

**CITY OF PITTSBURG**  
**Redevelopment Agency Minutes**  
**November 7, 2005**

Chair Nancy Parent called the meeting of the Redevelopment Agency to order at 7:36 P.M. in the City Council Chambers at City Hall, 65 Civic Avenue, Pittsburg, California after having met from 6:00 to 6:50 P.M. for the continuation of Departmental accomplishments from the October 31, 2005 meeting.

**MEMBERS PRESENT:** Casey, Glynn, Johnson, Kee, Parent

**MEMBERS ABSENT:** None

**STAFF PRESENT** Executive Director, Marc Grisham  
Legal Counsel, Ruthann Ziegler  
Deputy City Clerk, Alice Evenson  
Director of Housing and Community Programs, Annette Landry  
Director of the Redevelopment Agency, Garrett Evans  
Director of Engineering and Building, Joe Sbranti  
Director of Economic Development, Brad Nail  
Director of Human Resources, Marc Fox  
Director of Public Works, John Fuller  
Director of Recreation, Paul Flores  
Director of Finance, Marie Simons  
Director of Planning, Melissa Ayres  
Police Lieutenant, Nick Baker

**PUBLIC HEARING**

The CITY COUNCIL CONVENED JOINTLY with the REDEVELOPMENT AGENCY to consider the following:

1. **RESOLUTION 05-10415** Consideration of Environmental Impact Report for the  
**City Council** Black Diamond Mixed Use Project

Project Manager Ursula Luna advised that the Draft Environmental Impact Report (EIR) for the Black Diamond Mixed Use Project had been circulated for public comment between August 12 and September 26, 2005. Staff and the City's consultant had prepared a Final EIR (FEIR) which incorporated the Draft EIR (DEIR) by reference, comments received on the DEIR, responses to those comments, and any revisions made to the DEIR. She advised that the Council must consider the FEIR prepared for the Black Diamond Mixed Use Project and must certify the FEIR for the project before the Council, Redevelopment Agency or Planning Commission can act on any requested entitlements for the project.

The project consisted of 195 condominium units of townhomes, flats and lots, 15 percent of which would be affordable. The project also proposed 40,000 square feet of retail space along Railroad Avenue and included a number of public infrastructure improvements.

Ms. Luna stated that the revitalization of Old Town had been a major objective of the Redevelopment Agency. One of the Agency's strategies had been to increase the number of households in Old Town and the greater Old Town area. The project would add approximately 200 units to the area and was in the heart of Old Town, was a mixed use project creating retail/commercial space, and an urban infill smart growth project encouraging the residents of the units to walk to the services needed. Increasing the households would increase the demand for local goods and services, create a pedestrian friendly environment with sidewalk ranging from a minimum of 10 feet on Railroad Avenue to 25 feet on some corners providing outdoor dining, and enhanced streetscape improvements with enhanced landscaping and pedestrian traffic enjoying the environment. The project would also include two public plazas providing public gathering areas and create an overall aesthetic feel.

Ms. Luna stated that the project addressed a number of policies in a policy document that the City Council had recently adopted. She stated that one of the issues before the Council was the Black Diamond EIR. A workshop had been held on the Draft EIR on September 13 before the Planning Commission when the Commission and the public had an opportunity to verbally or by writing provide comments on the DEIR. Most comments related to parking and the Scampini Building, which was located on the northwestern corner of Black Diamond and East Fifth Streets.

Ms. Luna explained that due to the workshops and in discussions with the developer, the project would be parked at 1.8 spaces for each dwelling unit and no on-street parking spaces were required for commercial pursuant to the General Plan which encouraged the use of public parking lots strategically located in the downtown. Further as a result of the comments on-street diagonal parking spaces would be provided at 4 spaces per 1,000 square feet, which she noted was an acceptable ratio for commercial spaces. She stated that the EIR had found no significant impacts as it related to the parking that could not be mitigated.

With respect to Sunday parking conditions, Ms. Luna stated that St. Peter Martyr Church was located across from the proposed project area at the corner of Black Diamond and Eighth Streets. The Agency owned most of the proposed site and the site directly across from the church and recognized that the church provided valuable services to the community. The church building architecture and history had also provided inspiration for the project site. She explained that the public plaza directly across from the church was used as a gathering area on Sundays. Also members of the parish parked on the most southern block of the project site and used the area as a gathering place and where food and drink vendors provided refreshments before and after mass.

Photographs of the area taken on Sunday, September 10, 2005 were presented to the Council depicting views of Black Diamond north. The photographs had shown on-street parking along Black Diamond Street and views of Seventh Street and Railroad Avenue, views of the school/church, and views of the northeast corner of Railroad Avenue and Eighth Street. As shown in the photographs, there had been parking available to the community on that day within a three block walk.

Administrative Analyst II Alexis Morris referred to the Scampini Building and stated that the issues surrounding that building had been discussed in several sections of the EIR and had been addressed in the FEIR. Of the different alternatives presented in the EIR, there was an alternative to retain the Scampini Building. She recommended that the Council acknowledge and adopt a statement of overriding consideration that while the building had been a contributor to the New York Landing Historic District retaining the Scampini Building was unreasonable given the reasons included in the resolution, including the finding that it would reduce the number of housing units on an infill site, it would compromise to some extent the integrated design and functional qualities of the project, and would result in an inefficient parking layout and reduce the number of on-site parking spaces. She also noted that the Chief Building Official had determined that the Scampini Building had been constructed of unreinforced masonry and could be problematic. There were no permits on file to verify any retrofitting of the building.

The representative of Meyers Nave stated that the EIR was one of several items related to the Black Diamond project. The first aspect was the EIR, which was intended to be an informational document to provide information required by the California Environmental Quality Act (CEQA). The first item related to the EIR and its adequacy under CEQA. Comments on the EIR as they related to the adequacy of the document related only to the certification and adequacy of the EIR under CEQA. As such, she stated that comments and questions should be limited to that item.

It was reported that there were no direct fiscal impacts associated with the certification of the EIR. It was recommended that the City Council consider the FEIR for the Black Diamond Mixed Use Project and adopt a resolution certifying the FEIR, adopting and approving statements of findings and overriding considerations, and approving a mitigation monitoring program for the project.

Mayor Parent opened the public hearing for Resolution 05-10415.

ROGER RILEY, Pittsburg, referred to the plaza across from St. Peter Martyr Church and suggested that it was too small and should be opened a bit to allow views into the Railroad Avenue corridor. He asked the Council to consider that possibility. Given that he owned property in that area, he questioned how the project would affect his property. He stated that he had received no written notice regarding the development at any time.

In response, City Attorney Ruthann Ziegler stated that if the EIR was certified and found to be adequate, the Council could consider the project and a DDA at this time. If the EIR was not certified the project could not proceed at this time.

SUE LOPEZ, Pittsburg, expressed a concern for the demolition of the older buildings in the community without considering them for renovation and retention. She urged the retention of Pittsburg's history and character regarding its older buildings. She also expressed a concern for the loss of the tenants in those existing buildings and questioned where those businesses would relocate.

WILLIE MIMS, Pittsburg, representing the Black Political Association (BPA), stated with respect to the certification of the report that he was concerned with the negative impact the certification of the EIR would have on the current businesses in the downtown community. He reminded the Council that there were currently nine businesses that would be negatively impacted by the proposal, seven of which were minority businesses. He asked if those businesses would be allowed to relocate in the area. He suggested that the report was flawed and should be labeled a mixed use destruction project.

