

CITY OF PITTSBURG
Redevelopment Agency Minutes
July 6, 2004

Chair Aleida Rios called the meeting of the Redevelopment Agency to order at 7:11 P.M. in the City Council Chambers at City Hall, 65 Civic Avenue, Pittsburg, California after having convened at 6:30 P.M. for Closed Session pursuant to Section 54956.8 of the Government Code regarding Conference with Real Property Negotiator regarding APN 085-196-001 (295 E. 10th Street), 086-175-012 (101-109 School Street), 086-221-006 (2059 Railroad Avenue) and 086-221-004 (2075 Railroad Avenue); and Conference with Legal Counsel - Existing Litigation pursuant to Section 54956.9 regarding Calpine Corporation, Pastoria Energy Facility, LLC, Delta Energy Center, LLC and Calpine Construction Finance Company, L.P., v. California State Board of Equalization, San Diego County, Kern County, Santa Clara County, Contra Costa County, and Sutter County with City of Pittsburg as Intervenor, San Diego County Superior Court Case No. GIC 828751.

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

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

MEMBERS ABSENT: None

STAFF PRESENT: Executive Director, Marc Grisham
Legal Counsel, Ruthann Ziegler
City Clerk, Lillian Pride
Director of the Redevelopment Agency, Garrett Evans
Director of Planning and Building, Randy Jerome
Director of Economic Development, Brad Nail
Director of Public Works, John Fuller
Director of Recreation, Paul Flores
City Engineer, Joe Sbranti
Planning Manager, Melissa Ayres
Police Chief, Aaron Baker

CONSIDERATION

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

1. **RESOLUTION 04-970** Allocating Funding and Awarding a Consultant
Combined w/CC 04-10100 Agreement to Concept Marine Associates, Inc. for the Design of Contract 2004-8, Marina Shoreside Improvement Project (Phase 1) and Making Certain Findings in Connection Herewith

Executive Director Marc Grisham advised that Contract 2004-8, Marina Shoreside Improvement Project (Phase 1) was for the construction of a sheet pile wall and extending the shoreline along the east parking lot of the George Lowy Marina. This project will provide for additional development potential along Marina Boulevard adjacent to the Marina. This project is being constructed in phases to provide for flexibility of future site development.

The resolution would provide for design and bidding costs only. It was recommended that \$221,000 of the project funding be provided from unallocated Tax Increment Reserves. Staff would return to the City Council and the Redevelopment Agency for additional funding to construct the project upon rewarding a construction contract. A breakdown of the projected expenditures for design and bidding for the project have been identified in the July 6, 2004 staff report.

Mr. Grisham recommended that the City Council adopt a resolution making certain findings, consenting to the Redevelopment Agency's expenditure of funds for the project, and awarding a Consultant Agreement and authorizing the City Manager to execute a Consultant Agreement with Concept Marine Associates, Inc., in the amount of \$195,532 for the design of Contract 2004-8, Marina Shoreside Improvement Project (Phase 1). It was further recommended that the Redevelopment Agency adopt the resolution making certain findings and allocating \$221,000 of funding for the design and bidding of the project.

Councilmember Kee advised that he would have to recuse himself from the item since one of his clients was a potential restaurant tenant and as such he could indirectly benefit from the project. He stepped down from the dais and left the Council Chambers at this time.

On motion by Member Beals, seconded by Vice Chair Parent to adopt Redevelopment Agency Resolution 04-970, carried by the following vote:

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

On motion by Vice Mayor Parent, seconded by Councilmember Glynn to adopt City Council Resolution 04-10100, carried by the following vote:

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

Member Kee returned to the dais at this time.

2. **RESOLUTION 04-972** Allocating Funds for the Purchase, Renovation and Income Restriction of Residential Units at Fountain

Plaza and Making Certain Findings in Connection
Herewith

Mr. Grisham stated that the Redevelopment Agency of the City of Pittsburg was constantly pursuing opportunities to fight against blight and create opportunities for affordable housing in the Project Area. In June of 2003, Micon Real Estate, the developer, had approached the Agency with the opportunity to participate in the acquisition and rehabilitation of the Fountain Plaza Apartments. The Agency had set forth deal points to create a \$4.88 million loan with the developer. For its participation, the Agency could re-establish the affordability covenants throughout the 224 unit project.

The Agency loan to the developer shall not exceed \$4.88 million. The funds would come from the Agency's Low Moderate Income Fund (Fund 74). Concurrent with this proposal are several other affordable housing projects. To fund the different projects, the Agency would need to initiate a bond financing of at least \$10 million. Current annual receipts into the fund are \$2 million with no debt service requirements. Subject to the Agency Board approval, the Finance Team estimates that the funds could be available by the end of September 2004.

Mr. Grisham recommended that the Agency Board approve the deal points for the Loan Agreement with the developer and authorize the Executive Director to prepare, or cause the preparation of the Loan Agreement and related documents, including but, not limited to a regulatory agreement, a deed of trust and promissory note (collectively, the "Loan Documents") and to take all actions necessary to implement the resolution.

Vice Chair Parent inquired of the number of affordable units in the project at this time, to which Redevelopment Agency Director Garrett Evans advised that there were currently no restricted units from the Redevelopment Agency. The proposal would add all 224 units to stabilized rent for a period of 55 years.

On motion by Member Beals, seconded by Member Glynn, and carried unanimously to adopt Resolution 04-972.

3. **RESOLUTION 04-973** Allocating Funds for the Purchase, Renovation and
Income Restriction of Residential Units at Marina
Heights and Making Certain Findings in Connection
Herewith

Mr. Grisham reported that the Redevelopment Agency of the City of Pittsburg was constantly pursuing opportunities to fight against blight and create opportunities for affordable housing in the Project Area. In June 2004, Steadfast Companies, the developer, had approached the Agency with the opportunity to participate in the acquisition and rehabilitation of the Marina Heights Apartments. The Agency had set forth deal points to create a \$1.4 million loan with the developer.

For its participation, the Agency could establish the affordability covenants throughout the 200 unit project.

With respect to fiscal impact, the Agency Loan shall not exceed \$1.4 million. As earlier noted, the funds would come from the Agency's Low Moderate Income Fund (Fund 74). Concurrent with this proposal were several other affordable housing projects. To fund the different projects, the Agency will need to initiate a bond financing of at least \$10 million. Current annual receipts into the funds are \$2 million with no debt service requirements. Subject to the Agency Board approval, the Finance Team estimates that the funds could be available by the end of September 2004.

It was recommended that the Agency Board approve the deal points for the Loan Agreement with the developer and authorize the Executive Director to prepare, or cause the preparation of the Loan Agreement and related documents including, but not limited to a regulatory agreement, a deed of trust, and promissory note (collectively, the "Loan Documents") and to take all actions necessary to implement the Resolution.

Vice Chair Parent inquired of the number of affordable units in the project at this time, to which Mr. Evans advised that there were currently no restricted units. The proposal would establish 200 units that would be affordable for a period of 55 years.

On motion by Member Beals, seconded by Member Glynn, and carried unanimously to adopt Resolution 04-973.

CONSENT CALENDAR

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

- a. **MINUTES** Dated: June 21, 2004

Approved minutes dated June 21, 2004.

