She wanted to see the retention of the ten-acre park.

Ms. Ayres stated that the Council had the option to amend the General Plan on the west five acres while also recognizing the development options on that site since the PUSD no longer wanted that site.

Councilmember Kee acknowledged past discussions and options of reduced parks in lieu of turnkey parks. He envisioned that was for projects yet to come, not those already approved and completed. With the development advertising the ten-acre park for several years, he stated it would be a slight to the property owners to develop anything less than

that. He added that those parks had been intended to be turnkey parks where the developer would build everything regardless of the cost. The current discussion was for a fee that might or might not cover the development of the park.

Vice Mayor Parent commented that if the Council considered the possibility of taking some money, such as in lieu fees, for a partially built park, she suggested that the Council should also consider that until the park was dedicated to the City no one should occupy the new homes being proposed. If the park and additional homes were to be built they should be built simultaneously. She was otherwise not concerned with the use of a detention basin for playing fields since the water would drain under prescribed conditions.

Councilmember Glynn noted the duality of purpose in that the school and a park would be developed concurrently, to occupy 10.47 acres. Since it was beyond the Council's and the residents' control that the PUSD decided to withdraw its offer to build the school, it meant that the school site property was the City's to do with as it saw fit. He requested a clarification of the use of the acreage. He also asked whether or not there were any time constraints related to the proposal.

Ms. Ayres explained that the detention basin, park and school sites had been clearly shown. The school site was roughly five acres. The tentative map for the entire property had shown an alternative of homes on the property and had indicated that if the PUSD did not build the school the developer could seek a General Plan Amendment to pursue the development of those homes.

Associate Planner Ken Strelo reiterated that the tentative map had been approved with three alternatives. One of those alternatives was that if the school did not come about, a General Plan Amendment could be proposed. The plan would be to build 21 additional homes only on the school site of five acres, retaining the other approximately ten acres for the five-acre detention basin and the five-acre park/softscape. He advised that the Council could shift the General Plan line as shown on Exhibit A of the General Plan resolution attached to the staff report dated August 2, 2004, which would shift the proposed General Plan land use designation line over to where the school and park site line was located. That shift would change the designation of five acres to a Park designation.

Mr. Strelo suggested that there was a rush from the residents' point of view to get a park built. He noted that there were mixed emotions where residents wanted a park, but wanted the full ten acres. The proposal represented only a 2.5-acre reduction of the park site to create a 7.5-acre park defined under the same circumstances that had defined a ten-acre park.

Councilmember Kee noted his assumption that there was no rush to make a land use change at this time. He recommended that the item be continued to the first Council meeting in September. While the change could be made only on the school site portion he noted that if the residents wanted a smaller park sooner, another land use change would have to be made.

On motion by Councilmember Kee, seconded by Councilmember Glynn and carried unanimously to continue Resolution 04-10121 to the September 7, 2004 City Council meeting.

On motion by Councilmember Kee, seconded by Councilmember Glynn and carried unanimously to continue Ordinance 04-1226 to the September 7, 2004 City Council meeting.

On motion by Councilmember Kee, seconded by Councilmember Glynn and carried unanimously to continue a Memorandum of Understanding for Highlands Ranch Park with West Coast Homebuilders, Inc. to the September 7, 2004 City Council meeting.

Mayor Rios called a recess at 9:54 P.M. and reconvened the City Council at 10:06 P.M. with all Councilmembers present.

4. **ORDINANCE 04-1227** Ordinance to Rezone Two Parcels Totaling Approximately 12.1 Acres from RM District to PD District (East Leland Property Subdivision 8795 Rezoning, AP-03-74)

Mr. Strelo presented the public hearing on an introduction of an ordinance to rezone approximately 12.1 acres from RM (Medium Density Residential) District to PD (Planned Development) District for construction of a 100-unit single-family residential subdivision located north of East Leland Road between Freed Avenue and Piedmont Way; APN 088-240-014 and 088-250-020.

