

CITY OF PITTSBURG
Housing Authority Minutes
May 17, 2004

Chair Aleida Rios called the meeting of the Housing Authority to order at 7:53 P.M. in the City Council Chambers at City Hall, 65 Civic Avenue, Pittsburg, California, after having convened at 5:00 P.M. into a Capital Improvement Program (CIP) Workshop and having adjourned into Closed Session at 6:08 P.M. pursuant to subdivision (b) of Section 54956.9 of the Government Code for Conference with Legal Counsel - Anticipated Litigation regarding three cases and for Public Employment for the City Attorney; and pursuant to Section 54957.6 for Conference with Labor Negotiators regarding Department Directors as Unrepresented Employees.

There was nothing to report from Closed Session.

Chair Rios advised that the City Council would reconvene into Closed Session after the completion of the meeting of the City Council, which occurred at 9:05 P.M. The City Council reconvened at 9:40 P.M. There was nothing to report.

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

MEMBERS ABSENT: Leatherwood, Wallen [Wallen Excused]

STAFF PRESENT

- Interim Executive Director, Les White
- Assistant Executive Director, Nasser Shirazi
- Legal Counsel, Linda Daube
- City Clerk, Lillian Pride
- Director of Economic Development, Brad Nail
- Director of Recreation, Paul Flores
- Director of Finance, Marie Simons
- Director of Public Works, John Fuller
- Director of Human Resources, Marc Fox
- Director of Planning and Building, Randy Jerome
- Director of the Redevelopment Agency, Garrett Evans
- Housing & Community Programs Manager, Annette Landry
- City Engineer, Joe Sbranti
- Police Lieutenant, Nick Baker
- Executive Assistant to the City Manager, Alice Evenson

CONSENT CALENDAR

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

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

Approved Disbursement List dated April 30, 2004.

b. **MINUTES** Dated: April 19, 2004

Approved Minutes dated April 19, 2004.

ADJOURNMENT

The meeting of the Housing Authority adjourned at 7:54 P.M. to the next meeting set for June 21, 2004.

Respectfully submitted,

Lillian J. Pride, Secretary

als

CITY OF PITTSBURG
Redevelopment Agency Minutes
May 17, 2004

Chair Aleida Rios called the meeting of the Redevelopment Agency to order at 7:55 P.M. in the City Council Chambers at City Hall, 65 Civic Avenue, Pittsburg, California, after having convened at 5:00 P.M. into a Capital Improvement Program (CIP) Workshop and having adjourned into Closed Session at 6:08 P.M. pursuant to subdivision (b) of Section 54956.9 of the Government Code for Conference with Legal Counsel - Anticipated Litigation regarding three cases and for Public Employment for the City Attorney; and pursuant to Section 54957.6 for Conference with Labor Negotiators regarding Department Directors as Unrepresented Employees.

There was nothing to report from Closed Session.

Chair Rios advised that the City Council would reconvene into Closed Session after the completion of the meeting of the City Council, which occurred at 9:05 P.M. The City Council reconvened at 9:40 P.M. There was nothing to report.

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

MEMBERS ABSENT: None

STAFF PRESENT

- Interim Executive Director, Les White
- Assistant Executive Director, Nasser Shirazi
- Legal Counsel, Linda Daube
- City Clerk, Lillian Pride
- Director of Economic Development, Brad Nail
- Director of Recreation, Paul Flores
- Director of Finance, Marie Simons
- Director of Public Works, John Fuller
- Director of Human Resources, Marc Fox
- Director of Planning and Building, Randy Jerome
- Director of the Redevelopment Agency, Garrett Evans
- Housing & Community Programs Manager, Annette Landry
- City Engineer, Joe Sbranti
- Police Lieutenant, Nick Baker
- Executive Assistant to the City Manager, Alice Evenson

CONSENT CALENDAR

Chair Rios advised of requests to remove both items from the Consent Calendar.

a. **MINUTES** Dated: May 3, 2004

On motion by Member Beals, seconded by Vice Chair Parent to adopt the minutes of the May 3, 2004 meeting, as submitted, carried by the following vote:

Ayes: Beals, Glynn, Kee, Parent
Noes: None
Abstain: Rios

Member Kee reported that it had been his policy in the past to abstain from commercial loan applications as many of the applicants were his present or former clients. As such, he stepped down from the dais and left the Council Chambers at this time.

- b. **RESOLUTION 04-962** Approving a Commercial Rehabilitation Loan By and Between the Redevelopment Agency and Mario Howell for 306-318 Railroad Avenue

On motion by Member Beals, seconded by Member Glynn to adopt Resolution 04-962 carried by the following vote:

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

Member Kee rejoined the Redevelopment Agency.

ADJOURNMENT

The meeting of the Redevelopment Agency adjourned at 7:56 P.M. to the Special Meeting - Budget Workshop scheduled for May 24, 2004.

Respectfully submitted,

Lillian J. Pride, Secretary

als

CITY OF PITTSBURG
Pittsburg Power Company Minutes
May 17, 2004

Chair Aleida Rios called the meeting of the Pittsburg Power Company to order at 7:57 P.M. in the City Council Chambers at City Hall, 65 Civic Avenue, Pittsburg, California, after having convened at 5:00 P.M. into a Capital Improvement Program (CIP) Workshop and having adjourned into Closed Session at 6:08 P.M. pursuant to subdivision (b) of Section 54956.9 of the Government Code for Conference with Legal Counsel - Anticipated Litigation regarding three cases and for Public Employment for the City Attorney; and pursuant to Section 54957.6 for Conference with Labor Negotiators regarding Department Directors as Unrepresented Employees.

There was nothing to report from Closed Session.

Chair Rios advised that the City Council would reconvene into Closed Session after the completion of the meeting of the City Council, which had occurred at 9:05 P.M. The City Council reconvened at 9:40 P.M. There was nothing to report.