PASTOR BASIL PRICE, Pittsburg, the Pastor of Temple of Prayer Church, a current tenant in the Scampini Building, advised that 40 percent of the church membership lived within the surrounding community that would be impacted by the project. He questioned moving forward with the project without the Scampini Building since the church might not be able to accomplish its services to the community if relocated.

CHARLES SMITH, Pittsburg, suggested that the EIR did not meet the requirements of looking at the negative impact of the existing businesses in the project area given that the majority constituted minority businesses. He questioned whether the EIR had considered environmental justice issues. If it had not, he suggested that the document was deficient.

FRANK GORDON, Pittsburg, questioned the completeness of the FEIR. He stated that one of the issues in a letter he had submitted to the Council was the issue of feasibility. He suggested that "feasible" was not mentioned in the General Plan in terms of preservation of buildings. He stated that the feasibility issue in CEQA spoke to preserving a historical resource, not the feasibility of a project in which a historical resource would be demolished. He suggested that overriding economic issues surrounded the building of the project providing parking and the like with nothing about the feasibility of saving a building, as required by CEQA. With respect to density, Mr. Gordon suggested that comparing the density charts in the General Plan was difficult for a lay person to understand. As such, he asked that a chart be developed for the EIR to compare current densities with the proposed density of the project. He asked the City Council not to certify the EIR at this time, to consider the feasibility issue again and to consider the appropriate density for the project.

TOM LaFLEUR, Pittsburg, verified with the Mayor that the overriding consideration related to another item. With respect to evaluating feasibility as having to do with historic resources, he stated it had to do with the feasibility of historic resources and not the feasibility of the project itself. He suggested that the importance of parking had also not been appropriately addressed by the EIR.

With the size of the proposed project, Mr. LaFleur suggested that the City would end

up with fewer parking spaces after the development had been built then were currently available to the public. He suggested that some of the resident parking could be made available for commercial uses and be reserved for business uses to alleviate pressure on the streets. He also suggested that the project be phased to avoid the need to put current businesses out of business. He added that three story buildings in the downtown were often located adjacent to one story buildings and that the City code required compatibility with the historic resource and not the other way around.

City Attorney Ziegler clarified that the findings of overriding consideration related to the resolution currently under discussion.

LYNN HUTCHINS, Goldfarb & Lipman LLP, stated that the matter of relocation was technically to be discussed under the project. She clarified that under State Redevelopment Law and Relocation Law, if tenants were to be moved tenants would be paid relocation costs and be relocated to a new area. The Agency had retained relocation consultants who had probably already initiated that process.

Ms. Luna stated that there were a number of vacancies in the Old Town area beyond the subject area. The goal would be to relocate the tenants elsewhere in the Old Town area, if possible. That option would be provided to the tenants along with other options, as required.

As to whether or not the proposal should be built in phases, Mayor Parent verified with Ms. Luna that the middle block would be Phase I. The most southern block was currently vacant. The majority of the amenities to serve the project were located in the middle block which would start construction first and which would keep the parking open for the longest period of time.

The Meyers and Nave representative stated with respect to environmental justice issues and feasibility that the purpose of CEQA was to identify the potential environmental physical impacts of the project and not to identify whether the project was feasible or not, which would occur at different points in the process. Because the project proposed the demolition of the Scampini Building, the EIR had analyzed that situation. CEQA also required ways to avoid project unavoidable impacts and had identified an alternative that had retained the Scampini Building. In that context, the EIR had done what it was to do, analyze the project, identify an alternative and then determine if the alternative was feasible.

Ultimately when the Council considered whether to adopt statements of overriding consideration, the weighing process would have to be followed to determine feasibility which would be reflected through the statement of overriding considerations as a way to weigh the impacts of the project against the benefits of the project.

It was also noted that CEQA did not generally require that social and economic

impacts be identified unless required to address physical impacts. Because of the redevelopment context, there were provisions for relocation assistance. In this case, environmental justice tended to concentrate undesirable facilities in a particular neighborhood or a particular area accelerating the decline of that area. Under the facts of that project the social and economic effects of the project would be a policy matter of the Council of whether to approve the project or not. Under CEQA, the physical impacts needed to be identified and the project had done that.

Mayor Parent closed the public hearing for Resolution 05-10415.

When asked, Ms. Hutchins recommended the adoption of the CEQA resolution immediately following the EIR process.

Vice Mayor Kee commented that for most of the time he had lived in the City the revitalization of the downtown was the primary concern of most residents. He noted that for many years the City had waited for the commercial sector to revive the downtown without any involvement of the City, which had not occurred. It had been found that the only way to revitalize the downtown, now Old Town, was to step in and provide City or redevelopment assistance. While he would like to save the Scampini Building, in the interest of progress he suggested that the Scampini Building needed to be sacrificed to create the image and memory of an Old Town along the Railroad Avenue corridor from the freeway to the Marina.

In terms of relocating existing businesses, Vice Mayor Kee was pleased to see that there were so many minority businesses. He suggested that the relocation would be done at the responsibility of the Redevelopment Agency. He expressed his hope that those businesses would remain in Pittsburg. He supported the resolution.

Councilmember Johnson concurred and noted his history in the community where many homes had been demolished in the downtown and where the number of vacant areas had not been developed. After two projects that had not reached fruition, he noted that there was now a developer who could develop the area. While he was aware that older buildings could be renovated and had been renovated in many communities, he suggested that would not work in this particular case. He acknowledged the issues with the Scampini Building and emphasized the need for a viable downtown.

Mayor Parent noted that the issue related to the completeness of the EIR. She advised that members of the Council had read all of the letters and comments related to the EIR. She did not see anything special about the Scampini Building in that the building offered no significance other than it was old. In her opinion, the retention of the Scampini Building, a building that might not be safe, that the owner had not done much to fix up or had not gone through proper procedures to do any work, did not support any great historical significance. She suggested that there were overriding considerations to get the entire project done. She would like to see the project be pursued since there was the strong possibility that it would work.

Councilmember Johnson emphasized the need to move forward. He stated that the



upon the project as more particularly described throughout the staff report, including but not limited to certain public improvements, 15 percent of the residential units to be sold with 45 year deed restrictions for moderate income households; as well as City and certain regional fees (e.g. Regional Transportation Mitigation Fees). Agency staff had negotiated the payment of the contribution concurrent with the development of the project. The Agency would convey the site to the developer for \$2. The breakdown of the funds that would constitute the Agency assistance for the project was identified in the November 7, 2005 staff report.

The Agency's land had been estimated to be worth \$3,659,040. Upon completion, staff estimated that the project would generate approximately \$750,000 a year in tax increment to the Agency.

Ms. Luna recommended that the Agency Board take the following actions:

1. Approve the Disposition and Development agreement and all exhibits thereto by and between the Agency and the Developer.
2. Authorize and direct the Executive Director of the Agency to execute the DDA on behalf of the Agency, authorize and direct the Agency secretary to attest thereto, and authorize the Executive Director to execute such further documents and take such further actions as may be necessary or appropriate to carry out the Agency's obligations pursuant to the DDA.
3. Authorize and approve the expenditure of funds in the amount of up to \$17,000,000 as called for under the DDA which includes any associated costs that may be incurred as a result of the DDA (e.g. legal fees, title and escrow fees, report and surveys, etc.) and amend the Agency budget to the extent necessary to provide for such expenditures.
4. Authorize and direct the Executive Director to file a Notice of Determination with respect to the DDA and its authorizing resolution in accordance with the applicable provisions of CEQA.