- b. **RESOLUTION 04-977** Approving a Commercial Rehabilitation Loan By and Between the Redevelopment Agency of the City of Pittsburg and Jason R. and Lisa M. Griego for 446 Railroad Avenue (APN 085-104-001)

Adopted Resolution 04-977.

- c. **RESOLUTION 04-978** Neighborhood Preservation Sub-Program Funding Allocation

Adopted Resolution 04-978.

- d. **RESOLUTION 04-979** Rescinding the Commercial Rehabilitation Loan Awarded to Sara Matus, Resolution 03-914 and Josefa Matus, Resolution 03-915

Adopted Resolution 04-979.

- e. **RESOLUTION 04-980** Approving a Loan Agreement By and Between the Redevelopment Agency of the City of Pittsburg and Kendra Marshall

Adopted Resolution 04-980.

- f. **MINUTE ORDER** Authorization to Create and Maintain an Interest-Bearing Account into which Funds for East Bay Regional Park Facilities will be Deposited

Authorized the creation and maintenance of an interest-bearing account into which funds for East Bay Regional Park Facilities will be deposited.

ADJOURNMENT

The meeting of the Redevelopment Agency adjourned at 7:19 P.M. to the next meeting set for July 19, 2004.

Respectfully submitted,

Lillian J. Pride, Secretary

als

CITY OF PITTSBURG
Pittsburg Power Company Minutes
July 6, 2004

Chair Aleida Rios called the meeting of the Pittsburg Power Company to order at 7:20 P.M. in the City Council Chambers at City Hall, 65 Civic Avenue, Pittsburg, California after having convened at 6:30 P.M. for Closed Session pursuant to Section 54956.8 of the Government Code regarding Conference with Real Property Negotiator regarding APN 085-196-001 (295 E. 10th Street), 086-175-012 (101-109 School Street), 086-221-006 (2059 Railroad Avenue) and 086-221-004 (2075 Railroad Avenue); and Conference with Legal Counsel - Existing Litigation pursuant to Section 54956.9 regarding Calpine Corporation, Pastoria Energy Facility, LLC, Delta Energy Center, LLC and Calpine Construction Finance Company, L.P., v. California State Board of Equalization, San Diego County, Kern County, Santa Clara County, Contra Costa County, and Sutter County with City of Pittsburg as Intervenor, San Diego County Superior Court Case No. GIC 828751.

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

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

MEMBERS ABSENT: None

STAFF PRESENT: Executive Director, Marc Grisham
Legal Counsel, Ruthann Ziegler
City Clerk, Lillian Pride
Director of the Redevelopment Agency, Garrett Evans
Director of Planning and Building, Randy Jerome
Director of Economic Development, Brad Nail
Director of Public Works, John Fuller
Director of Recreation, Paul Flores
City Engineer, Joe Sbranti
Planning Manager, Melissa Ayres
Police Chief, Aaron Baker

CONSENT CALENDAR

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

a. **MINUTES** Dated: June 21, 2004 and June 23, 2004

Approved minutes dated June 21, 2004 and June 23, 2004.

b. **RESOLUTION 04-111** Accepting the 2003/04 Patch Paving Contract as Complete

Adopted Resolution 04-111.

ADJOURNMENT

The meeting of the Pittsburg Power Company adjourned at 7:21 P.M.

Respectfully submitted,

Lillian J. Pride, Secretary

als

CITY OF PITTSBURG
Southwest Pittsburg Geologic Hazard
Abatement District II Minutes
July 6, 2004

Chair Aleida Rios called the meeting of the Southwest Pittsburg Geologic Hazard Abatement District (GHAD) II to order at 7:22 P.M. in the City Council Chambers at City Hall, 65 Civic Avenue, Pittsburg, California after having convened at 6:30 P.M. for Closed Session pursuant to Section 54956.8 of the Government Code regarding Conference with Real Property Negotiator regarding APN 085-196-001 (295 E. 10th Street), 086-175-012 (101-109 School Street), 086-221-006 (2059 Railroad Avenue) and 086-221-004 (2075 Railroad Avenue); and Conference with Legal Counsel - Existing Litigation pursuant to Section 54956.9 regarding Calpine Corporation, Pastoria Energy Facility, LLC, Delta Energy Center, LLC and Calpine Construction Finance Company, L.P., v. California State Board of Equalization, San Diego County, Kern County, Santa Clara County, Contra Costa County, and Sutter County with City of Pittsburg as Intervenor, San Diego County Superior Court Case No. GIC 828751.

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

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

MEMBERS ABSENT: None

STAFF PRESENT: Executive Director, Marc Grisham
Legal Counsel, Ruthann Ziegler
City Clerk, Lillian Pride
Director of the Redevelopment Agency, Garrett Evans
Director of Planning and Building, Randy Jerome
Director of Economic Development, Brad Nail
Public Works Director, John Fuller
Director of Recreation, Paul Flores
City Engineer, Joe Sbranti
Planning Manager, Melissa Ayres
Police Chief, Aaron Baker

CONSENT CALENDAR

On motion by Member Kee, seconded by Vice Chair Parent and carried unanimously to adopt the Consent Calendar, as follows:

a. **MINUTES** Dated: June 21, 2004

Adopted Minutes dated June 21, 2004.

ADJOURNMENT

The meeting of the Southwest GHAD II adjourned at 7:23 P.M.

Respectfully submitted,

Lillian J. Pride, Secretary

als

CITY OF PITTSBURG
City Council Minutes
July 6, 2004

Mayor Aleida Rios called the meeting of the City Council to order at 7:02 P.M. in the City Council Chambers at City Hall, 65 Civic Avenue, Pittsburg, California after having convened at 6:30 P.M. for Closed Session pursuant to Section 54956.8 of the Government Code regarding Conference with Real Property Negotiator regarding APN 085-196-001 (295 E. 10th Street), 086-175-012 (101-109 School Street), 086-221-006 (2059 Railroad Avenue) and 086-221-004 (2075 Railroad Avenue); and Conference with Legal Counsel - Existing Litigation pursuant to Section 54956.9 regarding Calpine Corporation, Pastoria Energy Facility, LLC, Delta Energy Center, LLC and Calpine Construction Finance Company, L.P., v. California State Board of Equalization, San Diego County, Kern County, Santa Clara County, Contra Costa County, and Sutter County with City of Pittsburg as Intervenor, San Diego County Superior Court Case No. GIC 828751.

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

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

MEMBERS ABSENT: None

STAFF PRESENT: City Manager, Marc Grisham
City Attorney, Ruthann Ziegler
City Clerk, Lillian Pride
Director of the Redevelopment Agency, Garrett Evans
Director of Planning and Building, Randy Jerome
Director of Economic Development, Brad Nail
Public Works Director, John Fuller
Director of Recreation, Paul Flores
City Engineer, Joe Sbranti
Planning Manager, Melissa Ayres
Police Chief, Aaron Baker

Mayor Rios considered the following general City Council items prior to pursuing the Redevelopment Agency agenda at 7:11 P.M.

PLEDGE OF ALLEGIANCE

Isabelle Piaz led the Pledge of Allegiance.

COUNCILMEMBER REMARKS

Vice Mayor Parent reported that a celebration had been scheduled at the Lion's Blind Center, now the Contra Costa Center for the Visually Impaired, on Alvarado Avenue and Crestview Drive on July 10 to celebrate its 50th Anniversary. The event was open to the public and interested parties must contact the center to obtain tickets to the event. The Vice-Mayor would present the Mayor's proclamation on behalf of the City Council at that time.