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

MEMBERS ABSENT: None

STAFF PRESENT Interim Executive Director, Les White
Assistant Executive Director, Nasser Shirazi
Legal Counsel, Linda Daube
City Clerk, Lillian Pride
Director of Economic Development, Brad Nail
Director of Recreation, Paul Flores
Director of Finance, Marie Simons
Director of Public Works, John Fuller
Director of Human Resources, Marc Fox
Director of Planning and Building, Randy Jerome
Director of the Redevelopment Agency, Garrett Evans
Housing & Community Programs Manager, Annette Landry
City Engineer, Joe Sbranti
Police Lieutenant, Nick Baker
Executive Assistant to the City Manager, Alice Evenson

Mayor Rios convened JOINTLY the PITTSBURG POWER COMPANY and the CITY COUNCIL at this time to consider the following:

CONSIDERATION

1. **RESOLUTION 04-103** Authorizing the Transfer of \$338,051.95 from the
Combined w/CC 04-10075 Pittsburg Power Company Reserves to Cover the
Administrative and Legal Costs Charged to the West
Leland 97-1 Assessment District Construction Fund

Interim Executive Director Les White stated that in 1997 the City initiated the formation of an assessment district for the purpose of issuing bonds to finance the construction of the West Leland Road extension. Originally there were two property owners that were planning to participate in this assessment district bond process. One of the property owners decided not to participate and for this reason the assessment district was never established on a formal basis. Special benefit assessments can be levied by cities by a two-thirds vote requirement only to acquire or construct public improvements that convey a special benefit to an identifiable group of properties.

Mr. White explained that since 1997 a total of \$338,051.95 in administrative and legal costs had been charged to the 97-1 West Leland Assessment District fund. Since the district had never been formally established, there was no source of reimbursement available to the City at this time. He recommended that funds be transferred from the Pittsburg Power Company unallocated reserves to cover the costs. Once the transfer had been made the fund would be closed out. Currently the Power Company had an estimated \$2.1 million in unallocated reserves for fiscal year 2003-04.

Mr. White recommended the adoption of the resolution authorizing the transfer of \$338,051.95 from the Pittsburg Power Company reserves to cover the administrative and legal costs charged to the West Leland 97-1 Assessment District Construction Fund.

WILLIE MIMS, Pittsburg, representing the Black Political Association (BPA), inquired if the district had not been established why funds had been collected.

Finance Director Marie Simons explained that it was customary that when an assessment district was formed for the purpose of construction, in this case a West Leland Road extension, there was a specific cost to set up the district and develop the necessary resolutions, where an assessment engineer and where a nexus benefit to the property owners was required. She emphasized the customary work in the initial setup and formation of the district. It was her understanding that resolutions to establish the district had been formulated and had been approved by the City Council, although at a later date one of the property owners had not participated prior to the issuance of the bonds.

Ms. Simons stated that it would be the bonds, when issued, that would pay back the City for the formation of the district. In this case the bonds had not been issued and the City had no source of repayment to cover the cost. She advised that the deficit had been on the City's books for some time, the auditors had noted that situation in the City's financials and staff had earlier stated that the item would be forwarded to the City Council for resolution. She described the process as a financial house cleaning measure that had

to be resolved. She stated that funds from the Power Fund had been recommended because the Power Fund had no restricted use. As such, the funds represented a better source of repayment than the City's General Fund.

Mr. Mims expressed concern that the issue had been ongoing for seven years. He questioned when the funds from the Power Company would be used to benefit the residents and taxpayers of the City.

Mr. White explained that the Finance Director and the auditors had caught the error, which needed to be cleaned up.

On motion by Member Beals, seconded by Member Glynn and carried unanimously to adopt Pittsburg Power Company Resolution 04-103.

On motion by Vice Mayor Parent, seconded by Councilmember Glynn and carried unanimously to adopt City Council Resolution 04-10075.

CONSENT CALENDAR

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

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

Approved Minutes dated April 19, 2004.

ADJOURNMENT

The meeting of the Pittsburg Power Company adjourned at 8:04 P.M.

Respectfully submitted,

Lillian J. Pride, Secretary

als

CITY OF PITTSBURG
City Council Minutes
May 17, 2004

Mayor Aleida Rios called the meeting of the City Council to order at 8:05 P.M. in the City Council Chambers at City Hall, 65 Civic Avenue, Pittsburg, California, after having convened at 5:00 P.M. into a Capital Improvement Program (CIP) Workshop and having adjourned into Closed Session at 6:08 P.M. pursuant to subdivision (b) of Section 54956.9 of the Government Code for Conference with Legal Counsel - Anticipated Litigation regarding three cases and for Public Employment for the City Attorney; and pursuant to Section 54957.6 for Conference with Labor Negotiators regarding Department Directors as Unrepresented Employees.

There was nothing to report from Closed Session.

Mayor Rios advised that the City Council would reconvene into Closed Session after the completion of the meeting of the City Council, which had occurred at 9:05 P.M. The City Council reconvened at 9:40 P.M. There was nothing to report.

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

MEMBERS ABSENT: None

STAFF PRESENT

- Interim City Manager, Les White
- Assistant City Manager, Nasser Shirazi
- City Attorney, Linda Daube
- City Clerk, Lillian Pride
- Director of Economic Development, Brad Nail
- Director of Recreation, Paul Flores
- Director of Finance, Marie Simons
- Director of Public Works, John Fuller
- Director of Human Resources, Marc Fox
- Director of Planning and Building, Randy Jerome
- Director of the Redevelopment Agency, Garrett Evans
- Housing & Community Programs Manager, Annette Landry
- City Engineer, Joe Sbranti
- Police Lieutenant, Nick Baker
- Executive Assistant to the City Manager, Alice Evenson

Mayor Rios considered the following general City Council items prior to pursuing the Housing Authority agenda.

PLEDGE OF ALLEGIANCE

Mario Howell led the Pledge of Allegiance.

PROCLAMATIONS

1. American Public Works Week

Public Works Director John Fuller introduced members of the City's Public Works Department who represented the team created to recognize National Public Works Week.

LAURA WRIGHT reported that National Public Works Day would be celebrated with National Public Works Appreciation Day at the City's Corporation Yard on May 20, 2004.

Special Guest Mr. Cone explained that the Corporation Yard would hold an Open House from 10:00 A.M. to 2:00 P.M. on May 20, at which time demonstrations would be offered and jobs would be explained to advise residents how taxpayer funds were being used by the Public Works Department.

Ms. Wright reiterated that demonstrations would be involved with the theme of this year's National Public Works Week being "Focused on Our Community 24/7."