It was recommended that the City Council take the following actions:

1. Approve the sale of the site pursuant to the terms and conditions of the DDA.
2. Authorize and direct the City Manager to file a Notice of Determination with respect to the DDA and its authorizing resolution in accordance with the applicable provisions of CEQA.

JACK ROBERTSON, President, A.F. Evans Development, was pleased to have been selected as the developer of the project to assist in the ongoing revitalization of Old Town Pittsburg.

Mr. Robertson was proud to work with the City staff to facilitate the project and was

anxious to begin construction, as early as next year. He added that A.F. Evans was looking forward to working in partnership with the City Council/Redevelopment Agency to bring the development to fruition.

Mayor Parent opened the public hearing for Redevelopment Agency Resolution 05-1093 and City Council Resolution 05-10423.

WILLIE MIMS, Pittsburg, representing the BPA, understood that the project site was considered a blight which he understood was the purpose of the project, to eliminate blight. Since the City was funding the project, he questioned the necessity to destroy a church in order to place eleven more homes on the project site.

JULIE CUMMINS, representing the Greenbelt Alliance and a member of its Compact Development Team protecting open space and livable communities, stated that the Greenbelt Alliance supported the development because it represented Smart Growth. She noted that proposals such as the subject proposal would minimize the development on hills and in other locations. The Greenbelt Alliance supported the fact that the project included 195 homes of different types and the fact that the project would bring new main street retail to attract shoppers to the area, encourage pedestrian friendly development, and place parking away from Railroad Avenue. In addition, the Greenbelt Alliance supported the proposed public plazas, streetscape improvements and retail storefronts up to the sidewalks so that the project would make walking safer and more pleasant. The density of the project was also important to its success and the success of the retail district. For all those reasons, she asked that the project move forward.

TOM KENZULAK, representing the Pittsburg Chamber of Commerce and a Pittsburg business owner, stated that the Chamber was currently working with the members of the downtown community who would be affected by the proposal. He stated that 3.5 years ago the Pittsburg Chamber had moved to Old Town with a rebirth of the downtown, a dream he suggested was about to be realized with the opening of the new Marina, the Elks Lodge and a Bed and Breakfast. He suggested that Old Town would soon be a destination. He supported the project so that everyone could enjoy the benefits.

MIKE STOIBER, a member of the Pittsburg Chamber of Commerce, noted the efforts of long ago to utilize the old buildings in the downtown, the long awaited redevelopment of the Marina, and the residential homes that had been built in the downtown over time. He saw the current efforts as a means to complete improvements in the downtown. He stated that with all the proposals that had been either approved or proposed, the subject project would have the opportunity to transform the downtown. He strongly supported that development.

JIM MILLER, 600 Cumberland, Pittsburg, commented that as a ten year member of Marina Park and with a commercial building in the downtown, he was pleased with the proposal and looked forward to its development.

DAN SCALES, owner of Dan Scales Funeral Services , Pittsburg stated that he was

excited with the proposal and the differences and transformation it would make in Old Town. He spoke to his experiences in owning and operating businesses in Richmond and Oakland and suggested that without vision the people would perish. He fully supported the proposal.

BARBARA FRANTZ, representing John and Elaine Caprio, the owners of the Scampini Building, suggested that the Council had already made up its mind. She pointed out that a portion of the EIR involved the retention of the Scampini Building. She suggested that while the Council might not like the 1950's architecture of the Scampini Building, it was an historic part of the community that should be honored.

ROGER RILEY, Pittsburg, noted that his primary concern with the development was that he had five tenants who might be impacted by the proposal. He wanted assurance that the Redevelopment Agency would pay for the relocation of his tenants and pay for any down time and increase in rent for the remaining life of the leases or options to ensure that those tenants were made whole so that they could continue the businesses as they had in the past. He expressed his hope that eminent domain proceedings would be pursued to allow him to take advantage of any tax benefits.

TOM LaFLEUR, Pittsburg, commented that the park at Eighth and Black Diamond Streets was very small and was not a public park. He urged the Council to enlarge that park and make it public to avoid the need to deal with the Homeowners Association (HOA) which would be responsible for the park. He also pointed out with respect to the Scampini Building that it had a 1950's look because it had been covered over in the 1950's. He suggested that all of the old buildings could be renovated and retained. With respect to phasing, he noted that while no one had spoken against the project there was a desire to preserve the heritage of the community, have open space, and allow businesses in the community to survive.

Mayor Parent closed the public hearing for Redevelopment Agency Resolution 05-1093 and City Council Resolution 05-10423.

Councilmember Johnson emphasized that the project was a big project which would generate approximately \$19.2 million in gross sales and benefit the community.

On motion by Councilmember Glynn, seconded by Councilmember Johnson and carried unanimously to adopt City Council Resolution 05-10423.

On motion by Member Johnson, seconded by Member Glynn and carried unanimously to adopt Redevelopment Agency Resolution 05-1093.

## **PUBLIC HEARINGS ON RESOLUTION OF NECESSITY**

1. **RESOLUTION 05-1094** Request for an Agency Resolution of Necessity

Declaring Certain Property Interests at 2-4 East Fifth Street as Necessary for Public Purposes and Authorizing Agency Counsel to Initiate Condemnation Proceedings for the Acquisition of Said Property Interests for Redevelopment as Part of the Los Medanos Community Development Project Area

LYNN HUTCHINS of Goldfarb & Lipman LLP, advised that the report recommended that the Redevelopment Agency of the City of Pittsburg adopt an Agency Resolution of Necessity declaring certain property interests at 2-4 East Fifth Street as necessary for public purposes and authorizing Agency special counsel, Goldfarb & Lipman LLP, to initiate condemnation proceedings for the acquisition of the property for redevelopment as part of the Black Diamond Project.

Ms. Hutchins stated that on May 9, 2005 the Agency made an offer to purchase the property for the appraised fair market value of the property, which offer was not accepted. On October 20, 2005, the owners and tenants of the building had been notified of the current hearing, and offered an opportunity to speak or provide comment on the matter. She recommended that the public hearing be opened and noted that the scope of the public hearing in the matter was limited to those who had an interest in the property under consideration.

The property appraised for \$209,000. There would also be additional expenses, which were currently unknown, for legal, expert and professional services associated with initiating and prosecuting an eminent domain action. The funds were to come from the project's budget.

Ms. Hutchins recommended that the Agency adopt a Resolution of Necessity, authorizing the commencement of eminent domain proceedings to acquire the above-reference property, and to authorize the Executive Director or his designee to continue to undertake all actions necessary, including negotiating and executing a purchase and sale agreement, to purchase the property.

Chair Parent opened the public hearing on the Resolution of Necessity, Resolution 05-1094.

BARBARA FRANTZ, representing John and Elaine Caprio, who had owned the commercial space for 30 years, questioned the City's ability to pursue a Resolution of Necessity. She referenced case law which stated that the City would be forbidden from taking petitioners' land for the purpose of conferring a private benefit. She noted that a state could adopt more stringent laws. She cited California as one such state. She commented that the notice sent to the property owners had included three elements to be considered to determine whether or not the land could be taken for public purposes.

Ms. Frantz stated that one of those elements was whether or not the public interest

and necessity required the proposed project had to do with public purpose as defined by the case law. She presumed that the City had stated in the EIR that the area was blighted. She noted that blight had to be defined in accordance with the California Health and Safety Code.

Ms. Frantz also stated that the proposed project had to be planned or located to be most compatible with the greatest public good and the least private injury. She spoke to the historical significance of the Scampini Building and suggested that the property owners would suffer severe and long standing injury as a result of the City's eminent domain proceedings.