Vice Mayor Parent also reported that the League of California Cities had been temporarily successful in having the Governor retain his backing of the arrangement with cities to protect local tax monies. She commented that if the Assembly was not in agreement, the cities would continue to support the proposition for the November ballot.

Mayor Rios took the opportunity to acknowledge Mt. Diablo Habitat for Humanity, with a proclamation to be presented to Isabelle Piaz in recognition of that organization's completion of the last and 13th home in the City of Pittsburg. Habitat for Humanity was commended for its efforts. Families receiving some of the homes who were present in the audience were recognized at this time.

Vice Mayor Parent read the proclamation into the record in recognition of Mt. Diablo Habitat for Humanity.

ISABELLE PIAZ expressed her appreciation to the City Council for the recognition on behalf of the families in receipt of the homes and for the support from volunteers and families in need. She also expressed her hope that the Council would continue to support the families that had been selected for the Habitat for Humanity residences.

CITY MANAGER REMARKS

There were no City Manager comments.

CITIZENS REMARKS

There were no Citizen Remarks.

Mayor Rios adjourned to the Redevelopment Agency at 7:11 P.M. and reconvened as the City Council at 7:24 P.M.

PUBLIC HEARING

1. **ORDINANCE 04-1224** Introduction of an Ordinance to Rezone 4.56 Acres at the Southwest Corner of Central Avenue and Solari Street from RM to PD District (St. Vincent de Paul Property, AP-03057)

City Manager Marc Grisham advised that on May 25, 2004, the Planning Commission adopted Resolution No. 9488 recommending that the City Council rezone a 4.56-acre site located at 390 Central Avenue (APN 086-151-003) from RM (Medium-Density Residential) to PD (Planned Development) District, in order to allow construction of a 35-unit, small lot single-family infill development.

Mr. Grisham advised that there would be no fiscal impacts associated with the rezoning request.

It was recommended that the City Council move to adopt the Mitigated Negative Declaration and Mitigation and Monitoring Program and introduce, waive further reading and pass to second reading the recommended ordinance rezoning of the 4.56 acre property from RM District to PD District.

Director of Planning and Building Randy Jerome added that the item had been considered by the Planning Commission in May 2004 when the Commission had considered the recommendation for a rezoning of the property from Multiple Family to a Planned Development zoning district and had also considered the Tentative Map and design review. The Planning Commission had approved the Tentative Map and the design review subject to the approval of the rezoning. The Commission had recommended that the Planned Development zoning be forwarded to the City Council for adoption.

Mr. Jerome explained that one of the issues before the Planning Commission had been a condition for an inclusionary housing provision, where staff had recommended that 15 percent of the total number of units, [five of the units] be set aside for affordability. By a 3 to 3 vote, the Commission failed to pass that condition. The Commission had discussed the applicability of the request and had suggested that it be deferred to the City Council since the Council had elicited, on a case by case basis, affordability components for future projects. The Council had also taken action to enter into an Inclusionary Study which was underway at this time.

Mr. Jerome noted that the Planning Commission had also taken into account the fact that the project had been filed prior to the action by the City Council for inclusionary housing. The Commission had ultimately and unanimously voted not to include the inclusionary housing provision.

Mayor Rios opened the public hearing for Ordinance 04-1224.

TOM LEWIS, 50 Hawthorne Lane, Pittsburg, urged the Council to approve the project. Having met with the developer, he was impressed with the landscaping, building design and density. He expressed his hope that the Council would not include any inclusionary housing for affordability. He did want to see the Council potentially partner with the Pittsburg Unified School District (PUSD) and the developer to continue a barrier much like what existed on 14th Street on the east side of the overcrossing. He commented on the number of students illegally crossing through the property to reach the north end of the high school during school periods creating a potential safety hazard.

While not part of the development proper, Mr. Lewis suggested it could be a logical time to consider a partnership with the PUSD to make that barrier a reality.

DAN BOATWRIGHT, Castle Companies, identified himself as the applicant/project developer. He agreed with the previous speaker that the barrier be extended along Solari Street to prevent students from cutting through the property and the railroad tracks. He was willing to work with City staff and the neighborhood on that issue. He also spoke to the past history and efforts to develop the property. While he generally agreed with the staff report there remained the outstanding issue of the inclusionary housing provision.

Mr. Boatwright explained that the intent was to upgrade the blighted site with new development which would enhance the downtown area to achieve its greater potential. The building architecture would consist of three different floor plans and elevations, with various architectural details. The homes would include four bedrooms, with two and a half and three bathrooms units. The smallest unit could be affordable by design.

Mr. Boatwright noted that the Planned Unit Development would include a number of benefits including a private street at a full 36-foot width to be owned and maintained by the Homeowner's Association (HOA) with no burden on the City. There was also more than 11,000 square feet of landscaping that had been proposed, most of which was in the City right-of-way which the HOA would also be responsible to maintain at its own expense. The development would provide increased taxes to the City and provide an increased population to enhance the downtown area to be self-sustaining.

Mr. Boatwright added that Castle Companies had made application for another project that would be submitted to the Council in the near future. Inclusionary housing would be included in that development. The subject development had occurred prior to the discussion on inclusionary housing.

Councilmember Glynn commented that when he had been a member of the Planning Commission there had been a discussion at that time about the southern wall that would form a barrier between the property and the railroad tracks and any return along the underpass on the other side. The Commission at that time had discussed sound attenuation as it related to any two story home designs that would extend above the sound wall, which at that time had been designed to reach a height of 8 feet. He inquired whether or not the developer would provide any sound attenuation, such as extra insulation or sound attenuation windows on the second story level to ensure that the noise from the trains would be mitigated.

Mr. Boatwright explained that there would be a sound wall proposed around the railroad tracks on the Solari Street side of the site and on the Central Avenue portion of the project. The sound wall would be 6 feet in height and would attenuate the sound on the first floor. There was no way to have a 16 or 20 foot high wall to attenuate the sound from the second floor. The second story of the homes could be addressed with increased insulation and sound attenuation for the windows.

Mr. Boatwright explained that issue had been studied through a separate sound study which had been reviewed by Community Development Department staff and which had been included as a mitigation measure to reduce the sound levels.

Councilmember Glynn inquired of the closest point of approach between the tracks and the nearest home, to which Mr. Boatwright acknowledged that it would be less than 100 feet and was likely around 50 feet.

Councilmember Beals complimented the developer for the proposal to improve the area. As a new developer to the area she was pleased to see that the developer would help the City obtain its goal of affordable housing through the developer's intention to address the inclusionary element in a separate project.

Mr. Boatwright advised that the developer had made a commitment to provide inclusionary housing for another project yet to be presented to the City, with that project to consist of 60 units. Ten percent of those units would be designated for inclusionary housing, totaling six units of affordable housing for that development.

Vice Mayor Parent noted that the City had a goal to meet its affordable housing needs. While the Redevelopment Agency had just approved two projects that would provide the City with 424 units, although those would be rental units. The City had needed to ensure the provision of affordable housing for purchase. She inquired of the City Manager whether or not the City had time to negotiate terms whereby the Agency could potentially assist the developer to make some of the subject units more affordable.