Mr. Strelo advised that there would be no fiscal impact to the City as a result of the project. It was recommended that the City Council introduce, waive further reading, and pass to second reading an ordinance to rezone 12.1 acres from RM (Medium Density Residential) to PD (Planned Development) District.

Mayor Rios opened the public hearing on Ordinance 04-1227.

MARK HUGHES, Manager of Forward Planning KB Homes, advised that the proposal had been ongoing for the last year when KB Homes had worked with City staff and had designed the project after having listened to the community. He noted that KB Homes' development team was available to respond to questions related to the 100 unit project to be built on 12 acres with alley loaded entries, and with common open space areas where the houses would front one another. He stated that KB Homes had received a positive response from the proposal, which had been built in other communities.

Mr. Hughes added that the proposal met the principles of smart growth, maximizing open space and with a creek bifurcating the project. Tot lots and playground/park areas had been incorporated into the design of the project. Illustrations of the proposal were displayed for the benefit of the audience.

Councilmember Kee clarified that KB Homes would be building the tot lots and other park areas entirely and that the park areas would be maintained by the Homeowners Association (HOA) proposed as part of the project.

RON JOHNSON, Pittsburg, commented that he had attended the Planning Commission meeting when the project had been discussed. One of the concerns raised at that time had been the issue of affordable housing. He had expressed concern, when advised, that the issue had never been raised or discussed with City staff.

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

Councilmember Kee inquired whether or not affordable housing had been discussed.

Mr. Strelo explained that the affordable housing issue had been raised at the Planning Commission meeting. He noted that the item had not included an affordable component. The project had been in process for some time prior to the time when the affordable housing issue had been raised.

Ms. Ayres stated that the proposal was a project proposed in an infill area. Given the small lots, the project would likely be 100 percent affordable by design.

Councilmember Kee noted that he had advocated different designs in the community for some time. He was happy to see a different type of design being proposed. He was also glad to see that the garages would be in the rear of the units and would not dominate the home designs.

Noting that the project was not located in the downtown, Councilmember Beals stated it would not be considered a downtown infill project. She otherwise inquired whether or not the project would be applicable to the inclusionary zoning since it involved a private gated/enclosed residential development.

Ms. Ayres explained that the Housing Element contained polices that would allow the Council to consider incorporating an inclusionary housing component in any new residential project.

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

CONSIDERATION

1. **RESOLUTION 04-10122** Allocating Additional Redevelopment Agency Funds for the Construction of Contract 2004-05, Marina Center Parking Lot, Adding to the Scope of Work, and Changing the Name of Contract 2004-05 to "Marina Center Parking Lot/Fifth Street Parking Strip" and Making Certain Findings in Connection Herewith
Combined w/RDA 04-976

In Joint Session with the Redevelopment Agency, the City Council took the following action:

On motion by Councilmember Glynn, seconded by Vice Mayor Parent and carried unanimously to adopt City Council Resolution 04-10122.

2. **RESOLUTION 04-10123** Approving and Authorizing the Executive Director to Execute a Project Development Agreement for the Trans Bay DC Transmission Line Project Between the City, Trans Bay Cable LLC and the Pittsburg Power Company
 Combined w/PPC 04-113

In Joint Session with the Pittsburg Power Company, the City Council took the following action:

On motion by Councilmember Glynn, seconded by Councilmember Kee and carried unanimously to adopt City Council Resolution 04-10123.