Ms. Frantz pointed out that the property owner had been designated a historical building contributor, had kept the same tenants for many years including the church, had been loyal tax paying citizens and that the City had offered \$33 a square foot for the building. Based on statistical analysis, if the project was a \$100 million project, the property owner had been offered 2 percent of the project value and would be providing approximately 3 percent, 10 times the number of units for the square footage in the building.

Ms. Frantz questioned why the City would not reinvest and preserve the history of the community. While she acknowledged that it would be inconvenient for the developer to work around, she suggested that the retention of the Scampini Building should be considered. She requested that the Council vote against the eminent domain action or continue any action to allow the property owners to participate with the City and the developer to attempt to preserve the building and receive the reciprocal loyalty from the City Council in the way the property owners had been loyal to the City for the past 30 years.

Chair Parent closed the public hearing on the Resolution of Necessity, Resolution 05-1094.

Chair Parent welcomed PUBLIC COMMENTS

WILLIE MIMS, Pittsburg, representing the BPA, referred to the certification of the EIR and noted that had initiated the ultimate destruction of the building. With the demolition of the historic Scampini Building, he suggested that the City would proceed to demolish other historic buildings in the area. He asked the Council to oppose the resolution and to do the right thing and offer some consideration to the owners of the building who had owned the site for 30 years, and to consider the church that would be removed as part of the proposal. He objected to the lack of respect for an historic building in the City.

Mr. Mims did not see the need to destroy the building and suggested that the City could build around it. He suggested that the only reason the building was being destroyed was to allow the construction of eleven additional units in the proposed project.

Mr. Mims again raised the environmental justice issue and emphasized the need for the fair treatment of all people.

JACK CAPRIO, the owner of the Scampini Building, stated that he had never done any work on the building without a permit. He stated that the building had a newer roof, a nice interior and that it was in good shape. He described the price the City had offered for the purchase of the property as an insult in that the building was worth more. He did not see the need to demolish the building.

On motion by Member Casey, seconded by Vice Chair Kee and carried unanimously to adopt Resolution 05-1094.

### **CONSENT CALENDAR**

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

- a. **MINUTES** Dated: October 17, 2005

Approved minutes dated October 17, 2005.

### **ADJOURNMENT**

The meeting of the Redevelopment Agency adjourned at 9:28 P.M. to a recess, and then to the next meeting on November 21, 2005.

Respectfully submitted,

Lillian J. Pride, Secretary

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**CITY OF PITTSBURG**  
**Pittsburg Power Company Minutes**  
**November 7, 2005**

Chair Nancy Parent called the meeting of the Pittsburg Power Company to order at 9:36 P.M. in the City Council Chambers at City Hall, 65 Civic Avenue, Pittsburg, California after having met from 6:00 to 6:50 P.M. for the continuation of Departmental accomplishments from the October 31, 2005 meeting.

**MEMBERS PRESENT:** Casey, Glynn, Johnson, Kee, Parent

**MEMBERS ABSENT:** None

**STAFF PRESENT** Executive Director, Marc Grisham  
Legal Counsel, Ruthann Ziegler  
Deputy City Clerk, Alice Evenson  
Director of Housing and Community Programs, Annette Landry  
Director of the Redevelopment Agency, Garrett Evans  
Director of Engineering and Building, Joe Sbranti  
Director of Economic Development, Brad Nail  
Director of Human Resources, Marc Fox  
Director of Public Works, John Fuller  
Director of Recreation, Paul Flores  
Director of Finance, Marie Simons  
Director of Planning, Melissa Ayres  
Police Lieutenant, Nick Baker

**CONSENT CALENDAR**

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

a. **MINUTES** Dated: October 17, 2005

Approved minutes dated October 17, 2005.

**ADJOURNMENT**

The meeting of the Pittsburg Power Company adjourned at 9:37 P.M.

Respectfully submitted,

Lillian J. Pride, Secretary  
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**CITY OF PITTSBURG  
City Council Minutes  
November 7, 2005**

Mayor Nancy Parent called the meeting of the City Council to order at 9:38 P.M. in the City Council Chambers at City Hall, 65 Civic Avenue, Pittsburg, California after having met from 6:00 to 6:50 P.M. for the continuation of Departmental accomplishments from the October 31, 2005 meeting.

**MEMBERS PRESENT:** Casey, Glynn, Johnson, Kee, Parent

**MEMBERS ABSENT:** None

**STAFF PRESENT** City Manager, Marc Grisham  
City Attorney, Ruthann Ziegler  
Deputy City Clerk, Alice Evenson  
Director of Housing and Community Programs, Annette Landry  
Director of the Redevelopment Agency, Garrett Evans  
Director of Engineering and Building, Joe Sbranti  
Director of Economic Development, Brad Nail  
Director of Human Resources, Marc Fox  
Director of Public Works, John Fuller  
Director of Recreation, Paul Flores  
Director of Finance, Marie Simons  
Director of Planning, Melissa Ayres  
Police Lieutenant, Nick Baker

Mayor Parent considered the following general City Council items at 7:03 P.M. prior to pursuing the Redevelopment Agency agenda at 7:36 P.M.

**PLEDGE OF ALLEGIANCE**

Jess Leber of the Chamber of Commerce led the Pledge of Allegiance.

**PROCLAMATION**

1. Hospice and Palliative Care Month

Mayor Parent read the Proclamation for Hospice and Palliative Care Month – November 2005, and presented the Proclamation to Peggy Nichols.

PEGGY NICHOLS thanked the City and the City Council for acknowledging all that Hospice could do in the community. She announced that on Monday, November 28, the Annual Tree of Light Celebration would take place at the corner of Fifth and Railroad Avenue.

## **PRESENTATION**

### 1. Draft Habitat Conservation Plan

JOHN KOPCHIK, Contra Costa County, working on the Habitat Conservation Plan (HCP), stated that the draft plan had been four years in the making, weighed eleven pounds and comprised 1,800 pages. He identified the partners in the plan which included Contra Costa County, Brentwood, Clayton, and Oakley along with the Contra Costa Water District (CCWD) and the East Bay Regional Park District (EBRPD). He noted that the City of Antioch had declined to participate in the HCP. He explained that no tax was required to implement the plan, the draft of which had been released on June 30, 2005 for a comment period that would deadline on December 1, 2005. After that time, a final version of the plan would be prepared in February 2006, with another comment period. Presentations would be made to the partners in April and a decision would be made in May 2006. If approved, the plan could be implemented in June 2006.

Mr. Kopchik explained that the plan, similar to those used elsewhere in the State, would create regional permits to streamline the process of entitlement from all applicable agencies by bringing the permitting authority back to the local level. He stated that the HCP would cover all urban development in East Contra Costa County inside the Urban Limit Line (ULL) and within the General Plan plan area of cities and would provide 30 year permit for needed infrastructure projects with approximately 15,000 acres of permit coverage through mitigation measures.

Mr. Kopchik advised that there would be no cost to the City to administer the HCP although there would be a cost to perform the conservation work associated with the HCP. The HCP would be paid by fees on development and the HCP would make the City eligible for specific State and federal funds. He noted, for instance, that in the City of Pittsburg the fee would be \$23,000 an acre for new developments in the hillsides or an approximate \$5,000 per unit.

Councilmember Glynn inquired of the consequences of the City of Antioch's non-participation in the plan, to which Mr. Kopchik noted that developers in Antioch would not be able to take advantage of a regional permit and would have to secure permits project by project.