Mr. Grisham acknowledged that was possible while the project was in process. For the five units of affordable housing, the Agency could enter into an agreement, such as an option agreement, to purchase the five units at a future date. If the Agency decided not to purchase the units, the developer could sell the units. The units would be purchased at a regular sales rate which would allow the Agency the ability to remarket the units as affordable units, such as to a Moderate-Income family. Depending on what the buyer could put down as a first, the Agency could carry back the difference. He noted that the difficulty was the qualifying process for homebuyers.

Vice Mayor Parent inquired whether or not it would be possible to impose a number greater than 15 percent on the next development, or to add the five affordable units onto the next development being proposed by the applicant.

Mr. Grisham stated that could be done, although 15 percent was a figure used in other redevelopment areas. While the units could also be loaded onto the next development, as suggested, he reminded the Council that inclusionary housing would be discussed at length in the near future.

Vice Mayor Parent recognized that the City had a First Time Home Buyers Program that would help some people, although one of her objectives in the inclusionary zoning was not to have the units all in one place.

The Vice-Mayor expressed a preference to see the inclusionary units spread throughout the community. While the project could be adopted at this time, she would recommend that staff continue to negotiate some way to cooperate with the developer to add some affordable units to the project.

Mr. Boatwright was willing to work with and cooperate with City staff on that issue. As to the cost of the proposed units, Mr. Boatwright advised that it was difficult to determine at this time based on the land development costs and the sale of the project. The increase in interest rates would also affect home costs. He foresaw the units starting between the \$300,000 to \$320,000 range.

Councilmember Kee inquired whether or not staff and the developer had discussed inclusionary zoning, other than the fact it was something that the City wanted to consider. While it was something he wanted to see occur in the City, he did not necessarily support the placement of the burden all on the developer or all on the City. He urged the development community to meet with staff and the Inclusionary Zoning Consultant to reach some agreement as to how to implement inclusionary housing without overburdening any one party.

Mr. Boatwright acknowledged that there had been meetings between staff and the City's Consultant, although he had not been in attendance at those meetings. He reported that if an inclusionary provision was placed on the subject development, it would overburden the project financially. He reiterated that the second project to be submitted to the City, to be located on North Parkside Drive, would include an inclusionary housing component.

Mayor Rios closed the public hearing.

Councilmember Kee agreed with the Vice-Mayor that affordable housing should be spread throughout the City in both rental and ownership homes to avoid the creation of slums. He wanted to explore all options when moving through the process.

Councilmember Beals recognized that the developer would try to provide the percentage of inclusionary housing for the development through a separate development. She found the project to be a good infill project. She emphasized the Council's desire to see inclusionary housing in future developments. She expressed her hope that the Council would be as vocal about larger developments abiding by those regulations since the percentage of desired inclusionary housing would equate to more homes.

On motion by Councilmember Beals, seconded by Councilmember Glynn and carried unanimously to introduce Ordinance 04-1224 by title only and waive first reading.

2. **RESOLUTION 04-10099** Approval of Proposed Rate Increases at the Pittsburg Delta View Golf Course

Mr. Grisham stated that Title 3, Chapter 3.32 of the Pittsburg Municipal Code

authorizes the City Council to establish by resolution the fees to be charged to users of the Pittsburg Delta View Golf Course and its related services. It is the interest of City staff to increase the rates and fees at Delta View, allowing operations to produce a higher revenue level to further support Delta View's ability to fund operating and capital investment costs, progressing toward self-sustainability and the elimination of future City General Fund subsidies.

Delta View staff projected that the proposed rate increases would produce an average increase in the amount of \$125,000 over year, based upon the current revenue base. The projected increase in revenue was anticipated and included in the 2004-05 operating budget.

It was recommended that the City Council adopt a resolution for the new proposed Rate Schedule for the Pittsburg Delta View Golf Course, allowing operations to produce a higher revenue level to support operating and capital investment costs, progressing towards self-sustainability.

Mayor Rios opened the public hearing for Resolution 04-10099. There being no one to speak for or against the item, the public hearing was closed.

On motion by Councilmember Beals, seconded by Councilmember Kee and carried unanimously to adopt Resolution 04-10099.

3. **RESOLUTION 04-10103** Finding and Determining that the Public Interest, Convenience and Necessity Require the Acquisition of Certain Property Owned by Pacific Gas & Electric Company for Public Purposes, in Connection with the Bancroft Gardens 1 Subdivision Project

Mr. Grisham submitted for Council consideration proposed Resolution of Necessity authorizing the commencement of eminent domain proceedings involving Pacific Gas & Electric Company (PG&E) to acquire certain real property interests necessary to achieve certain public purposes in connection with the Bancroft Gardens 1 Subdivision. The legal descriptions of the real property interests to be acquired had been attached to Resolution 04-10103 as Exhibits A and B in the staff report dated July 6, 2004.

Mr. Grisham advised that there would be no fiscal impact to the City. The owner of Bancroft Gardens I, the land to be benefited by the acquisition, had entered into a written agreement providing for full reimbursement to the City of Pittsburg for all of its expenditures relating to the acquisition, including all compensation for the taking and attorneys' fees.

It was recommended that the City Council conduct the public hearing noticed for the item and then adopt Resolution 04-10103, finding and determining that the public interest, necessity and convenience require the acquisition of the interests in the land described in the resolution.

It was further recommended that the City Council direct the City Attorney's office to proceed with all necessary action to carry out the acquisition.

Mayor Rios opened the public hearing for Resolution 04-10103. There being no one to speak to the item the public hearing was closed.

On motion by Vice Mayor Parent, seconded by Councilmember Glynn and carried unanimously to adopt Resolution 04-10103.

CONSIDERATION

1. **RESOLUTION 04-10100** Allocating Funding and Awarding a Consultant
Combined w/RDA 04-970 Agreement to Concept Marine Associates, Inc. for the Design of Contract 2004-8, Marina Shoreside Improvement Project (Phase 1) and Making Certain Findings in Connection Herewith

Mr. Grisham advised that Contract 2004-8, Marina Shoreside Improvement Project (Phase 1) was for the construction of a sheet pile wall and extending the shoreline along the east parking lot of the George Lowy Marina. The project would provide for additional development potential along Marina Boulevard adjacent to the Marina. This project is being constructed in phases to provide for flexibility of future site development.

The City Council adopted Resolution 04-10100 in Joint Session with the Redevelopment Agency as follows:

On motion by Vice Mayor Parent, seconded by Councilmember Glynn to adopt City Council Resolution 04-10100, carried by the following vote:

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

2. **RESOLUTION 04-10102** Support for the Extension of Contra Costa's Transportation Sales Tax

Mr. Grisham advised that the resolution would approve a \$2 billion Transportation Expenditure Plan (TEP) for the extension of the County's Measure C transportation tax. If the County's Measure C transportation sales tax was extended as proposed, it would generate an estimated \$2 billion over 25 years. The TEP included \$360 million (18 % total, in 2003 dollars) of "Local Streets and Roads Maintenance and Improvement" funds to be distributed by formula to local jurisdictions, including an increase in the base allocation from \$50,000 to \$100,000 (2004 dollars).

It was recommended that the City Council approve the Contra Costa Transportation Authority's (CCTA) Transportation Expenditure Plan (TEP) and adopt "Findings, Facts In Support of Findings and Statement of Overriding Considerations."