Councilmember Glynn read the Proclamation for National Public Works Week, May 16 through 27, 2004 in the City of Pittsburg. Councilmember Glynn stated that as a Retired Civil Engineer Corps Officer in the U.S. Navy and having served in Public Works offices many times, it was a privilege to offer the Proclamation to the Pittsburg Public Works Department.

PRESENTATION

1. CCTA Measure C

ROBERT McCLEARY, Executive Director of the Contra Costa Transportation Authority (CCTA) offered a Measure C update and noted that three issues would need final resolution by the CCTA at its May 19, 2004 meeting. He described those three issues as the Expenditure Plan and how the money would be expended over the 25 years of the continuation of Measure C, the extension of the Growth Management Program (GMP) related to housing and how that might be imposed on local jurisdictions to receive the 18 percent of money returned to cities on an annual basis, and a new requirement that would be related to an Urban Limit Line (ULL).

Councilmember Glynn inquired of the status of land use and housing associations to which Mr. McCleary stated that the CCTA's Planning Committee had recommended Option 1 as outlined in the packet presented to the Council entitled "Renewing Measure C," which had a two-fold test.

Mr. McCleary noted that the Planning Committee had forwarded to the CCTA for its discussions a letter from the Town of Danville (dated May 11, 2004) which had offered further elaborations on that option. Mr. McCleary stated that Option 1 would require jurisdictions to demonstrate based on the actual construction of housing units to verify

compliance with a jurisdiction's General Plan or to demonstrate through the inventory of available land as evidenced in the General Plan and the Zoning Ordinance that there was sufficient land to meet that jurisdiction's housing requirements.

Mr. McCleary stated that the Danville recommendations would extend beyond that and provide additional opportunities for jurisdictions to come into compliance. He noted the debate and discussion that would occur in that case. He stated that the 18 percent was of fundamental importance to jurisdictions in their road maintenance budgets. He asked the Council to consider that issue and advise the CCTA of its comments for the meeting scheduled for May 19, 2004.

With respect to the ULL, Mr. McCleary stated that no agreement had been reached in that case other than general language to create a mutually agreeable ULL that each jurisdiction could support over the life of the measure with periodic review. He noted that of importance to the City of Pittsburg was conformance with the City boundaries, which was also important to a number of other cities, including Concord. The latest feedback was that members of the Board of Supervisors who had participated in the meetings recognized that as a fundamental problem and were prepared by the end of the year to indicate conformance with the existing city boundaries as a basic part of proceeding with a ULL.

Mr. McCleary noted that a possible solution would be that a new ULL would be developed cooperatively by the cities and the County with a draft line to be studied under the California Environmental Quality Act (CEQA) requirements, with agreement by December 31, 2004. He did not know if that proposal would receive concurrence.

Councilmember Glynn noted that in the Danville letter language it was important to recognize that if a city was in compliance with the State Housing and Community Development Department (HCD), and if HCD had indicated conformance with a jurisdiction's General Plan, there would be no conflict with the issues stated in the reauthorized measure. He stated that had not been mentioned in the Danville letter, which was an issue since the City of Pittsburg was under litigation in a matter related to that area.

Councilmember Glynn emphasized that the current ULL in the City of Pittsburg was inside the City limits in a most egregious manner and he did not see why the Board of Supervisors would need to wait until December 31 to move the ULL to the current City limits. He sought conformance with the law, as written. He noted that the Board of Supervisors had taken it upon itself to move the ULL inside the City limits without the City's approval and he suggested that the Board could move the line back in the same way to be contiguous with the City limits.

Mr. McCleary stated that Pittsburg was not the only City that had expressed those concerns.

COUNCILMEMBER REMARKS

Mayor Rios announced that the State of the City Luncheon would be held on May 19

at Zandonella's hosted by the Pittsburg Chamber of Commerce and that Zandonella's would also be the site of the induction of Pittsburg High School Football players into the PHS Football Hall of Fame on May 22.

The Mayor reported that a CIP project meeting jointly with the Citizens Advisory Commission (CAC) had been scheduled for June 2, 2004 at 7:00 P.M. in the City Council Chambers. She stated that the Council and CAC would welcome any comments to be incorporated into the CIP.

Mayor Rios thanked Vice Mayor Parent for chairing the last meeting while she was in Shimonoseki, Japan as part of the Sister City relationship. She displayed a gift from the City of Shimonoseki that would be displayed in one of the Sister City display cabinets in the lobby of City Hall.

Mayor Rios reported that at the time of her visit to Shimonoseki, she had met with the Mayor of the City, the Chairman of the City Assembly, the Chairman of the Chamber of Commerce, the Managing Director of the Yamiguchi International Trade and Cultural Center, with the Principal of the Junior High Schools, and the President of Shimonoseki City University, among others.

Out of that trip, Mayor Rios reported that an Economic Development Summit had been scheduled in the City of Pittsburg on September 8, 2004 with the goal of identifying commercial markets for Pittsburg, East County and Shimonoseki commercial outlets. She advised that the Summit had been endorsed by the Mayor of Shimonoseki and the Shimonoseki Chamber of Commerce. There would also be a college student exchange between Shimonoseki City University and Los Medanos College (LMC). At this year's Seafood Festival, a trademark from the City of Shimonoseki, the Fuku fish, would be available at a food booth. There would also be an art exchange where artwork would be displayed in each city, the creation of a miniature City display of Shimonoseki and Pittsburg as well as a large scale mural to show each City skyline and points of interest, to be sponsored by the business community of each city. The development of a resource and commercial outlet for Japanese animation products and services had also been proposed and had been endorsed by all involved.

Mayor Rios reported that she had presented an overview of Pittsburg and Contra Costa County and the San Francisco Bay Area to promote tourism and a citizen exchange with Shimonoseki, Japan. She emphasized the things that the two cities had in common. She recommended that a letter be crafted to the Shimonoseki Mayor to outline the course of the report and its intended action. She stressed the importance of continuing the Sister City relationship with Shimonoseki and the other two sister cities, which had proven to be beneficial to the City of Pittsburg and its desired goals. She stated that the meetings had set the tone for additional progress. She asked the Council to accept the plans as the next step for Shimonoseki.