3. **RESOLUTION 04-10136** Approving and Authorizing the City Manager to Execute the Standard Oil Site Option Agreement Between Trans Bay Cable LLC and the City of Pittsburg

City Manager Marc Grisham presented the companion item to the Pittsburg Power Company item. He stated that the Pittsburg Power Company and the City of Pittsburg was engaged in a power development activity with Trans Bay Cable LLC, a subsidiary of Babcock and Brown Power Operating Partners LLC, a subsidiary of Babcock and Brown Power Operating Partners LLC on a DC transmission line between the City and San Francisco. The Project Development Agreement is also being considered for approval by PPC and the City on August 2, 2004. The site in the City for the Converter Station to convert electricity from AC to DC is the Standard Oil Site, which the City owns. The Option Agreement would allow Trans Bay to move forward with its application for development and would allow the City to commence the environmental review.

There would be no fiscal impact to the City General Fund unless the Trans Bay Cable Project was completed, in which event the City would receive income from lease payments and property tax or payments in lieu thereof, based on improvements to the land valued at between \$50 million and \$100 million. On the execution and delivery of this option, Trans Bay shall pay to the City the sum of one (\$1.00) dollar as consideration of the option.

It was recommended that the City Council approve the Option Agreement between the City and Trans Bay and authorize the City Manager to execute the Option Agreement on behalf of the City.

On motion by Councilmember Beals, seconded by Councilmember Glynn and

carried unanimously to adopt Resolution 04-10136.

4. **RESOLUTION 04-10124** Rescission of Resolution No. 98-8623 and Adoption of New Sister City Policy

Mr. Grisham advised that the City of Pittsburg had formed and maintained one Friendship City and three Sister City relationships with City agencies located outside of the United States in efforts to encourage the development of relations between businesses, research and educational institutions, government policy and regulatory agencies and other organizations concerned with encouraging progress in economic and cultural development. City staff recommends the rescission of Resolution 98-8623, which adopted the 1998 Sister City Policy, and the establishment of a new, more comprehensive Sister City Policy to serve as a guideline for the maintenance and expansion of the City of Pittsburg's Sister City Program.

Economic Development Director Brad Nail explained that all Council comments had been considered in a proposal to revise the Sister City Policy to offer guidelines for staff and the Sister City Committee to direct future Sister City activities.

There would be no fiscal impact to the City. It was recommended that the City Council rescind Resolution 98-8623, which adopted the 1998 Sister City Policy, and adopt a new more comprehensive Sister City Policy to serve as a guide for the maintenance and expansion of the City of Pittsburg's Sister City Program.

Vice Mayor Parent inquired whether or not there was a distinguishment between a Friendship City and a Sister City, to which Mr. Nail stated that the policy would deal with both Friendship City and Sister City activities. The agreement with Shengyang, China was a Friendship City Agreement and the proposal would apply to both Friendship and Sister Cities. He further clarified that the agreements throughout the world were either termed a Sister City or a Friendship City Agreement. The term was somewhat interchangeable.

Vice Mayor Parent understood that the Sister City Committee which existed under the aegis of the Chamber of Commerce would be responsible for making arrangements for all people whether from a Friendship City or from a Sister City.

Mr. Nail stated that the Sister City Committee was not a part of the Chamber of Commerce. The Chamber of Commerce did have some members who were also members of the Committee. The Sister City Committee was meant to be a committee of the citizenry interested in Sister City activities. With the adoption of the new policy, any trips to the City would come to the Council for approval prior to the actual visit, which would allow the City to determine the goals and the costs prior to accepting the invitation or prior to any trip overseas. It would be discussed by the Sister City Committee with a recommendation from that Committee to the City Council for approval.

Mr. Nail added that the idea of the Sister City Committee was that it would broaden the base of those interested in the City in terms of cultural and economic activities. He

noted that with the current visit it was difficult to find homes for the students to stay. He clarified that the present Committee represented approximately ten people who were actively interested in the program.

Mayor Rios noted that one of the questions related to the difference between a Friendship City and a Sister City. Under the new policy, all cities to be considered must be located outside the United States. Cities located inside the United States were to be considered Friendship Cities. Since Shenyang, China was not located within the United States, she stated it should not be a Friendship City based on the new policy. She suggested that the policy language should be reworded as a result. She added that the City currently had a Sister City Policy, which had been approved in 1998.