HISHAM NOEIMI, Senior Engineer, representing the Contra Costa Transportation Authority (CCTA), explained that the local transportation sales tax would expire on April 1, 2009. The CCTA had conducted a two-year process to develop the TEP for the extension of the existing half-cent sales tax. On May 26, 2004, the CCTA adopted a \$2 million Final TEP identifying the projects and programs to be funded by the sales tax extension with a revised Growth Management Program. The CCTA had also adopted Ordinance 0402. If passed by the voters, it would extend the half-cent sales tax for 25 years, covering the period from April 1, 2009 to March 31, 2034.

Prior to the placement of Ordinance 0402 on the November 2004 ballot, Mr. Noeimi advised that the TEP must be approved by the majority of the cities representing the majority of the population and by the County Board of Supervisors. In addition, the CCTA's legal counsel had determined that each city, town and the County as the responsible agency, in conformance with the California Environmental Quality Act (CEQA) was required to make findings, facts in support of Findings and a Statement of Overriding Considerations prior to the approval of the TEP. To take effect, the ballot measure would then need to be approved by a two-thirds vote of the electorate.

Mr. Noeimi advised that the CCTA had conducted extensive outreach to all of the cities, towns and the County and two rounds of public meetings in each of the four sub regions in the County, with two public opinion polls having been conducted and with input from a variety of special interest groups and the CCTA's Citizen Advisory Committee (CAC). The proposed TEP would accommodate the diverse needs of the four parts of the County and ensure equitable distribution of the collected revenues. It would provide sufficient funding for major investments that appealed to the voters, such as eBART, the widening of State Route 4 and a fourth bore to the Caldecott Tunnel.

Speaking for the CCTA, Mr. Noeimi requested the City Council's support of the extension of the Transportation Sales Tax.

Mayor Rios opened the public hearing on Resolution 04-10102.

BRUCE OHLSON, Pittsburg, and a member of the East Bay Bicycle Coalition, advised that the non-motorized community was less than impressed with the projects and programs created by Measure C which was to be in effect for the next 25 years. He pointed out that 23 percent of those killed in automobile accidents were pedestrians and bicyclists, although Measure C would only set aside 1.5 percent of the tax proceeds for bicycle and pedestrian improvements which the bicycle community did not find equitable. While the East Bay Bicycle Coalition had not yet decided to oppose or remain silent on the extension of Measure C, it was clearly not happy with the proposal.

Mayor Rios closed the public hearing.

Mayor Rios stated that she was personally not in support of the extension of Measure C. She noted that the Urban Limit Line (ULL) remained under discussion. While Measure C incorporated the ULL, it was not yet known where the ULL would be drawn. Also, while money would be appropriated for East County, Measure C would limit what could be done with the monies in terms of limits to road construction and which streets could be improved. She added that the projects listed for Measure C included few projects in the City of Pittsburg. She would therefore not support the extension of Measure C.

Vice Mayor Parent recognized that the extension of Measure C was not an ideal proposal, although through Measure C there were projects in the City of Pittsburg that the City would otherwise not have been able to build. She also noted that the money going to some other East County projects would free up local monies for other projects, such as the Buchanan Road Bypass.

Vice Mayor Parent suggested that the City could not do without the extension of Measure C given the transportation needs in East County affecting Pittsburg residents. She suggested that East County would actually receive slightly more than its proportionate share of the funds and she saw the extension of Measure C as an opportunity for East County to get its money back and a little bit more. She suggested that the coalition had recognized that fact. She supported the extension of Measure C.

Councilmember Glynn recognized that most projects were sorely underfunded and that most would not be able to be completed under the available resources for each subset of East County. While not happy with the current proposal, based on the regional cooperation that had occurred with an attempt to deal with risk analysis on where the more egregious traffic conditions occurred, he noted that every jurisdiction would need to get something for the extension to pass.

As a participant in transportation planning for the last three years, Councilmember Glynn explained that members had participated in lengthy and constructive engagement over that time. While the expiration of the current Measure C was four years away, he had hoped that the process would not be in such a rush for approval. While not happy with the proposal, he would support the extension of Measure C.

Councilmember Beals agreed with the comments and characterized the extension proposal as a product of compromise and regional cooperation.

On motion by Councilmember Beals, seconded by Councilmember Kee to adopt Resolution 04-10102, carried by the following vote:

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

3. **RESOLUTION 04-10106** City Approval and Co-Sponsorship of the Annual Hispanic Heritage Discovery Festival

Mr. Grisham reported that Mayor Rios had requested City of Pittsburg approval and co-sponsorship relative to presenting the 1st Annual Hispanic Heritage Discovery Festival. The event would take place on October 9, 2004 and would recognize the City of Pittsburg's Hispanic community, its history, contributions and businesses. The request for approval was for the usage of City letterhead for sponsorship letters and City staff for this event's planning and implementation. He advised that the cost factors for the requested service would be the staff time through Police Services, Public Works, Recreation and for City letterhead stock.

It was recommended that the City Council adopt a resolution approving the Hispanic Heritage Discovery Festival usage of the City letterhead and the City's sponsorship in providing City Park and staffing.

Recreation Director Paul Flores explained that the concept for an Hispanic Festival had been long thought of throughout the years, with no opportunity to follow through due to a lack of community interest. Through the Mayor and others, that interest had now been piqued. The request was to allow the use of City letterhead and City staff to provide assistance in the festival. No General Fund monies were being requested at this time. The event would bring the community together, provide recreation and socialization and allow the City to highlight the Hispanic community while also providing community outreach relative to City and health services and other amenities that the City might offer.

Councilmember Beals inquired who would co-sponsor the event. She requested clarification that the use of the City letterhead was to promote the event.

In response, Mr. Flores advised that the City would co-sponsor the event with the members of the Discovery Festival Committee. The Committee had requested in kind services, as noted in the staff report, for staging, use of the City letterhead and help promoting the event. As to the staffing that had been requested, the Police Services costs could be in the neighborhood of \$1,632. The Public Services maintenance workers would cost \$1,024, and preparation and staff costs would be approximately \$250, for a total of \$2,896 for in kind services or staff labor.

Councilmember Beals inquired whether or not the Committee, through its sponsorships, would reimburse the City for some of the expenses. While she understood that there was no fiscal impacts to the City at this time, she would support the event if there was no fiscal impact to the City. She noted that the item was an expense, not approved by the City Council, nor had it been included in the City's budget. The City had to cut expenses for festivals in the past such as the Youth Conference, Heritage Festival and Blues Festivals since the City was unable to fund those events, in kind or otherwise. For those reasons, she emphasized the need for the Council to consider the fiscal impacts.

Councilmember Beals suggested that the Council be provided more information beforehand in the future given that the item should have come before the Council as a budget issue rather than a pay as you go matter.

Mr. Flores explained that the item was not part of the budget process nor had it been part of the Department process at the budget period. The event was a new concept. Whether or not it would be continued would be up to the Council.

Councilmember Kee shared some of the concerns that had been expressed. While it was important that every aspect of the community be able to express itself, he was concerned that numerous festivals in the past had been canceled for one reason or another. He emphasized the importance of continuity. He was also concerned with any precedent setting action given the City's budget constraints. He would support the request as a one time only expense.