## **COUNCILMEMBER REPORTS/REMARKS**

Councilmember Johnson announced the Veterans Day memorial ceremony at the Veterans Memorial on Harbor Street on November 11, starting at 8:30 A.M. with a Kiwanis Breakfast at the Senior Center.

Vice Mayor Kee noted that he had attended the Oak Hills Community Group awards meeting with an award to Police Chief Baker for community service. He added that several Police Officers had provided information to the residents at that time as to how to deal with burglaries, break-ins and car vandalism.

Vice Mayor Kee reported that he had also attended a meeting of the City/County Relations Committee where a system of communication in the event of a disaster had been discussed. There had also been a groundbreaking last week for the new Hampton Inn.

Councilmember Casey stated that he had attended the funeral of Joyce Baker's son, James Allen Williams Baker, who had passed away last week.

Mayor Parent advised that the meeting would be adjourned in Mr. Baker's memory.

Mayor Parent highlighted the groundbreaking of the Hampton Inn, reported that she had attended Pacific Community Services, Inc. (PCSI), Pittsburg Arts Collaborative (PACO) and Give Always to Others (GATO) which had sponsored an exhibition for the Day of the Dead. She commended the work, particularly the work by young people from Riverside High School.

The Mayor also reported on the celebration of the 50<sup>th</sup> Anniversary of the Fil-Am organization in Pittsburg including a golf tournament on November 11, a dinner and entertainment on November 12, and a fundraising casino on November 13, all at the Fil-Am Building on Central Avenue between Solari Street and Railroad Avenue. She congratulated the Fil-Am for its contributions to the community over the last 50 years.

Mayor Parent reported that the third and final concert of the Concert Series for the Creative Arts Building organization had recently been held. She advised that nearly \$100,000 had been raised of the \$337,000 needed to restore all 2,042 seats in the building.

Mayor Parent also noted that the Pittsburg High School Thespian Society would be performing "Love is Contagious" on December 9-11, the Pittsburg Community Theater would perform "Snow White Goes West" on December 16-18, and the Creative Arts Organization would have another concert "Sounds of the Seasons" on December 17. Another concert would be held in February 2006 with several other performances. She added that the Black Diamond Follies would return in March 2006.

### **CITY MANAGER REPORTS/REMARKS**

City Manager Marc Grisham stated that the last Farmer's Market for the 2005 Season would take place on November 19, 2005.

### **CITIZENS REMARKS**

RHONDA WILSON RICE, Pittsburg, the current President of Presidio Village Senior Housing, explained that they had been working with the City and the President of Pittsburg Community Services Inc. (PSCI) and the Pittsburg Economic Development Housing Corporation (PEHDC) since last year over a loan request that had been granted by the City to help with the shortfall of some funds.

Ms. Wilson Rice stated that the documents had been received to complete that process, although there was some language in the contract where there had not been agreement to date. While some of the difficulties with the document had been resolved, there remained difficulty with the language surrounding claims. Since it had taken a year to get to this point, the organization had been negotiating with a contractor and an architect. She emphasized that because most of the things had been negotiated, it was not likely the organization would pursue claims against third parties, although the contract appeared to indicate that those claims must be pursued or there would be a default in the loan.

FRANK GORDON, Pittsburg, thanked the Council for the help offered to date and expressed his hope that the issue would be resolved soon.

TOM LaFLEUR, Pittsburg, stated that there remained disagreements with the contractor in terms of cost although they were relying on the Department of Housing and Urban Development (HUD) to work that out. At this time there was no formal claim that could be made with either the architect or the contractor. As such, if the contract required the initiation of a claim or be in default he stated that would be a problem. He emphasized that they needed the ability to make their own judgment to make the determination when and if to do that.

CHARLES SMITH, Pittsburg, referred to ongoing work in the downtown and commented that he was not impressed with what was happening in the downtown. He suggested that there had been a series of missed opportunities by different Councils related to the development of the downtown. He emphasized that this City Council should not allow that to continue.

Mr. Grisham clarified that Mr. Smith's comments related to vacant land designated for the Gateway project which project was expected to break ground in April 2006.

The City Council reconvened at 9:38 P.M.

## **PUBLIC HEARING**

1. **RESOLUTION 05-10415** Consideration of Environmental Impact Report for the Black Diamond Mixed Use Project

Director of the Redevelopment Agency Garrett Evans advised that the Draft Environmental Impact Report (DEIR) for the Black Diamond Mixed Use Project had been circulated for public comment between August 12 and September 26, 2005. Staff and the City's consultant had prepared a Final EIR (FEIR) which incorporated the DEIR (by reference), comments received on the DEIR, responses to those comments, and any revisions made to the DEIR. The Council must consider the FEIR prepared for the Black Diamond Mixed Use Project and must certify the FEIR for the project before the Council, Redevelopment Agency or Planning Commission could act on any requested entitlements for the project.



Public Works Director John Fuller recommended that the item be continued to the December 12, 2005 meeting.

On motion by Councilmember Johnson, seconded by Councilmember Casey and carried unanimously to continue Resolution 05-10372 to December 12, 2005 at 7:00 P.M.

5. **RESOLUTION 05-10416** Adoption of a Resolution Upholding an Appeal and Approving Use Permit Application No. 04-178 (Mehran Restaurant)

Planning Director Melissa Ayres advised that on October 25, 2005, the Planning Commission denied a use permit to allow live entertainment consisting of amplified music and dancing of patrons at a new banquet facility proposed to be established in conjunction with a new full service restaurant located at 3841 Railroad Avenue, CC (Community Commercial) District. On October 26, 2005, Ronald J. Vincent of Mehran Restaurant filed an appeal of the Commission's decision pursuant to Pittsburg Municipal Code Section 18.18.060.

Ms. Ayres noted that the hours of operation had changed several times since the application had originally been proposed. The Planning Commission had discussed several issues regarding the hours of operation and the applicant had made concessions during the Planning Commission meeting which the Commission did not accept. The Planning Commission had based its decision on public testimony and concern that the business would be operated in a way that was incompatible with the surrounding neighborhood.

Adjoining residents had expressed concern with noise with late night hours that could impact neighboring residents and with people coming in/out of the facility late in the evening with associated noises impacting the nearby residences. The applicant had been directed by staff to conduct a noise study, and it was determined that the building be attenuated so that a normal level of music could not be heard four feet from the building. There were also conditions that if the property were to become a nuisance, the Planning Commission could call the use permit back to either add conditions or to revoke the use permit.

The applicant's most recent hours of operation would allow the banquet to be open with live entertainment from 11:00 A.M. Monday through Saturday, closing at 11:00 P.M. most weekdays, with the exception of Wednesdays and Sundays to avoid conflicts with the church and a shared parking situation. The Council was provided with information from police reports from the applicant's Newark facility and additional letters received since the staff report had been prepared. The use had to do with live entertainment, live music in the banquet facility only, use permits relative to the banquet facility and only having to do with live music and entertainment.

There would be no fiscal impact associated with the project.

Ms. Ayres recommended that the City Council adopt a resolution upholding the appeal and approving Use Permit Application No. AP-04-178, subject to conditions.

Mayor Parent opened the public hearing for Resolution 05-10416.