Mayor Rios commented that pursuant to Proposed Structure, No. 5, of the new policy, it had referred to the fact that should a city request status with the City of Pittsburg that request would be submitted to a Sister City Committee for discussion. She stated that when Shengyang, China had been designated as a Sister City, that designation had not followed the current policy. That city had not come before the Council until after the fact when an MOU had been put into place.

Referring to Exhibit C, City of Pittsburg Sister City Policy, Page 2 of 4, No. 7 with respect to a committee review of Sister City Agreements, Mayor Rios objected to that section given that Section 5 had indicated that an identifiable citizen group must be in existence for a Sister City relationship to exist. She was concerned in that case as to who would make the decisions.

Mayor Rios did not believe it would be fair to eliminate a Sister City relationship based on a lack of interest on the Council's part. She suggested that the item be left as is. She requested that Item Nos. 7 and 8 be eliminated with No. 5 to be left as is, and with a decision to clarify the title of the cities as either Friendship Cities or Sister Cities.

Councilmember Beals suggested that the provision should remain but be reworded, not so much as to terminate the relationship because of a lack of interest but for some other unforeseen reason. She added that if necessary the City could terminate the policy, but not for a lack of interest.

With respect to a Sister City versus a Friendship City, Mr. Nail noted that Shengyang, China had termed its relationship with the City of Pittsburg as a Friendship City. He acknowledged Councilmember Beals' request to designate Shengyang, China as a Sister City or as recommended by the Mayor, a Sister/Friendship City. When asked if a designation of a Friendship City as a Sister City would then imply that the city would have to be outside the United States, he stated that the City of Pittsburg's policy would have to further define that situation.

Councilmember Beals made a motion to adopt the resolution with the clarifications of Section 2 of the new policy regarding Nos. 5 and 7. She suggested that the Sister City phrase be synonymous throughout the policy and that the term Sister City be defined

consistent with the Sister City International Policy the City was following, which would refer to all countries outside of the United States, not including U.S. Territories or any states in the U.S. or North America. She noted that a U.S. Territory was not international and would be excluded, with 60 days applicable to trips in and out. The motion was seconded by Councilmember Kee for the purpose of discussion.

Mr. Grisham noted his understanding that the Sister City International policy meant that U.S. Territories were eligible to be considered as Sister Cities based on their definition.

Mr. Nail affirmed that was the case. An opinion had been offered from the International Sister City organization that U.S. Territories outside of the continental U.S. could be sister cities according to their guidelines. That had not been reflected in the staff report since that information had just been gleaned this date. As to whether or not a U.S. Protectorate could be considered for a Sister City relationship, he stated that an ongoing review would be required to allow a clarification of the status of such areas. He stated that the document referred to guidelines from the International Sister City organization. He emphasized guidelines as opposed to laws.

Councilmember Parent referred to Page 2 of 4, Policy, Sister City Steering Committee, 1 (7) as shown. She recommended that section be preserved but be reworded to eliminate the phrase "for a lack of interest." She also recommended that Sister City relationships be reviewed every two years.

Mayor Rios stated that the same would apply to No. 8 of that same section, for purposes of consistency.

For Section II, General Sister City Guidelines, (6), Vice Mayor Parent inquired whether the Council desired to retain the last portion of the last sentence of that section.

Councilmember Beals clarified that her motion had intended to eliminate the language, "Cities located inside the United States may be considered for Friendship City relationships" as shown in Section II, General Sister City Guidelines, (6).

For clarity, Vice Mayor Parent referred to Page 4, III, City of Pittsburgh – Sister City Travel Guidelines, (1) and recommended that the first sentence of that section be revised to read "All proposed Sister City visits by the City to other countries must be presented and approved by the City Council." She also supported a time limit, "no less than thirty days prior to the proposed departure" to apply for visits not only by the City but to allow adequate time for other committees to accommodate visits and plan activities for Sister Cities, to avoid staff from having to fill that role all of the time.