Mayor Rios reported that she had received a letter this date from the Commonwealth of Puerto Rico and the Mayor of Caguas to enter into a Sister City relationship with the City

of Pittsburg. She read the letter into the record at this time which described the City of 150,000 people located 12 miles south of San Juan at the crossroads between the central, southern and eastern regions of Puerto Rico.

The letter from Caguas formally invited Mayor Rios to the City during the first week of June, in time to celebrate its annual festival, to be celebrated from June 4 to 6. Given the City of Pittsburg's tight budget constraints, the City of Caguas had offered to sponsor the Mayor. If staff wished to attend, Mayor Rios stated that the Council would have to approve that staff travel. Given that Pittsburg was comprised of a 38 percent Hispanic population, she stated it was appropriate to consider a Sister City relationship with an Hispanic country, which in this case was a Commonwealth State.

Vice Mayor Parent reported that on Wednesday, she and the Mayor and the Economic Development Director Brad Nail had attended the League Rally in Sacramento with a group call LOCAL, an association of the Boards of Supervisors, League of California Cities, and the Association of Special Districts who had banded together for the last three years in the hope of being heard in Sacramento. She stated that this year the group had been heard by submitting one million signatures for placing a ballot measure on the November ballot to prohibit the State government from taking local tax revenues to balance the State budget without a vote of the electorate. She noted that a campaign would now be required to ensure that the public understood the proposal and would support it.

Vice Mayor Parent stated that the Governor had announced that he would support a similar proposition assuming that he could get it on the ballot by the State Legislature. A two-thirds vote was needed in order to do that. As such, there might be as many as two items on the ballot. She emphasized the importance that local government was being listened to as a constituency the same as unions, teachers, manufacturers, bankers and the like. She stated that LOCAL had also met with Senator Torlakson as he was the Chair of the Local Government Committee considering the relations between the cities and the State, and had met with Assemblymember Canciamilla to seek support of the group's position to "keep it local."

Mayor Rios acknowledged and congratulated Vice Mayor Parent for the number of signatures that she had gathered on her own as part of that campaign.

Mayor Rios stated that she had also attended the Armed Forces Day Parade and the Kiwanis Club when she had provided an updated report on the status of the City. She thanked Brad Nail and his staff for providing the information that she had presented at that time.

Councilmember Glynn reported that the United Veterans Council (UVC) in Contra Costa County had considered the issue of Armed Forces Day as a holiday, which heretofore had not been recognized as a celebratory event given that the emphasis had been placed on Memorial Day and Veterans Day.

Councilmember Glynn stated that this year, the UVC in conjunction with many other

organizations Countywide including American Legion Post 151 in Pittsburg had put on an Armed Forces Day Parade. He described the parade, stated that he had been taken with the number of people who had shown up in various uniforms to participate in the parade, noted the officials who had attended the event, explained that significant donations had been raised for veterans organizations in the City and stated that efforts were ongoing to put on the Second Annual Armed Forces Day Parade in the City next year.

While Armed Forces Day was intended to recognize those who had served and had come home to his/her community, Councilmember Glynn stated that Memorial Day recognized those who had served and died for his/her country. He listed the many people who had worked to make the Armed Forces Day Parade a success. He added that the veterans of the community appreciated the recognition that he/she had received.

Mayor Rios also thanked the Central Junior High School Marching Band which had performed as part of the Armed Forces Day Parade.

CITY MANAGER REMARKS

There were no City Manager remarks.

CITIZEN REMARKS

ELVIN SCOTT, Pittsburg, identified the activity that had been proposed by American Legion Post 161 in Antioch and requested that those who had attended Pittsburg's Armed Forces Day Parade return the favor by honoring the celebrations proposed by Post 161. He commented that he had been asked to help with Antioch's July Fourth Parade, which he had agreed to do and which would be advertised on his television show. He stated that his show continued to help veterans with pension and disability benefits.

TONY FERRELL, Pittsburg, a long time Section 8 landlord, stated that the Pittsburg Housing Authority was giving landlords an eight hour appointment window for housing inspections. He commented that it was difficult for landlords to take that much time off work for that period of time and he requested that the Housing Authority consider shortening or eliminating the appointment times.

Mayor Rios advised that the City would do what it could to recognize time constraints.

WILLIE MIMS, Pittsburg, representing the Black Political Association (BPA) referred to the Kirker Creek Project, particularly the area bordering Diane and Carpino Avenues. He stated that the project itself was causing a negative environmental impact on that community with dust and dirt affecting the community and affecting the Martin Luther King School. In addition to the dust and dirt, significant noise and impacts from the heavy equipment affected the area. He reported that a wooden fence had been removed by the construction company from the rear of one home on Diane Avenue and had replaced that fence with a wire fence. There was nothing to protect that property from those impacts.

Mr. Mims stated that when the Diane Avenue area had been closed and fenced off at the front of Martin Luther King School, the students attending that school were required to walk up Diane Avenue and up to California Avenue which was a major thoroughfare with no sidewalk. He requested that at least a sidewalk be provided for those needing to walk along the heavily trafficked California Avenue area. He urged the Council to consider the impacts to that community and address those concerns.

Mayor Rios stated that notes were being taken and if something could be done it would be done.

BEN JOHNSON, Pittsburg, representing the United Veterans Council and the Chairman of that Council as well as the Commander of Disabled American Veterans, commended the success of the Armed Forces Day Parade. He noted that over a thousand flags had been distributed throughout the parade route. He thanked the City Council, Councilmember Glynn and Paul Flores for all their efforts in the success of the parade along with the Pittsburg Police Department which had helped to direct traffic. He also thanked the City for the donations and for the use of the facility.

CARLA KIRKLAND, Pittsburg, spoke with respect to a Housing Rehabilitation Loan and an illness that she had which had created a bankruptcy situation in her case and which had created a financial hardship. She requested that the City review its practices under the bankruptcy code, in particular Section 362, where she stated that the City had failed to discharge its responsibilities which had created a financial hardship for her. She sought relief and submitted documentation to verify her claim and her request for a resolution of the situation. She presented the information to the City Attorney.

WILLIAM LEE, Pittsburg, inquired whether or not the City Attorney had contacted the State Attorney General with respect to an audit of the Kirker Creek Project and the reported overpayment to North Bay Construction.