As an alternative, Councilmember Beals suggested that the Committee as a whole apply for a community grant to cover its expenses with in kind services supplied in that fashion. She supported that process as opposed to the request at this time.

Councilmember Glynn pointed out that the largest ethnic population in the City of Pittsburg was Hispanic, at 38 percent. He suggested that a way could be found to address the Council's concerns related to a reimbursement of costs. He also noted that the event was scheduled in October, more than 90 days away, which would allow time to review the possibility of applying for a grant or engage in fundraising to cover the costs of the event. He recommended that the resolution be revised to reflect that the City would support the event provided that it be funded by those organizations or individuals proposing the event.

Vice Mayor Parent recognized that whatever organized event was held in a City Park potentially the Police Department would be involved. While not particularly concerned with the policing for the event, she was concerned with the involvement of City staff for planning and implementation. She was concerned if Recreation Department staff was expected to run or set up the event given the significant cutbacks that had been imposed on Recreation Department staff due to budget constraints. She noted the same concern if Public Works Department staff was to help with setting up for the event, placing traffic barriers in the park or cleaning up afterwards. She urged that the organizers clean up after himself/herself as much as possible.

Vice Mayor Parent also spoke to the allocation of community sponsorships where participants were to prove that they had a 501C3. She questioned whether or not the Committee had that distinction. She would support the proposal on a first time basis, with the understanding that Recreation Department staff was not to run the event.

Mr. Flores was uncertain whether or not the Committee had a 501C3. He acknowledged that the Committee would have to qualify for the Community Sponsorship Program.

Speaking from the audience, Mary Coniglio of the Pittsburg Chamber of Commerce explained that she would be acting as the fiscal agent for the Committee.

Mayor Rios explained that the idea for the Hispanic Heritage Discovery Festival had been brought to her by several Hispanic citizens desirous to celebrate Hispanic heritage. The event had been planned for October 9 to coincide with National Hispanic Heritage Month. She clarified that she had asked the item to be brought to the Council so that the Council could support the event, nothing else. Staff had decided to participate, which was the reason the proposal was bring presented to the Council in this fashion. No money was being requested from the City other than the use of Public Works and Police Department staff as was expected for any function and by any entity in the City. The use of the City's letterhead for sponsorship purposes had also been requested.

Mayor Rios advised that she had spoken with the Police Chief regarding the event to ensure that the security and setup would be appropriate and something the Police Department would be able to handle. She noted that Ms. Coniglio would be acting as the fiscal agent to collect the monies for the event. There would also be volunteers. No participation was expected from City staff unless that staff volunteered his/her services.

Mayor Rios emphasized that the Committee was committed to having the festival and moving forward. If the request was not endorsed by the City Council, the event would still proceed.

Councilmember Beals understood that since the Chamber of Commerce would be serving as the fiscal agent, the Committee might be eligible for funds through the Chamber's non-profit Community Sponsorship Grant. She suggested that the issue could be worked out between the Committee, the City Manager, City staff and the Chamber of Commerce to find a creative way to participate through the Community Sponsorship Grant Program.

Mr. Flores acknowledged that option as a possibility.

Mayor Rios clarified that Ms. Coniglio would be participating personally for the event and was not acting on behalf of the Chamber of Commerce. She reiterated that the Committee was not requesting any funds from the City. Funds would be sought through fundraising and sponsorship efforts. She reiterated that the Committee was not asking for funding from the City. The event would be held on its own. The intent was to create a community event with Council support.

Councilmember Beals understood that the purpose of the use of the City letterhead was to solicit money from the public to hold the event. If the Committee worked with the Chamber of Commerce, or with the fiscal agent as a non-profit group, she suggested that the use of City letterhead to solicit funds might not be necessary since the Committee could be eligible for the Community Sponsorship Grant.

Mr. Grisham explained that when staff had been approached by the Mayor, the intent was to use the City letterhead since the Mayor had requested something that was for a worthwhile event and the use of the City letterhead held more power than the use of normal stationary

With the use of City Park and with the Mayor working with the Committee as the lead person, Mr. Grisham suggested it would be appropriate for the Mayor to ask for the use of the letterhead for this type of event as a one time or discovery event. Whether a City or a non-City event, police services would be expected and the Committee would not necessarily have to raise funds for that assistance.

Mr. Grisham added that staff would not be driving the event and would not be putting the event together since it was the Committee's focus to do all of those things. Since the event had been proposed in City Park and since the Mayor desired to use City letterhead to increase sponsorships, the item had been submitted to the Council to determine the Council's comfort with the proposal.

Mr. Grisham recommended that the activity be supported with the understanding that there be minimal to no impact to City staff beyond what was provided to any other festival being organized in the community, and that the Committee work with the Chamber of Commerce to obtain funding through a grant to help cover any costs beyond Police Services. He also recommended a strong understanding that the park would be used for the event, which was a one time event, and not something that would become a permanent event given that the City had to cut back on festivals and other activities.

RON JOHNSON Jr., Pittsburg, suggested that the support from the Council had an historic basis but not to the degree of planning and implementation. With his extensive background in fundraising, he agreed that the use of the City's letterhead along with the Mayor's name for an event to be held in a City park would be powerful in terms of potential sponsorship since it lent the impression that the event was completely backed by the monies and reality of the City. Supportive of all cultural activities for all nationalities, he offered his assistance to the Committee related to fundraising. He otherwise recognized the need to ensure that the impression was not for a City event since that could place the City in an awkward position.

CARMEN OCHOA, Pittsburg, expressed concern with the comments given that for the last 10 years she had sought support from the cities of Brentwood, Antioch and Pittsburg for National Hispanic Heritage Month in recognition of the contributions from Hispanic people. She strongly supported the event to be able to reach the Hispanic community and provide information on City services. She suggested that the use of the City's letterhead was all that the Mayor had requested. The Council's support and attendance was encouraged.

Councilmember Beals expressed her support for the event but reiterated her comments and concerns between a City sponsored event and a Discovery Festival Committee event. She pointed out that there were ways that funding and sources of sponsorships could be sought to assist the Committee in producing a very successful event. She commended the events that Ms. Ochoa had sponsored in the City for a number of different cultures.

BASHIR RAHIMI, Pittsburg, spoke to the fact that the City was comprised of different people. He suggested it would not hurt the City to have the City put its name on the event or for the Council to provide support for the event.

RON JOHNSON Sr., Pittsburg, suggested that the City letterhead could be used as a letter announcing a proclamation of the City Council in support of the event, where the Committee could use the proclamation for whatever purpose in terms of its sponsors.

On motion by Vice Mayor Parent, seconded by Councilmember Glynn to adopt Resolution 04-10106, subject to the modification of the City Council findings and determination as follows:

Finding 1 to remain as written.

Finding 2, to be amended to read:

2. *Provide limited City staff time to plan and assist in the implementation of the Hispanic Heritage Festival.*

Finding 3, to be amended to read:

3. *Provide City Park as the location for the Hispanic Heritage Festival, this year.*

The motion carried by the following vote:

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

4. **MINUTE ORDER** Council Summer Recess

Mr. Grisham advised that historically the City Council took a recess during the summer months to allow for both staff and Council vacations. The recess was typically taken during the period that would encompass the second meeting in August.

There was no fiscal impact to the City. It was recommended that the City Council, by Minute Order, determine whether or not to have a Council summer recess, and when.