On a motion by Councilmember Beals to clarify Items in Section 2 regarding Nos. 5 and 7 and to suggest that the Sister City phrase be synonymous throughout the policy and in defining Sister City as defined by the Sister City International Policy the City of Pittsburgh was following, which would mean that all countries outside of the United States, not including U.S. Territories or any states in the U.S. or North America. It was clarified that a

U.S. Territory was not international, and would be excluded, with a Sister City to be a country not affiliated with the United States, with 60 days applicable to trips in and out. The motion was again seconded by Councilmember Kee for purposes of discussion.

On the question and with respect to the definition of a territory in response to the Mayor's concerns for clarity on that issue, Councilmember Beals commented that the existing Sister City relationships were with countries that were not U.S. Territories. The City's existing Sister City/Friendship City relations were with China, Italy, Japan and Korea.

When asked to further clarify the definition of a Territory, City Attorney Michael Dean explained that whether or not the Sister or Friendship City was located in some area over which the U.S. exercised sovereignty or jurisdiction in the U.S. He referred to the next item on the meeting agenda related to Puerto Rico, which was a Commonwealth within the jurisdiction of the United States, as opposed to U.S. Samoa which was a Protectorate, as opposed to Guam which was a U.S. Territory.

Councilmember Beals clarified her intent since if a city was associated with the United States, that was not intent of internationalism.

On the motion by Councilmember Beals, seconded by Councilmember Kee to clarify Items in Section 2 regarding Nos. 5 and 7 and to suggest that the Sister City phrase be synonymous throughout the policy and in defining Sister City as defined by the Sister City International Policy the City was following, which would then mean that all countries outside of the United States, not including U.S. Territories or any states in the U.S. or North America, with 60 days applicable to trips in and out.

The motion carried by the following vote:

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

5. **RESOLUTION 04-10125** Ratification of Friendship City Agreement with Caguas, Puerto Rico

Based on the prior action, City Manager Grisham recommended that the item be removed since Caguas, Puerto Rico would no longer qualify for Friendship or Sister City status.

Since Puerto Rico was a Commonwealth state, Mayor Rios informed the audience that Puerto Rico was not a state of the United States. She added that Puerto Rico participated in the Olympics as a separate team and was not included as part of the U.S. team. Puerto Rico did have the protection of the U.S. She suggested that it would be a loss to the City to lose Caguas, Puerto Rico as a Friendship City.

Mayor Rios added that Puerto Rico currently dealt with Southern California which was benefiting from that relationship. She suggested that the issue had become personal

and she objected to that situation and to the loss to the City as a result.

6. **RESOLUTION 04-10126** Approving the Transfer of Monies from the General Fund to the Citywide Landscaping & Lighting District for Consultant Fees to Assist the City in Reducing This District's Current Deficit

City Engineer Sbranti stated that over the past six years funds collected by the Citywide Landscaping and Lighting District had been insufficient to cover operating costs. During these years the District had relied on contributions from the City's General Funds to balance the District's annual budget. Staff requested City Council authorization to transfer \$50,000 from the General Fund to the Citywide Landscaping and Lighting District fund to cover the cost of two consultant agreements. The first would perform and compile the results of a public survey to gauge public support in increasing District assessments and the second would provide balloting and engineering services. Staff would return to the City Council for additional funds, if necessary, should the survey results indicate that a public awareness and education campaign was warranted.

Mr. Sbranti advised that the request for a fund transfer would cost the General Fund \$50,000, although if the City was successful in increasing assessments it could begin to reverse the negative fiscal impact on the General Fund for the past six years.

It was recommended that the City Council adopt a resolution authorizing the transfer of \$50,000 from the General Fund to the Citywide Landscaping and Lighting Assessment District fund.