City Attorney Linda Daube stated that the City Attorney had not contacted the Attorney General in that at this point the obligation under the law was that the City conduct its own investigation and audits, which was being done. At such time as necessary, she stated that appropriate action would be taken.

Mr. Lee suggested that the contractor had been paid six times the total that he had been entitled to receive. He stated that the situation had been ongoing since August 2003. He referred specifically to a contract with WRS and stated that situation had not been resolved and that contractor had been overpaid and was in violation of several laws. He emphasized the need for an immediate audit of that project.

Mayor Rios thanked Mr. Lee for his comments and stated that the situation had been brought to the City's attention and that the City was auditing the records in question.

Mayor Rios convened the Housing Authority at 7:53 P.M. and returned to the City Council agenda at 8:05 P.M.

PUBLIC HEARING

1. **RESOLUTION 04-10058** Approval of a Proposed Rate Increase for the Pittsburg Municipal Marina

Interim City Manager Les White reported that the municipal enterprise fees were enacted in accordance with the general powers of municipalities, including but not limited to, California Government Codes Section 54342, 54343 and 54344. The California Government Codes 54342, 54343 and 54344 authorized the City Council to establish by resolution the rates to be charged to users of the Pittsburg Municipal Marina for related services as a municipal enterprise. It was the interest of the City staff to increase the rates at the Pittsburg Marina, allowing operations to produce a higher revenue level that would support operating and capital investment costs.

Mr. White stated that Marina staff had projected that the proposed rate increase would produce an average increase in the amount of \$156,500 per year based upon revenue generated at full occupancy at the completion of the Marina Renovation Project.

Mr. White recommended that the Council adopt the Schedule of Rates and Services for the Pittsburg Municipal Marina included in the staff report dated May 17, 2004 allowing operations to produce a higher revenue level to further support operating and capital investment costs over time.

Mayor Rios opened the public hearing for Resolution 04-10058.

BEN JOHNSON, Pittsburg, stated that he had a boat in the Marina. He inquired of the percentages for the fee increases as he has not been notified of a pending increase.

Economic Development Director Brad Nail reported that a letter had been sent out to all tenants at the Marina 45 days ago to identify the rate increase that would represent an approximate 10 percent increase, or approximately \$.50 cent per foot. He referred to Page 3 of the staff report which identified the fees charged by neighboring marinas. He stated that the average per square foot for open berths was \$6.24. The City of Pittsburg currently charged \$4.47. The average rate for covered berths was \$7.12 and the City currently charged \$5.52. As such, the Pittsburg Marina was substantially below what other marinas were charging.

There were no further comments. Mayor Rios closed the public hearing for Resolution 04-10058.

Vice Mayor Parent inquired whether or not a cost of living increase could be included in the rate to ensure that the City's fees did not continue to fall behind.

Mr. White suggested that would not be a problem since Consumer Price Indexes (CPIs) had been built into a number of the City's rates. He suggested that could be included as part of the motion.

Human Resources Director Marc Fox noted that the San Francisco Bay Area All Urban CPI was published on an even month basis. As such, he recommended a February or April CPI to be effective in June each year.

On motion by Vice Mayor Parent, seconded by Councilmember Glynn and carried unanimously to adopt Resolution No. 04-10058, amended to include a clause that for the next three years the rate would automatically be increased by the San Francisco Bay Area All Urban CPI, not to exceed 5 percent each April for implementation in June.

Mr. White advised that CPI would be built into the City's rate structure where appropriate.

2. **ORDINANCE 04-1221** Introduction of an Ordinance Amending Municipal Code Chapters 1.04, 1.24 and 15.74 and the addition of Chapter 15.72, to Support Code Enforcement and Provide for Recapture of Fees and Costs Necessarily Incurred in the Enforcement of the Pittsburg Municipal Code

Mr. White stated that virtually every place he had worked had included a similar ordinance to recover code enforcement costs.

City Attorney Linda Daube advised that the proposed ordinance amending the Municipal Code would clarify and/or establish the City's right to recapture its expenses and attorney's fees which had become necessary in the pursuit of Code Enforcement. The ordinance also added a new chapter providing that any new application for a permit may be denied if it was determined that the property for which the application had been submitted was in violation of local, State or federal law (including but not limited to violations of building, grading, zoning, fire protection, safety, health, sanitation and/or flood control laws).

Ms. Daube stated that the language also incorporated cost recovery language to be submitted to the Council in July. The fees could be periodically adjusted through the resolutions on cost recovery. The ordinance also included a stipulation that applications for projects could be denied if code violations were involved and would continue to be denied until remedied.

There were no direct fiscal impacts associated with the amendments. Increased revenue would result in the enacting of the ordinance to recapture incurred costs.

Ms. Daube recommended the introduction, waive further reading and pass to second reading the proposed ordinance to revise Pittsburg Municipal Code Chapters 1.04, 1.24 and 15.74 and the addition of new Chapter 15.72.

Vice Mayor Parent referred to Page 4 of 6 of the staff report dated May 17, 2004 on

the Notice of Special Assessment, and verified that the reference to the California Government Code Chapter 38773.5 should have been to *Section* 38773.5.

Mayor Rios opened up the public hearing for Ordinance 04-1221.

WILLIE MIMS, representing the BPA, noted with respect to code enforcement that the ordinance would allow the City too much authority and power to shut down businesses. He suggested that code enforcement had been used to close down businesses and he opposed the additional power being offered to code enforcement as a result. If code enforcement was fair, he had no problem with the proposal, although he suggested that was not always the case. He opposed the additional authority and power as a result.

Mr. White stated that there was no question of additional power and authority. The question was the reimbursement of funds with the same power and authority that currently existed.

Mayor Rios closed the public hearing for Ordinance 04-1221.

On motion by Vice Mayor Parent, seconded by Councilmember Glynn and carried unanimously to introduce Ordinance 04-1221, as amended, by title only and waive first reading.

The next three resolutions were considered concurrently.