RONALD JOHN VINCENT identified himself as the Appellant, 135 Maypole Court, Pittsburg. He referenced the issue related to the hours of operation and stated that they had looked into some of the other businesses in the neighborhood that were allowed to remain open until 2:00 A.M. He referred to Larry's and the Silver Knight Cocktail Lounge. He understood that negotiations were within half an hour of what the residents wanted and what the applicants desired. The residents would prefer that the music stop at 11:30 P.M. and the parties to end at 12:00 midnight. He would like to shut down the music at midnight on Fridays and Saturdays only, and 11:00 P.M. on every other day except Wednesdays when the restaurant would close at 6:00 P.M.

JESS ARENIVAR, 175 El Camino Drive, Pittsburg, whose home was located 150 feet southeast of the restaurant site, requested that the City Council support the Planning Commission's decision not to approve the use permit for live entertainment. He stated that the restaurant was, in effect, located in the back yard of the adjoining neighbors and allowing the use could create problems for the neighborhood.

JON FREDRICKSON, 115 El Camino Drive, Pittsburg, suggested that the proposed hours of operation would be detrimental to his family. He referred to a situation where noise from the use had disturbed his family during late hours at which time he had asked the owners to turn down the music. When that had not been done he had filed a complaint with the Pittsburg Police Department. He requested that the live entertainment be curtailed after 11:30 P.M. during the weekends with the parties to end at midnight. During the week, he would prefer that the hours of operation be limited to an earlier time period, at either 8:30 or 9:00 P.M. to avoid impacting his family and the privacy of his home.

JULIE YOUNT-FREDRICKSON, 115 El Camino Drive, Pittsburg, stated that when she had purchased her home she had pursued due diligence with respect to existing businesses and plans for the vacant lot. She also described the incident where noise from the facility had been so disruptive it had resulted in a complaint to the Police Department. She too sought an earlier time period for the live entertainment to end during the week.

TOM STOLL, 139 El Camino Drive, Pittsburg, whose home was situated directly behind the restaurant, commented that he had initially been supportive of the restaurant when the hours of operation had been defined as ending at 9:00, 10:00 or 11:00 P.M. He had been unaware that there had been a request for a midnight curtailment of the live entertainment. He objected to the later hours and asked the Council to deny the appeal.

ANTOINETTE SEBASTIANI, 139 El Camino Drive, Pittsburg, commented that she had also initially been supportive of the restaurant although she objected to the hours of operation related to the banquet hall, the numbers of people who could be accommodated and the noise associated with the banquet halls that could accommodate 200 people.

Ms. Sebastiani commented that while double doors had been added, the doors would be opening/closing at all times and people would be stepping outside, creating potential noise impacts. She supported an 11:30 P.M. curtailment of live entertainment with a 12:00 A.M. closing on Fridays and Saturdays. On Sundays, she would not support a closing at 11:00 P.M. noting that many in the neighborhood were either retired or were working families. She suggested that a 9:00 P.M. closing time during the week should be sufficient for the banquet business. She pointed out that the Silver Knight was a bar, which the subject facility was not.

PHYLIS CARPINO, 151 El Camino Drive, Pittsburg, offered her three minutes to speak to Pete Carpino.

BOB GONZALEZ, 163 El Camino Drive, Pittsburg, asked the City Council to deny the appeal. He noted that the applicant had compared the business to bars, which he stated was not appropriate for the neighborhood. He was concerned with parking and suggested that applied to the live entertainment which might spill over into his neighborhood. He was also concerned with the alcohol related issues. His fear was that the business would seek some type of alcohol permit. He emphasized that noise issues were the number one factor and that from within the inside of his residence he could hear the exhaust system of the restaurant itself. He stated that no representative of the restaurant had asked for his opinions, concerns or comments. He asked the City Council to consider his concerns associated with the proposal and deny the appeal.

MARY CONIGLIO, the Executive Vice President of the Pittsburg Chamber of Commerce, suggested that the Chamber, the applicants of the Mehran Restaurant and the residents could work together to negotiate to resolve the issues.

Mr. Frederickson commented that as a DJ he was familiar with the sound systems used. He again reiterated an incident which had resulted in a noise complaint to the Police Department as a result of the loud music.

PETE CARPINO, 151 El Camino Drive, Pittsburg, stated that the residents had attempted to resolve the issues, had met with representatives of the Mehran Restaurant on many occasions, and had come close to resolving the issue last night. He referred to the noise incident described by Mr. Frederickson and pointed out that the restaurant had no use permit to allow live entertainment which had already occurred. He noted that the residents had asked for a demonstration of the sound system which the applicants had recently provided in the far banquet hall. Residents had been satisfied and he had not heard anything from his rear yard, although on a recent Friday the music played in the middle banquet hall had resulted in the filing of a noise complaint by Mr. Frederickson.

Mr. Carpino emphasized that the neighbors were fearful of what could come from the use permit, if approved. He noted that there was an atmosphere of distrust between the applicants and the residents. Efforts were made to resolve those differences, although there has been no success. While noise was a major issue, odors were a concern of the residents as well.

Mr. Carpino explained that the applicant had promised to address that issue, although that had not been done. He offered the Council a written copy of the issues that had been discussed with the applicant last night regarding performance standards.

While there had been agreement on most issues, Mr. Carpino stated that there had been an agreement with the neighbors for the live entertainment to run until midnight Friday and Saturday evenings. During the course of the week, the applicant had no problem with a closure time of 9:00 P.M. on Sunday, Monday, Tuesday and Wednesday, although he preferred an 11:00 P.M. closure on Thursdays. The residents had disagreed since that would be a work night. Residents had preferred closure at 9:30 or 10:00 P.M. on Thursdays. Residents had also requested that during the banquet hours the live entertainment permit cease one half hour before the last allowable maximum hour to ensure the closing time since on most occasions people loitered in the area after the termination of the live entertainment.

Mr. Carpino suggested that the appeal be denied or that the item be postponed for 30 days to allow everyone to review the submitted police report from the applicant's Newark facility. He suggested that the true test for the residents would be the summer period and that the issue could be reconsidered in six months to ensure no detrimental effects to the residents during that time period.

ASHLEY DAVID, one of the owners of the Mehran Restaurant, stated that the conditions referenced in Mr. Carpino's memorandum would only be valid if there had been an agreement last night between him and the residents. He stated that the memo submitted to the Council was not an agreement and was only the residents' suggestions. He emphasized that the issue related to the live entertainment only and not to the restaurant itself.

Mr. Vincent stated that he had learned of the Friday incident earlier referenced, which had involved no DJ or live music. There music had come from an eight year olds birthday party and the music had been turned up and then turned down quickly. He stated that Mr. Carpino had been supportive of the project, had spent a lot of time with the applicants and they appreciated that and had taken into consideration the neighbors' concerns. He wanted to be in the neighborhood, had brought business into the City and wanted to be an asset to the community. He noted that he had received many compliments on the facility. He stated that the facility would be for family oriented events.

Mr. Vincent added that the Newark facility had nothing to do with the subject location. The applicants were the owners of the Pittsburg location, not the Newark site. There would be security on site for every event through bonded security guards, which had been proposed from the beginning to ensure safety for the investment of the facility and for the community.

Mr. Vincent recognized the concerns with the timing for the live entertainment. The hours of operation had been changed due to the business.

Mr. Vincent explained that the facility hall had been long awaited for the Indian/Afganistan/Fijan/Sikh community, which had grown in the East Bay. He stated that all precautions had been taken to ensure that disturbances would not occur and problems would not escalate. He suggested that issues that had occurred in Newark would not occur in Pittsburg and that security precautions had been taken. He also noted discussions with representatives of the Pittsburg Police Department who had toured the facility and who had spoken to the security company that had been hired.