Mayor Rios referenced the June 22, 2004, Planning Commission meeting minutes where Park Planner Joel Summerhill had advised that the Lighting and Landscaping District was in debt to the General Fund for over \$1.1 million a year and that the City deficit was \$4.8 million. To avoid adding to that deficit, she recommended that the \$50,000 be taken from Business Improvement District (BID) funds since businesses participated in the Lighting and Landscaping District.

Mr. Grisham stated that the item had been structured in such way to offer a district wide benefit, not just for businesses but to all property owners. He was not certain of the limitations on the BID funds.

BEN JOHNSON, Pittsburg, noted that there had been a deficit in the district nearly every year. He objected to the cost of \$50,000 in this case, suggested that the funds could be better used elsewhere and that existing staff could produce the necessary surveys.

Mr. Grisham stated that his concern was that with an annual deficit of over \$1 million that the City could no longer afford, the use of professional staff could better provide the information required to address the concern.

As to where the money should come from, the BID, the Pittsburg Power Company, the Redevelopment Agency or elsewhere, Vice Mayor Parent suggested that the funds

should be derived from the cleanest source available to then move forward to address the concern to be able to resolve it. She emphasized the need to educate the public that what was being provided was worth the cost.

On motion by Vice Mayor Parent, seconded by Councilmember Kee and carried unanimously to adopt Resolution 04-10126.

7. **RESOLUTION 04-10127** Approval of an International Economic Development Summit

In the City of Pittsburg's continued pursuit of international trade relations, and at the recommendation of the Bay Area World Trade Center, Mr. Grisham noted the City's desire to participate in the international marketplace. He presented a proposed International Economic Development Summit and explained that international trade relations offered great potential for economic growth and vitality in the City of Pittsburg.

The projected financial impact of the International Economic Development Summit was \$6,378. The anticipated expenditures associated with the International Economic Development Summit had been included in the 2004-05 Economic Development operating budget and would be charged to Promotion and Marketing and Sister City expense accounts, as deemed appropriate. He noted that the projected expenditures for Sister City delegations were entirely dependent upon each Sister City's interest and ability to attend the event and could be considerably less than projected.

City staff presented to the Council the proposed International Economic Development Summit tentatively scheduled for September 9, 2004, for consideration and approval. The International Economic Development Summit would not exceed a total projected cost in the amount of \$6,378.

Mr. Nail explained that the proposal would invite the Sister Cities to participate an International Economic Development Summit to bring together different representatives from the countries along with the City of Pittsburg. The summit would be hosted at Los Medanos College. One of the key aspects of the summit would be that each of the international cities would make a presentation on their city and propose ways to do business with the City of Pittsburg. The City of Pittsburg would in turn make a presentation to the Sister Cities outlining the international strategic plan and how it would like to do business with the various cities. At the end of the summit, the goal was for the City to have some agreements as to how to move forward to do business with one another.

When asked, Mr. Nail explained that staff could be directed to produce a delegation in time for a September 9, 2004 Summit, which was a day prior to the production of the Seafood Festival. The purpose of the schedule was to tie the summit in with a major City event. Staff had already done a lot planning in advance of the summit with the assumption that the Council might approve the request. Once approved, staff would immediately send invitations to the Sister Cities and would follow up to determine whether or not a delegation could be formed to attend the summit.

Given that this would be different from the newly established Sister City Policy, Councilmember Beals questioned whether or not the summit would be consistent with the recently approved policy of requiring Council approval 45 days prior to a Sister City visit. She requested clarification from staff as to whether or not the issue would be different and separate from the Sister City relationship and newly adopted policy. She also questioned whether or not there was time to create a successful summit at this point.

Mr. Nail advised that preliminary planning had been ongoing for the summit although nothing had been formally confirmed, awaiting a decision from the City Council.