3. **RESOLUTION 04-10071** Establishing the City of Pittsburg Community Facilities District No. 2004-01 and Providing for the Levy of a Special Tax Therein to Finance Certain Public Services in and for Such Community Facilities District and Calling a Special Election to Submit to the Qualified Electors Within Such Community Facilities District the Question of Levying Such Special Tax and Establishing an Appropriations Limit for Such Community Facilities District
 Combined w/CC 04-10072
 Combined w/CC 04-1222

4. **RESOLUTION 04-10072** Determining the Result of the Special Mailed-Ballot Election Held in its Community Facilities District No. 2004-01, on May 17, 2004
 Combined w/CC 04-10071
 Combined w/CC 04-1222

5. **ORDINANCE 04-1222** Levying a Special Tax for the Fiscal Year 2004-2005 and Following Fiscal Years Solely Within and Relating to the City of Pittsburg Community Facilities District No. 2004-01
 Combined w/CC 04-10071
 Combined w/CC 04-10072

Interim City Manager White stated that the San Marco subdivision was a 639-acre

residential project approved in 1993 (Planned Development zoning and tentative map for 2,938 total units (1,363 single-family and 1,575 multi-family)). In accordance with the terms of the Development Agreement between the City of Pittsburg and Seecon Financial & Construction Inc. a Mello-Roos Community Facilities District shall be formed to provide funding for police services in the San Marco subdivision area.

The matter had been considered by the City Council at its February 17, 2004 meeting by Resolution No. 04-10005 and April 5, 2004 by Resolution No. 04-10036. By these resolutions, the City Council had approved a proposed boundary map, declared its intention to establish a Community Facilities District No. 2004-01 and to levy a special tax therein to finance certain public services in and for such community facilities district with this date set as the time for the public hearing on the formation of CFD No 2004-01.

Mr. White took this opportunity to acknowledge Nasser Shirazi, Chief Aaron Baker, Linda Daube, Linda Carion, Kathy Comtois, Orrick, Herrington and Sutcliffe, John Knox, Amy Wong and Lucina Vernazza who had served as an effective team of staff members and consultants to accomplish the CFD.

The cost of providing police services for this area shall be paid through the Mello-Roos Community Facilities District Special Taxes collected. Pursuant to State law, those special taxes and associated costs must be maintained in a separate fund and cannot be included in the City's General Fund.

JOHN KNOX, Orrick, Herrington and Sutcliffe advised that there were a number of steps involved, the first of which would be to open the public hearing. If there was commentary, he stated that testimony should be accepted and the public hearing would be closed. He noted that only Resolution 04-10071 would require the public hearing.

Mayor Rios opened the public hearing for Resolution 04-10071. There were no comments. Mayor Rios closed the public hearing for Resolution 04-10071.

On motion by Vice Mayor Parent, seconded by Councilmember Glynn and carried unanimously to adopt City Council Resolution No. 04-10071.

City Clerk Lillian Pride opened the mail-in ballot dated May 11, 2004 and announced that the ballot was signed by Albert D. Seeno, Jr. for the ballot measure. The number of votes for one property owner were reported to be 293 votes.

Mr. Knox explained that the reason for the number of votes for one property owner was that there was one vote per acre or portion thereof that was owned.

For the second ballot, Ms. Pride opened the mail-in ballot from West Coast Homebuilders, signed by Albert D. Seeno, Jr. She reported that the number of votes cast in that case was 240.

John Knox stated it would now be in order to adopt Resolution 04-10072 which

declared the results of the election.

On motion by Vice Mayor Parent, seconded by Councilmember Glynn and carried unanimously to adopt City Council Resolution 04-10072.

Mr. Knox stated that the CFD had now been formed and the votes had been cast, the City Council now had the authority to adopt Ordinance 04-1222 levying the special tax. He clarified that the ordinance would require two readings. This would be the first reading of the ordinance.

On motion by Vice Mayor Parent, seconded by Councilmember Beals and carried unanimously to introduce Ordinance 04-1222 by title only and waive first reading.

CONSIDERATION

1. **RESOLUTION 04-10073** Extension of Contract with CMC Americas, Inc. for Information Technology Management and Support Services

Interim City Manager White advised that on August 19, 2003, the City Council per Resolution No. 03-9893 awarded a contract to CMC Americas, Inc. (formerly known as Baton Rouge International, Inc.) for Information Technology and support services. CMC Americas, Inc. had demonstrated by their accomplishments that they were well qualified to do the work. He added that CMC Americas had brought the City's IT system to a level of service that was very commendable.

The cost of the IT operational and support services contract for the first year extension was \$34,000 per month. In addition, the cost of operational and support services for the City's website was \$4,000 per year. The cost of the contract had been included in the fiscal year 2004-05 operating budget. For the second year extension, the cost would be increased by applying the CPI for the San Francisco Bay Area. Any increase in rates would be restricted to a maximum of 3.5 percent.

Mr. White recommended that based on CMC Americas, Inc. expertise, deliverables, and the results of a staff satisfaction survey of their performance that the contract be extended from August 19, 2004 to August 19, 2006.

JO BATES, Oakland, stated that after the summary of why the contract should be extended for two years she suggested it was difficult to make a compelling argument why the Council should not extend that contract. While she was not disputing the facts, she shared her understanding on how the City had first outsourced the IT Department. She suggested that the City had not invested in its employees. She noted that surrounding cities had in-house IT Departments.

While she understood that the City had been disadvantaged for a number of years

given that it did not have the qualified employees to perform the duties to be computer savvy, Ms. Bates suggested at some point the City needed to invest in its employees by bringing the IT Department in house. She suggested that the services were bringing the City up to speed but at some point the Council and the City Manager would need to consider what it would take to have those services performed in house and be provided by City employees.

Mr. White suggested that in a couple of years the Council could consider an in-house option. He commented that the reasons for recommending the firm had been included in the staff report dated May 17, 2004, which included the reasons why a two-year extension had been recommended.

On motion by Councilmember Beals, seconded by Councilmember Kee and carried unanimously to adopt Resolution No. 04-10073.

2. **RESOLUTION 04-10074** Authorize the City Manager to Continue a Contract with Contra Costa County to Provide Building Inspection and Plan Checking Services, and to Approve Expenditures in the Amount of \$150,000 for Fiscal Year 2003-2004

Interim City Manager White stated that increased building construction activity in the Building Division of the Planning & Building Department for inspection services in addition to the unavailability of City inspection staff related to illness and the CIP Senior Center construction project required that contract building inspection services from the County be in excess of the \$50,000 budgeted for this fiscal year for Contractual & Professional Services.