Mr. Vincent urged the Council to consider the diversity of the community and be open to it. He emphasized that the proposal was not for a bar or a business that would become a nuisance. He asked the Council to grant the permit, allow the business to prove itself, allow the business to have live entertainment based on the hours as shown in the staff report for the weekends, and allow the facility to be open until 11:00 P.M. on Thursdays. He stated that he would be open to an earlier closure Monday through Wednesday, such as 9:00 or 10:00 P.M. He emphasized that he was a resident of the City and asked the Council to be open to the proposal.

Councilmember Johnson asked if the issues could be worked out between the applicants and the homeowners if a 30 day extension was granted. He was not necessarily convinced that the facility should be open as late as 11:00 P.M. during the week. Other organizations of which he was aware closed by 10:00 P.M. Monday through Thursday, and 11:00 P.M. on Fridays. He expressed concern setting a precedent if the business was allowed to remain open late during the week since other existing business might want the same privileges.

Mr. Vincent stated that a sound study had been done, the walls had been sound proofed and they were evaluating the benefit of acoustical windows or double pane windows to replace the existing single pane windows. He suggested that would address much of the noise. As far as talking to the neighbors again, he reiterated that they were within a half hour of where they all wanted to be. He asked to be given the chance to prove that the restaurant with live entertainment would not become a nuisance, particularly since the Council could revoke the use permit or call up the issue if there were concerns. He referred to a specific ceremony only on Thursday nights which was a cultural ceremony only held on Thursday evenings. In their contract, they had stated that during the weekdays live entertainment would end at 11:00 P.M., with the banquet hall to close at midnight. He emphasized that there was a difference between the Pittsburg facility and the Newark facility. He stated that he would lose 90 percent of his business if he could not remain open until 11:00 P.M. and accommodate the cultural needs, celebrations, weddings, and the like.

Councilmember Johnson acknowledged that both parties had worked on the matter for many months, although he suggested that another 30 days might allow some conclusion to the issues.

Vice Mayor Kee suggested that it would be difficult to continue the item for 30 days given that the facility would not be able to operate as planned and there would be no test as to how the residents would be affected. To staff, he noted that the applicant had mentioned Larry's and Silver Knight being open until 2:00 A.M. and he questioned whether or not there was live entertainment in those cases.

With respect to the Elks, Vice Mayor Kee stated that the Elks were allowed to remain open to 10:00 P.M. except at New Year's when the Elks could remain open to 1:00 A.M.

With respect to the decibel levels in response to the Vice Mayor, Ms. Ayres noted that 60 dBA outside and 45 dBA inside were acceptable noise levels.

Vice Mayor Kee verified that the issue related to live entertainment only although he was advised by Ms. Ayres that there were still noise levels that could create a nuisance and which would be addressed by other portions of the Municipal Code. He clarified that live music could be terminated at some point while other music could continue.

Ms. Ayres affirmed that the Municipal Code did not limit the hours of operation of the restaurant or the banquet facilities. The issue being discussed related only to the limitation on the hours of live entertainment

Mayor Parent referred to the report from the engineer which had indicated that the City's limitation for exterior noise was 60 dBA. She suggested that if the noise was kept under 85 dBA with doors closed, that would not exceed 60 dBA outdoors. She recognized that the Planning Commission had the option to call up the conditions and move to revoke the permit. She questioned whether or not the Council had the same right.

Ms. Ayres stated that the Planning Commission would have the authority to call up the item and amend conditions. If the City Council did not like a decision made by the Planning Commission the Council could call that issue up for further action.

When asked, City Attorney Ziegler stated that the Council could continue the hearing for 30 days, or to December 12, during which period staff could work out a compromise between the neighbors and the restaurant owner, or staff could be required to work in a condition for a call back within six months to review compliance with the terms of the use permit.

Councilmember Johnson supported a continuance to allow staff to work with the applicant and the neighbors to resolve the issues, with a return to the City Council on December 12, 2005.

Councilmember Casey questioned the ability of those involved to work out the differences. He recommended that staff and the Chamber of Commerce work with the applicant and the neighbors to create a reasonable set of conditions to resolve the matter.

When asked, Ms. Coniglio stated that representing the Chamber, she would work

with those involved to establish workable conditions to address the issue.

On motion by Councilmember Casey, seconded by Councilmember Johnson and carried unanimously to defer action on the matter until November 21, 2005 and have staff and the Chamber of Commerce work with the applicant and the residents to create a recommendation.

The item earlier deferred was considered at this time.

3. **ORDINANCE 05-1254** Introduction of Ordinance that will Add Section 10.24.060 Entitled "No Parking in Designated Street Sweeping Zones During Posted Times" to Title 10, Chapter 10.24 of the Pittsburg Municipal Code

Public Works Director John Fuller advised that the problem of parked cars obstructing street sweeping operations was one that nearly every agency with high density residential areas was familiar with. Public Works staff had identified areas in the City where on-street parking consistently posed a significant obstruction to effective street sweeping activities. In an attempt to address this problem, staff was introducing a pilot program to establish permanent "NO PARKING" zones on streets and/or street segments that had been identified as problem areas for street sweeping. After an extended evaluation period, this pilot program may or may not then be expanded based on its cost and effectiveness.

The ordinance was not effective until appropriate signs designating "NO PARKING" zones had been posted. As a result, the recommendation would require a one-time expenditure of \$55,000 to install the appropriate signage. The funds necessary to complete the work were available within the Neighborhood Improvement Program. No additional budget allocation would be required to cover the costs.

Mr. Fuller recommended that the City Council introduce the ordinance and waive the first reading to add Section 10.24.060 to the Pittsburg Municipal Code, entitled "No Parking in Designated Street Sweeping Zones During Posted Times."

Councilmember Glynn suggested that the issue was not just about moving cars but about something that had occurred for more than three years in his neighborhood in Marina Park where Mondays were trash days and the day that streets were swept. He emphasized that there would have to be some adjustment in the schedules to address those conflicting situations.

Vice Mayor Kee verified that the issue had been requested by the homeowners. He was advised by Mr. Fuller that was the case in many, but not all neighborhoods. He advised staff that proper noticing would have to occur to advise the residents that cars would be towed.

Mr. Fuller described the process that would be used before any vehicles were towed through the temporary program, where the streets would be posted immediately prior to the

sweeping which would be the practice for the citation procedures as well.

In response to Councilmember Glynn, Mr. Fuller stated that most schedules were established by other agencies. In the case of street sweeping, the City accommodated Delta Diablo Sanitation District's sweeping while the trash collection schedules were established by the trash company. The City was in the middle to help resolve the situation between the two parties, the street sweepers in one case and the trash collection in the other. As to what would occur in a gated community, those streets would not be swept because they would be private streets.

Mayor Parent advised that as a Boardmember of the Delta Diablo Sanitation District (DDSD), she would raise the issue of conflicting schedules with the DDSD.

Mayor Parent opened the public hearing for Ordinance 05-1254.

ROSEMARY RANDAZZO, Pittsburg, commented that temporary signs had been installed in her neighborhood although they were not working and the street was still dirty in the same areas. She did not want permanent signs because of routine loitering in her area. She suggested that the permanent poles would encourage more loitering. With respect to street cleaning, she noted that street cleaners rarely cleaned her street, Santa Fe Avenue and that street cleaners often left as much debris in the street as was cleaned. She emphasized the need to keep the gutters clean and would be willing to be employed to help in that regard. She also asked that the equipment used for the street sweeping be evaluated.