With respect to the timeframe, Mr. Grisham noted that the Economic Development Summit was not just for the Sister Cities but for the overall community. He did not believe that the timeframe would be inconsistent with the newly adopted Sister City Policy. He recognized the desire to combine the summit with the Seafood Festival. If not destined to succeed, he stated that the process would be terminated immediately.

On motion by Vice Mayor Parent, seconded by Councilmember Glynn and carried unanimously to adopt Resolution 04-10127.

8. **RESOLUTION 04-10128** Authorizing the City Manager to Approve the Consultant Agreement By and Between the City of Pittsburg and Lamphier-Gregory to Provide Environmental and Planning Services for the Trans Bay Cable Project

Mr. Grisham stated that the proposal would continue the process with the Trans Bay Cable Project. He noted that the Pittsburg Power Company was engaging in power development activities including the Trans Bay Cable Project. Complexities of the environmental review and planning entitlement process dictated that the City retain an environmental planning consultant to assist staff in the coordination, review and preparation of activities associated with the approval of the project. He stated that the proposal would be reimbursed by the project developers.

The compensation of the proposed services shall be determined on a time and material basis. Lamphier-Gregory had submitted a scope of work as outlined in the Consultant Agreement not to exceed \$25,000, unless additional compensation in an amount not to exceed \$25,000 (for a maximum total of \$50,000) was approved in writing by the Executive Director. The funds would be allocated from Pittsburg Power Company reserves but would be reimbursed later by the project proponent, Babcock & Brown, based on previous agreements.

It was recommended that the City Council adopt a resolution authorizing the City Manager to execute the Consultant Agreement with Lamphier-Gregory for services required for environmental review planning activities related to the Trans Bay Cable Project.

On motion by Councilmember Glynn, seconded by Councilmember Kee and carried

unanimously to adopt Resolution 04-10128.

9. **REPORT** Local Business Requests for Exceptions to the Regulations of Pittsburg Municipal Code Title 19 (Sign Ordinance)

Since 2001, the Planning Division had received and/or processed 12 applications for exceptions to the regulations of the City's Sign Ordinance. This number of exception requests was particularly significant when compared to the prior two years (1999, 2000) during which no sign exception applications had been filed. The majority of exception applications included requests for off-site location and/or size (height and area) increases. The Council was being asked to provide Planning staff and the Planning Commission with guidance in creating standards for consideration of sign exceptions.

There would be no fiscal impacts associated with the consideration item. It was recommended that the City Council provide Planning staff and the Planning Commission with direction with respect to consideration of commercial business' requests for exceptions to the size, height and location criteria contained in the Sign Ordinance.

Mr. Grisham noted that the discussion item was significant. As such, he recommended a continuance to allow a comprehensive discussion.

On motion by Councilmember Kee, seconded by Councilmember Glynn and carried unanimously to continue the item related to the Sign Ordinance to September 7, 2004.

10. **MINUTE ORDER** Ad Hoc Subcommittee for Pittsburg Mallards Signage

Mr. Grisham stated that in accordance with the City of Pittsburg "Policies and Procedures for the City Council" adopted by the City Council on September 4, 2001 by Resolution No. 04-9475, the Mayor and Vice-Mayor shall appoint individual Councilmembers to standing and ad hoc committees. On June 21, 2004, Messieurs Tom and Bob Lewis presented a request to create a subcommittee or task force to partner with a service club to promote and facilitate placing signage at Pittsburg's City limits in commemoration of the 1963 Pittsburg Mallard Football Team.

There were no fiscal impacts. It was recommended that a Councilmember be appointed to an Ad Hoc Committee or task force to discuss the request to partner with a private organization or service club for the determination of a commemorative sign to recognize the 1963 Pittsburg Mallard Football Team.

In response to Vice Mayor Parent, Mr. Grisham commented that a service club had not been identified as yet, although he understood that there was a representative from the Mallard Football Team.

Councilmember Kee understood that the intent was to have a Councilmember assist with finding a service club. He volunteered to serve on the Ad Hoc Committee.