On motion by Vice Mayor Parent, seconded by Mayor Rios and carried unanimously to approve a Council Summer Recess to be taken during the period that would encompass the second meeting of August.

5. **REPORT** Review of Citywide Departmental Accomplishments

All departments had been asked to prepare their 2003-2004 accomplishments. Each had done so and reports had been compiled and were being presented to the City Council for review.

Planning and Building had been left out and would be included in the final report. The document would be posted on the City's web page so that people could see the accomplishments. Copies were set out for the public.

There was no fiscal impact to the City. It was recommended that the City Council accept the report of Citywide Department Accomplishments.

Councilmember Beals commended all City departments for their accomplishments, as shown over the past year.

On motion by Councilmember Beals, seconded by Councilmember Glynn and carried unanimously to accept the Review of Citywide Department Accomplishments.

CONSENT CALENDAR

On motion by Councilmember Beals, seconded by Mayor Rios and carried unanimously to adopt the Consent Calendar, with the removal of items a, c, e and h.

- b. **CLAIMS** #1574 John Everett, Jr.; #1579 Pamela Richardson

Denied claims #1574 John Everett, Jr.; and #1579 Pamela Richardson.

- d. **RESOLUTION 04-10101** Platinum Stars Request for Community Sponsorship Funds

Adopted Resolution 04-10101.

- f. **RESOLUTION 04-10105** Approving Transfer of Cable Franchise Control From AT&T Broadband to Comcast Corporation

Adopted Resolution 04-10105.

- g. **RESOLUTION 04-10107** Approve Rubicon Programs Environmental Center Lease Renewal

Adopted Resolution 04-10107.

The following items were removed from the Consent Calendar for discussion.

- a. **MINUTES** Dated: June 21, 2004

Vice Mayor Parent requested an amendment to the first sentence of the second paragraph under Ordinance 04-1223, on Page 6:

Mr. Grisham explained that while previously coupled with another recommendation, he recommended at this time that the Council rescind the portion related to California Avenue.

On motion by Vice Mayor Parent, seconded by Councilmember Beals and carried unanimously to approve the Minutes dated June 21, 2004, as amended.

- c. **ORDINANCE 04-1223** Adoption of an Ordinance to Amend Pittsburg Municipal Code 10.16.190, "Maximum Weight of Commercial Vehicles in Certain Districts"

EVAR ROSALES, Pittsburg, requested that the City Council deny the Ordinance which would not permit truck parking in certain districts of the City. While he had tried to comply with the current parking regulations, it had been difficult to find an alternative location and he could not afford to pay for a parking spot. Having driven through the neighborhoods he found that trucks remained parked in some areas and in speaking to some drivers he had learned that those drivers could not afford alternative locations to park. He expressed his hope that the Council would not move forward with the item.

Councilmember Glynn spoke to the ordinance and the maximum weight of the vehicles in certain districts in the City. He noted that the ordinance being considered by the Council spoke to the south side of Power and Davi Avenues between Railroad Avenue and Davi Avenue. He questioned why the restriction for truck parking was only restricted to that area particularly since the Council had discussed other areas of the City, such as California Avenue. He questioned why a Citywide ordinance was not being proposed.

Mr. Grisham explained that while truck parking had once been allowed on Power Avenue, that parking was no longer available given the construction of the freeway. He suggested that the Council could deal with truck parking on public streets or work to create an off site parking area, to be discussed at a future date.

Vice Mayor Parent noted that the proposal would solve a problem that had been an issue for a number of Councilmembers and citizens in the community. She stated that the ordinance was doing nothing but removing Power Avenue as a permitted area for truck parking and would not substitute that parking elsewhere, although that could be done at a later time. She recommended moving ahead to adopt the resolution to ensure that with the completion of freeway construction, the City was not in a position of again having large trucks parked on Power Avenue.

Councilmember Glynn suggested that could be accomplished with an amendment to the first paragraph of Ordinance 04-1223, Section 2, Findings:

For the health, safety and welfare of its citizens, the City has determined that commercial vehicles with a gross vehicle weight rating in excess of 10,000 pounds should not be allowed to park overnight along the south side of Power Avenue, between Railroad Avenue and Davi Avenue, and in certain districts to be determined.

Mr. Grisham emphasized that this was the second reading of the ordinance. While he recognized the concerns, if the Council desired to modify the ordinance the process would have to start all over again.

Councilmember Glynn withdrew his recommendation for amended language, although he noted that the intent was to have an applicable Citywide law for the purpose of dealing with illegal truck parking in the City. He suggested that a Citywide ordinance be agendaized for discussion on a future agenda.

Councilmember Glynn clarified his preference for an ordinance to address truck parking anywhere in the City and to review areas where truck parking could be permitted and would not be permitted. He cited the areas of California Avenue and other areas of the City where large commercial trucks were parking illegally.

On motion by Vice Mayor Parent, seconded by Councilmember Glynn and carried unanimously to adopt Ordinance 04-1223.

- e. **RESOLUTION 04-10104** Approval of Professional Services Contractual Agreement between the City of Pittsburg and John Bartley Kerr

Vice Mayor Parent spoke to Page 1 of the Agreement for Professional Services between the City of Pittsburg and John Bartley Kerr, specifically to Section 1, Term of Agreement and the last sentence of the provision which read "At any time during the term of this AGREEMENT, the Parties may negotiate either the terms or an extension of this AGREEMENT, which may include Contractor becoming an employee of the City."

Vice Mayor Parent requested that the clause "which may include Contractor becoming an employee of the City" be eliminated from the Agreement since she did not want a Civil Service employee running an enterprise.

On motion by Councilmember Kee, seconded by Councilmember Glynn and carried unanimously to adopt Resolution 04-10104, as amended.

- h. **RESOLUTION 04-10108** Award City Hall HVAC Chiller Replacement Contract

Public Works Director John Fuller spoke to the July 6, 2004 Memorandum presented to the Council at the dais which included updated information on the item. He advised that the City's chiller unit which cooled the air in the City Hall building had been a problem since not long after City Hall had been completed. The unit had experienced a compressor failure a month ago and the HVAC Maintenance Contractor had taken the system off line. A temporary chiller had been brought in to stabilize the system and isolate the failed compressor. In that process it had been found that the chiller could not pass the vacuum test due to the existing equipment being used, which was not of a high quality or a high cost unit which had made it difficult to isolate the location of the vacuum leaks.

Mr. Fuller reported that the problem had ultimately been traced to the evaporator unit which might have been the source of problems almost as soon as the warranty had expired on the unit. The rental chiller had to remain in place. The existing system could not be put back on line. Several options for repair or replacement of the chiller had been sought.

It had been found that the repair option for the McQuay unit, which was currently installed in the building, was in excess of half the cost of a replacement unit. Staff had determined that it was not cost effective to repair the existing unit. Since the City was renting a temporary chiller at a cost of over \$3,000 a week, time was of the essence. Staff has solicited bids for replacement chillers from five contractors, with bids received from four of those contractors. One of the options had been the replacement of the unit with a Trane chiller. The other option had been for the installation of a Carrier model.