As to whether or not the residents were able to park in his/her own driveways, Ms. Randazzo explained that she parked her car in her driveway, although there were many apartments in the neighborhood where the residents must park in the street since many of the apartment complexes had chained off their parking lots at the rear with no choice but to park on the street. She emphasized that the area of East Santa Fe Street had been cleaned up by the neighbors and she had seen someone blowing debris out in the street which was not cleaned up by the street sweepers. In her opinion, the street sweeping had caused more problems than it had resolved.

WILLIE MIMS, Pittsburg, representing the BPA, noted that it would cost taxpayers \$60,000 to implement the program that he characterized as radical. He suggested that the City send out notifications to those in the areas in question, which might work better than what had been proposed. He objected to the punitive penalties associated with the proposal.

Mayor Parent closed the public hearing for Ordinance 05-1254.

On motion by Vice Mayor Kee, seconded by Mayor Parent to introduce Ordinance 05-1254 by title only and waived first reading, carried by the following vote:

Ayes: Casey, Glynn, Kee, Parent  
Noes: Johnson

## **CONSIDERATION**

1. **RESOLUTION 05-10420** Acceptance and Filing of Management and Staffing Study of Police Department by Matrix Consulting Group Authorizing Adoption of the 2005 Management and Staffing Study of the Pittsburg Police Department

The City Manager recommended adoption of the 2005 Management and Staffing Study of the Pittsburg Police Department prepared by the Matrix Consulting Group as presented to the City Council on October 17, 2005. Upon adoption of the study by City Council Resolution, the study would be reviewed for implementation by the City Manager and Departmental management and filed with the City Clerk.

There were no fiscal impacts to the City associated with the report. Future implementation of any specific recommendations detailed in the study would require a fiscal impact analysis to the Police Department Budget prior to any implementation subject to approval of the City Manager.

Mr. Grisham recommended that the City Council adopt, receive and file by resolution the 2005 Management and Staffing Study of the Pittsburg Police Department conducted by the Matrix Consultant Group as presented to the City Council on October 17, 2005.

CHARLES SMITH, Pittsburg, commented that the dBA level for the Environmental Protection Agency (EPA) was 65 and anything greater than 90 dBA for longer than 15 minutes recommended the use of safety gear, such as ear muffs. He otherwise commended the Council, the Pittsburg Police Department and particularly Officer Callahan for a job well done for the downtown clean up.

Mr. Smith suggested that the study was incomplete since the Council had not received the scope of work the Council had directed the contractor to provide. He sought a Citizen Commission to help direct the Police Department as has been done in the City of San Francisco. He suggested that the report had been done at an inopportune time when there was conflict within the Police Department.

Councilmember Glynn made a motion that was seconded by Councilmember Casey to approve the resolution.

Vice Mayor Kee stated that he would oppose the motion. He suggested that the consultant had not done what was supposed to have been done and had specifically informed him that the work would be done.

Mayor Parent asked the significance of the Council's acceptance of the report, advised by Mr. Grisham that the report would have to be accepted by the Council so that the consultants could be paid.

Mr. Grisham stated that all the recommendations in the report would be reviewed and staff would comment on each recommendation at a later meeting.

Mayor Parent commented that she would vote yes on the item so that the consultants could be paid, although she would not hire the consultants again to do anything in that the consultants had not done what had been requested of them.

On motion by Councilmember Glynn, seconded by Councilmember Casey to adopt Resolution 05-10420, carried by the following vote:

Ayes: Casey, Glynn, Parent  
Noes: Johnson, Kee

2. **RESOLUTION 05-10421** Authorization for the City Manager to Execute a Purchase and Sale Agreement with Mr. Balvir Chand for City-owned Surplus Property Located at 2120 Crestview Drive (APN 087-030-031)

Mr. Grisham advised that the State of California Government Code Section 54220 *et seq* governed public agencies' disposal of surplus land. The code required that the elected body take action to designate the property as surplus before disposing of it following specific guidelines. The Council had previously declared the property as surplus, and staff had followed disposal guidelines stipulated by the code. To complete the transaction, the Council was asked to authorize the City Manager to execute a Purchase and Sale Agreement with Mr. Balvir Chand for disposal of the property.

The agreed upon sale price of the property was \$550,001. Upon completion of the sale, the proceeds would be transferred to the City's general fund.

Mr. Grisham recommended that the City Council authorize the City Manager to execute the Purchase and Sale Agreement and take all actions as may be necessary to convey the surplus property to Mr. Balvir Chand.

BALVIR CHAND thanked the City for the agreement to purchase.

On motion by Councilmember Johnson, seconded by Councilmember Glynn and carried unanimously to adopt Resolution 05-10421.

3. **RESOLUTION 05-10422** A Resolution Relating to Conduct of City Council Proceedings

Mr. Grisham reported that the resolution, if adopted by the City Council, would set the policy relating to the rotation of Mayor and Vice-Mayor through Election Year 2008. The policy would be reviewed within six months following the date of the 2006 Election.

There would be no fiscal impact. Staff recommended the following:

1. That the City Council adopt the rotation of the Mayor and Vice-Mayor as shown on the charts included in the staff report dated November 7, 2005 and adopt a resolution relating to the conduct of City Council proceedings.
2. That the City Council direct the City Attorney to modify Ordinance 02-1192 to better describe the rotation of Mayor and Vice-Mayor.

Councilmember Casey spoke to the background of the issue as it related to what had been done by former Councils. He found the matter to be a non-issue

On motion by Vice Mayor Kee, seconded by Mayor Parent and carried unanimously to adopt Resolution 05-10422.

### **CONSENT CALENDAR**

On motion by Councilmember Johnson, seconded by Vice Mayor Kee and carried unanimously to adopt the Consent Calendar, with the removal of Item e.

- a. **MINUTES** Dated: October 17, 2005

Approved minutes dated October 17, 2005.

- b. **ORDINANCE 05-1253** Amending Municipal Code to Add Section 1.04.090, Regarding Consistency with State and Federal Law

Adopted Ordinance 05-1253.

- c. **RESOLUTION 05-10417** Award 2005/2006 Vehicle/Equipment Purchase Contracts

Adopted Resolution 05-10417.

- d. **RESOLUTION 05-10418** Accepting Plans and Specifications and Authorizing the City Engineer to Advertise for Bids to Construct Contract 2004-10, Downtown Infrastructure Project

Adopted Resolution 05-10418.

The following item was removed for discussion.

- e. **RESOLUTION 05-10419** Directing Staff to Include in the Design and Construction of Contract 2004-10, Downtown Infrastructure Project, the Installation of a Traffic Signal at West Tenth Street

and Herb White Way

Councilmember Glynn requested clarification of how the signal installation would relate to the improvements planned for Herb White Way in terms of underground cable and street improvements.

In response, Mr. Grisham stated that when the specific project had come up by the Olson Company it had been conditioned to install the traffic signal although that condition had not worked in terms of the fact that the signal should be the last thing installed. The Council's authorization of the resolution would recognize that the signal needed to be installed, but would designate the timeframe as to when it should occur, at the end of the process not at the start. The signal would be incorporated into the redesign of the street which would be the last thing that would be done.

On motion by Councilmember Glynn, seconded by Vice Mayor Kee and carried unanimously to adopt Resolution 05-10419.

**ADJOURNMENT**

The City Council adjourned at 11:25 P.M. ***In Memory of James Allen Williams Baker*** to November 21, 2005.

Respectfully submitted,

Lillian J. Pride, City Clerk

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