Mr. White stated that \$150,000 had been included within the Building Division budget and the Senior Center CIP construction project budget along with salary savings to provide funding for the contract building inspection and plan check services. There would be no additional impact to the General Fund to cover the costs.

Mr. White recommended the adoption of the resolution authorizing the City Manager to continue the contract with Contra Costa County to provide building inspection/plan check services and approve expenditures for Contractual & Professional Services in the amount of \$150,000 for Fiscal Year 2003-2004 and, further, authorize on-going contractual and expenditure authority with Contra Costa County for building inspection and plan checking services to exceed \$50,000 as long as sufficient funds were budgeted each fiscal year.

Finance Director Simons stated that the Council's authorization was being sought to spend approximately \$150,000 for the County's Building Inspection services. The funds were budgeted and funds would be transferred from salary savings. There was no request to increase the budget. The request was an expenditure authorization pursuant to the City Council's purchasing policy that required contracts in excess of \$50,000 to receive City Council approval.

Ms. Simons stated that additionally, the Planning and Building Department was

requesting to be allowed to continue the contract with the County on an ongoing basis as long as funds were budgeted even if the costs exceeded \$50,000 annually. As long as the funds were budgeted she noted that staff would not have to return to the Council for the expenditure authorization. Staff would return to the Council if the costs for the services were to exceed the budget.

On motion by Councilmember Beals, seconded by Mayor Rios and carried unanimously to adopt Resolution No. 04-10074.

3. **RESOLUTION 04-10075** Authorizing the Transfer of \$338,051.95 from the
Combined w/PPC 04-103 Pittsburg Power Company Reserves to Cover the
Administrative and Legal Costs Charged to the West
Leland 97-1 Assessment District Construction Fund

In 1997 the City initiated the formation of an assessment district for the purpose of issuing bonds to finance the construction of the West Leland Road extension. Originally there were two property owners planning to participate in this assessment district bond process. One of the property owners decided not to participate and for this reason the assessment district was never established on a formal basis. Special benefit assessments can be levied by cities by a two-thirds vote requirement only to acquire or construct public improvements that convey a special benefit to an identifiable group of properties.

Since 1997 a total of \$338,051.95 in administrative and legal costs had been charged to the 97-1 West Leland Assessment District fund. Since the district had never been formally established, there was no source of reimbursement available to the City at this time. It was recommended that funds be transferred from the Pittsburg Power Company unallocated reserves to cover the costs. Once the transfer had been made the fund would be closed out. Currently the Power Company had an estimated \$2.1 million in unallocated reserves for fiscal year 2003-04.

The following action was taken in Joint Session with the Pittsburg Power Company.

On motion by Vice Mayor Parent, seconded by Councilmember Glynn and carried unanimously to adopt City Council Resolution 04-10075.

4. **MINUTE ORDER** Support of Letter Regarding Proposition 42 funds

Interim City Manager White reported that staff had received a request from District 5 Supervisor Federal Glover asking for support of a letter to Governor Schwarzenegger regarding release of the voter-approved Proposition 42 funds as part of the Fiscal Year 2004-05 budget.

Mayor Rios stated that the letter had been sent out with one Councilmember signing it. She sought the full support of the Council in the distribution of the letter.

Councilmember Kee stated that he had signed a similar letter to the Governor

opposing the State's withholding of City funds. He stated that he had acted on his own behalf as an individual and had not represented the views of the entire Council at that time.

On motion by Councilmember Kee, seconded by Councilmember Glynn and carried unanimously to support the letter to Governor Schwarzenegger regarding Proposition 42 Funds.

5. **RESOLUTION 04-10077** Accepting Plans and Specifications and Authorizing Bidding for Contract 02-06, Americana Park

Interim City Manager White stated that Contract 02-06, Americana Park would include the construction of a 2.5 acre Neighborhood Park with a detention basin. The park was designed to include a tot lot, a school age playground, a picnic shelter with picnic tables to accommodate 48 people, barbecue grills, trash receptacles and a drinking fountain. A peripheral walkway with pedestrian bridge, lighting and benches would also be built. The project would also include an automatic irrigation system, trees, shrubs, groundcover and turf.

Mr. White stated that the total project budget had been established at \$500,000. After bid opening staff would return to the Council to award a construction contract. The current resolution did not require any additional funding. Operation and maintenance costs were estimated to be \$30,000 annually. The contract documents contained provisions for the maintenance of the park by the contractor for the first year after completion. The City would not need to maintain the park until approximately the fall of 2005.

Mr. White recommended that the City Council adopt the resolution accepting plans and specifications and authorizing the City Engineer to advertise for bids on the project.

LYN ESTRELLA, Pittsburg, an Americana resident, noted that residents had been frustrated with the process and were pleased to see it finally coming to fruition. She otherwise inquired why when the City was so intent on involving everyone in the planning process, the basketball court had been removed with no notification to the residents.

In response, City Engineer Joe Sbranti apologized for that oversight. He stated that staff was struggling with the budget and were doing everything possible to minimize operations and maintenance costs, which was why the basketball court had been removed. He stated it might be added in the future as a subsequent phase of the project when operations and maintenance costs were no longer a problem.

JACKIE ESTRELLA, Pittsburg, another Americana resident, suggested that there needed to be a basketball court in the park. As a teen, she stated that the likelihood of her using the park was slim. She emphasized that the majority of children in her area played basketball in the street and there was heavy traffic in the area, which was a safety concern. She added that children had nowhere else to play. She supported the inclusion of the basketball court.

Mr. Sbranti explained that the basketball court was a high maintenance item and had

been eliminated because the court was proposed to be located at the bottom of a detention basin and would require clean up on a regular basis by the Public Works Department. He commented that the park was a relatively small park and there was no other room for a basketball court in the park. The City currently had no money to maintain that court.

Councilmember Kee felt strongly that the Council should try to give the public the amenities that had been promised in the park. While he was aware of the fiscal hardships and he would support the resolution as is, he urged staff and the Council to strongly consider additional funding to build the park the way it had originally been designed. To the public he commented that one of the things that might come up would be a change to the lighting and landscaping fees in the future given the City's difficulty in maintaining its existing parks.