Mr. Fuller explained that staff had originally recommended that the City Council approve the installation of the Carrier model since it was \$30,000 less expensive than the Trane model. The Trane model was described as a higher energy efficiency unit, but was significantly more expensive. A Trane unit would serve the City's needs and was available in the Bay Area and could be installed in City Hall within two to three weeks. The Carrier option would have to come from the factory and would involve a four to six week lead time to have the unit on site along with another couple of weeks for its installation. In the meantime, the temporary chiller would be used.

Mr. Fuller explained that after the preparation of the staff report, City staff had met with the PG&E Service Representative and had mentioned the plans to purchase a new chiller. The PG&E Service Representative had indicated that the City could be eligible for an energy rebate subject to the type of chiller replacement.

Mr. Fuller added that staff had also looked into extended warranties. Depending on whether the City purchased a Carrier or Trane model, or a high efficiency or standard efficiency unit, extended warranties or not, there were up to eight different options. The options ranged in price from a Standard Carrier unit installed in six to eight weeks at a cost of \$140,000 and a \$10,000 contingency request, options for higher efficiency and more costly units with additional warranties up to \$178,000 with a \$10,000 contingency, requiring a \$190,000 budget to complete the project. Per PG&E, the Standard Carrier, a high efficiency unit at the same capacity but at a higher efficiency rating, would save the City nearly \$4,000 a year and cost the City \$15,000 more to install. A high efficiency Trane unit would save the City \$11,000 a year on energy costs but would cost the City \$30,000 more than the Standard Carrier unit to install.

If the City qualified for a rebate from PG&E, that could cover up to half the cost of the project. PG&E had recommended that the City purchase a high efficiency Trane unit. That unit was cost competitive since it would come from the same company that was providing the rental unit to the City and that company would waive some of the City's rental costs if the City were to purchase a Trane replacement.

It was staff's recommendation that the City Council purchase a high efficiency Carrier unit with the extended warranty which would cost approximately \$158,000 with a \$10,000 contingency for unforeseen problems that could result during the six to eight weeks before the unit could be installed. A budget of approximately \$170,000 would be required for that option.

Mr. Fuller explained that would deplete the Building and Maintenance Unallocated Reserve Fund and funds from the City's General Fund Reserve would be required to fund the project. Every dollar over the original recommendation would come out of the General Fund Reserve with no other funding source identified to pay for the project.

In response to the Vice Mayor, Mr. Fuller clarified that based on his recommendation the total dollar costs would include the \$3,000 a week that the City would have to pay for the rental unit while waiting for a replacement unit. The City would pay \$9,600 for that period of time. If the Trane unit was purchased, the rental fees would have been waived.

Councilmember Kee understood that even with a new unit, based on the design of the building and all of the windows, there would be a limited life span for any unit.

Mr. Fuller suggested that the higher quality the unit the more likely it would survive, although the bottom line was that the building had an extreme energy load due to the radiant heat during the high cooling demand period of time due to the sunlight into the building.

Given the known constraints, Councilmember Kee recommended that contingency plans be reviewed so that the next time the unit had to be replaced the costs could be better controlled.

Mr. Fuller advised that he and the Finance Director had wanted to develop a Depreciation Fund for the City Hall building, which was expensive to maintain in terms of the major systems that would have to be replaced sometime in the future, with money to be set aside for those expenses. Due to the current budget constraints, it had been difficult to set up a reserve fund for that purpose.

Councilmember Glynn requested clarification that the PG&E rebate would be applicable to the two choices being discussed.

Mr. Fuller understood in speaking with the City's PG&E Service Representative and after staff had met with one of PG&E's Rebate Engineers, that the City could get a maximum of half of the project cost back from PG&E, depending on the efficiency of the unit.

Councilmember Glynn recommended a determination of the most efficient that would be most cost effective over time.

Mr. Grisham understood that the potential maximum 50 percent rebate from PG&E would be applicable to both choices being discussed.

Mr. Fuller again recommended a higher efficiency Carrier unit which would cost the City \$15,000 more than the original staff recommendation. He added that the high efficiency Trane unit, based on information he had received from PG&E, would be the least expensive overall and would save the City approximately \$7,000 a year more than the high efficiency Carrier unit. He emphasized that estimates were based on empirical theory. He again recommended that to contain the overall project costs, that the City Council approve his recommendation for a high efficiency Carrier unit which would lower the long term operating costs.

On motion by Councilmember Kee, seconded by Vice Mayor Parent and carried unanimously to adopt Resolution 04-10108, for the purchase of a high efficiency Carrier unit at a price not to exceed \$157,875, with a total budget of \$170,000 which would also provide \$12,000 in contingencies and extended warranties.

For the record, Mayor Rios reported that she had received a letter from Pittsburg resident William Lee dated July 6, 2004, regarding the Kirker Creek Relief Project cost overruns, copies of which had been provided to each member of the Council.

Mr. Grisham requested that the City Council go back to Consent Calendar item Resolution 04-10101 for the Platinum Stars request for Community Sponsorship Funds. He noted that the dialogue within the staff report had identified \$2,000 as a staff recommendation, although the action being recommended by the City Council had not included that amount. The Council was asked to reconsider that item reflecting that it would be approving \$2,000 in funds, as requested.

d. **RESOLUTION 04-10101** Platinum Stars Request for Community Sponsorship Funds

On motion by Councilmember Kee, seconded by Councilmember Beals and carried unanimously to adopt Resolution 04-10101, Platinum Stars request for Community Sponsorship Funds in the amount of \$2,000.

Mayor Rios recognized a speaker who had not been able to address the Council during Citizen Remarks. She welcomed the speaker to address the Council at this time.

BASHIR RAHIMI, Pittsburg, stated that the City's Building Division had shut down his building located at #5 Industrial Road some time ago although the surrounding buildings in the area had the same types of structures. The building had been approved by the City's Engineering Department. The City had later designated the area as an Enterprise Zone with his adjacent neighbors not charged any fees since the area was now in the Enterprise Zone while he had been charged thousands of dollars of fees by the City.

Since he understood that he was not to be charged any fees since his property had the Enterprise Zone designation, and although he had submitted the necessary forms with the City to have his monies refunded and had submitted written correspondence to the City Clerk, Mr. Rahimi reported that none of the fees he had paid to the City had been refunded.

Mr. Rahimi added that he continued to pay taxes on his building and the building had been approved by the County, although he could no longer enter the building. He also understood that the City's Chief Building Official who had no structural license had shut down his building.

Mayor Rios advised that Mr. Rahimi's comments would be forwarded to the City Manager who would be in contact with him to speak to his concerns.

COUNCIL REPORTS

Mayor Rios reported that she and the Vice Mayor had attended a recent Tri Delta Transit meeting. She had also attended the Mayors' Conference. She clarified that a vote had been taken from each City to determine support for the extension of Measure C. At that time, everyone had been instructed that the vote could be a personal vote or on behalf of each City's City Council. As a result, she had voted no on the extension of Measure C, which was a personal vote and not intended to imply that the City Council as a whole was in opposition to the measure.

Mayor Rios also took the opportunity to welcome the new City Attorney, Ruthann Ziegler.

Ms. Ziegler introduced herself to the Council at this time.

CITY MANAGER REPORT

There was no City Manager report.

ADJOURNMENT

The meeting of the City Council adjourned at 9:22 P.M. to the next meeting set for July 19, 2004.

Respectfully submitted,

Lillian J. Pride, Secretary

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