On motion by Councilmember Beals, seconded by Councilmember Glynn and carried unanimously to appoint Michael Kee to serve on an Ad Hoc Committee or task force to discuss the request to partner with a private organization or service club for the determination of a commemorative sign to recognize the 1963 Pittsburg Mallard Football Team.

11. **MINUTE ORDER** Ad Hoc Committee for Contra Costa Transportation Authority Draft Urban Limit Line Committee

Mr. Grisham explained that in accordance with the City of Pittsburg "Policies and Procedures for the City Council" adopted by the City Council on September 4, 2001, by Resolution No. 04-9475, the Mayor and Vice-Mayor shall appoint individual Council members to standing and ad hoc committees.

On June 25, 2004, a letter was received from the Contra Costa Transportation Authority (CCTA) requesting each local jurisdiction's participation in an Ad Hoc Committee for the development of a Draft Urban Limit Line (ULL).

There was no fiscal impact. The appointment of a Councilmember to the CCTA draft ULL Development Ad Hoc Committee was recommended.

Councilmember Glynn volunteered to serve on the Ad Hoc Committee.

Councilmember Kee recommended an alternate.

Vice Mayor Parent volunteered to serve as the alternate. She requested a monthly report on the process to keep the Council informed.

City Manager Grisham stated that the City Manager would also be actively involved and reports would be provided to the City Council.

On motion by Councilmember Kee, seconded by Councilmember Beals and carried unanimously to designate Bill Glynn as the Representative and Nancy Parent as the Alternate to an Ad Hoc Committee for the development of a Draft Urban Limit Line (ULL).

CONSENT CALENDAR

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

a. **MINUTES** Dated: July 19, 2004

Approved minutes dated July 19, 2004.

b. **CLAIMS** #1597 George G. Paunov; #1599 Christine Amaral

Denied claims #1597 George G. Paunov and #1599 Christine Amaral.

- c. **ORDINANCE 04-1225** Amend Pittsburg Municipal Code Chapter 2.52, Personnel System

Adopted Ordinance 04-1225.

- d. **RESOLUTION 04-10129** Adopt Director of Development Projects Classification, Combined w/RDA 04-983 and Authorize the Position

In Joint Session with the Redevelopment Agency, adopted Resolution 04-10129.

- e. **RESOLUTION 04-10130** Authorizing Reimbursement to Seecon Financial & Construction Co., for the Redesign of San Marco Boulevard

Adopted Resolution 04-10130.

- f. **RESOLUTION 04-10131** Authorizing the City Engineer to Execute a Partnership Agreement with the Federal Emergency Management Administration (FEMA)

Adopted Resolution 04-10131.

- g. **RESOLUTION 04-10132** Authorizing a Consultant Agreement Amendment with Nolte Associates for Design of Contract 2004-01, 2004 Citywide Pavement Rehabilitation Project

Adopted Resolution 04-10132.

- h. **RESOLUTION 04-10133** Approving a Franchise Agreement between the Creekside Village Senior Apartments and the City of Pittsburg for Installation and Maintenance of a Sanitary Sewer Line in a City Street

Adopted Resolution 04-10133.

- i. **RESOLUTION 04-10134** Authorizing a Contract for Professional Financial Audit Services to Maze & Associates for Fiscal Years 2003-2004 Through 2005-2006 and Authorize the City Manager to Execute Agreement

Adopted Resolution 04-10134.

- j. **RESOLUTION 04-10135** Award 2004-05 City Hall Janitorial Services Contract

Adopted Resolution 04-10135.

k. **REPORT**

Receive and File Quarterly Investment Report as of June 30, 2004

Received and Filed Quarterly Investment Report as of June 30, 2004.

ADJOURNMENT

The meeting of the City Council adjourned at 11:20 P.M. to the next meeting set for September 7, 2004.

Respectfully submitted,

Lillian J. Pride, City Clerk

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