As the City continued to face fiscal challenges, Councilmember Beals asked staff to do its very best to keep the community apprised of situations affecting it and to seek input from the community in that case.

On motion by Councilmember Kee, seconded by Councilmember Beals and carried unanimously to adopt Resolution No. 04-10077.

CONSENT CALENDAR

On motion by Councilmember Beals, seconded by Councilmember Glynn and carried unanimously to adopt the Consent Calendar, with the removal of Items a, c, d and f.

b. **CLAIMS** #1578 Paul Ward Delamater

Denied Claim #1578 Paul Ward Delamater.

e. **RESOLUTION 04-10079** Conversion of Life Insurance and Accidental Death and Dismemberment (AD&D) Benefit Provider for Non-safety Employees to Standard Life

Adopted Resolution 04-10079.

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

a. **MINUTES** Dated: May 3, 2004 and May 7, 2004

On motion by Vice Mayor Parent, seconded by Councilmember Glynn to adopt the minutes of May 3 and May 7, 2004, as submitted, carried by the following vote:

Ayes: Beals, Glynn, Kee, Parent

Noes: None

Abstain: Rios

c. **ORDINANCE 04-1219** Second Reading of an Ordinance Amending Municipal

Code, Title V, Chapter 5.04 Relating to Business Licenses and Regulations

Vice Mayor Parent stated that consistent with her position for the first reading of Ordinance 04-1219 and since she had a business license in the City, she would recuse herself from the item. She left the dais and the Chambers at this time.

Councilmember Kee, stating the same reasons, also left the dais and the Chambers at this time.

On motion by Councilmember Beals, seconded by Councilmember Glynn to adopt Ordinance 04-1219, carried by the following vote:

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

Councilmember Kee and Vice Mayor Parent rejoined the Council at the dais.

Mayor Rios advised that the following item had been pulled to allow comments to be read to the record.

- d. **RESOLUTION 04-10078** Revising the City's Speed Hump Policy and Changing its Name to the "Traffic Calming Policy"

BRUCE OHLSON, Pittsburg, submitted a comment card to state that "Pittsburg bicyclists support this policy."

On motion by Councilmember Beals, seconded by Mayor Rios and carried unanimously to adopt Resolution 04-10078.

- f. **RESOLUTION 04-10080** Approving 2004/2005 Transportation Development Act (TDA) Project Application for Installing a Class II and Class III Bicycle Facility on Harbor Street

BRUCE OHLSON, Pittsburg, submitted a comment card to state that "Pittsburg bicyclists support this project."

On motion by Councilmember Kee, seconded by Councilmember Beals and carried unanimously to adopt Resolution 04-10080.

COUNCIL REPORTS

Councilmember Beals reported that the Economic Development Subcommittee had met and had been apprised of the progress of various projects. The Library Subcommittee had also met to receive a status report and information only.

Councilmember Kee stated that the Redevelopment Agency Subcommittee had previously met and had been briefed on recommendations for the reallocation of CIP funds. The Subcommittee had recommended the approval of those funds, to be presented to the full Council.

Mayor Rios reported on the Mayors Conference in the Town of Danville when the topic had been a status report on Measure C. For the Library Subcommittee, she noted that the Subcommittee had been apprised of a study of the programming for the building, with a report back to the Subcommittee.

When asked, Mr. Sbranti explained that programming a building would be setting up different activities.

Councilmember Kee noted that programming also referred to the allocation of spaces in a building and the relationship and adjacencies of those spaces.

CITY MANAGER REPORT

Mr. White stated that this would be his last regular Council meeting. As such, he took this opportunity to acknowledge the Council as a very thoughtful Council which went about its work systematically. He stated that he had been impressed with how Councilmembers had worked together and were quality thinkers, which would be a continuing challenge for Department Heads and for the new City Manager. He reported that he had also been impressed with the hard work of Department Heads and his/her timely and high quality work. He emphasized that the City had the resources and the talented people to succeed.

Vice Mayor Parent stated that she had done everything possible to keep Mr. White in the City Manager position prior to the search for a new City Manager, although Mr. White lived too far away to make that feasible. She suggested that the City of Pittsburg had done more under Mr. White's leadership in the last six months than it had in the previous four or five years because he got people to do what the Council wanted, what he wanted and what he knew was right to do. She stated that Mr. White had motivated people to lead and to get people to work together, by inclusion and not by exclusion, by working together and by highlighting what could be meshed as opposed to creating conflict. While she was certain that the City would continue to progress under the new City Manager, she stated that the City was indebted to Mr. White for his leadership.

Councilmember Beals echoed those comments and stated that it had been a pleasure to work with Mr. White over the past six months. She stated that Mr. White had raised the bar to a higher standard than the City had for some time. Mr. White had also left a legacy with the Council, with the City and with staff. She stated that City staff was working at higher levels and producing work that had always been high quality although the leadership had set an even greater example. She added that staff was also working together and finding new talents as a result of Mr. White's leadership.

Councilmember Beals noted that Mr. White had received few complaints from staff and the Council had gotten nothing but praise and confidence from staff. She stated that the new City Manager would do a wonderful job as well. She added that the City had been fortunate to experience Mr. White's leadership, and he would be missed.

Mayor Rios agreed and stated that she had also tried to get Mr. White to stay. She agreed that Mr. White had done wonders for the City, had brought out the best from the employees and that while he would be missed, his legacy would remain and Mr. White would forever be a part of Pittsburg's history.

Councilmember Kee stated that while his time had been brief, Mr. White's accomplishments had been great.

Councilmember Glynn explained that he had the pleasure of working around and being aware of Mr. White in San Jose for many years and had been very pleased to learn of Mr. White's interest in the City's interim position. He commented that he had always recognized and admired Mr. White's leadership. He looked forward to working with him again in the future.

Mr. White thanked the Council for the comments.

AUDIENCE REMARKS

There were no audience remarks at this time.

CONVENE IN CLOSED SESSION

The Council convened into Closed Session at 9:05 P.M.

ADJOURNMENT

The City Council reconvened at 9:40 P.M. There was nothing to report from Closed Session. The Council adjourned at 9:40 P.M. to the Special Meeting - Budget Workshop scheduled for May 24, 2004 and thereafter to the regular meeting on June 7, 2004.

Respectfully submitted,

Lillian J. Pride, City Clerk

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