

CITY OF PITTSBURG
Housing Authority Minutes
October 17, 2005

Chair Nancy Parent called the meeting of the Housing Authority to order at 7:37 P.M. in the City Council Chambers at City Hall, 65 Civic Avenue, Pittsburg, California after having convened into a Workshop – Overview of Management and Staffing Study of Police Department at 5:00 P.M. and a Closed Session at 6:32 P.M. for Conference with Legal Counsel – Existing Litigation pursuant to Section 54956.9(a) of the Government Code regarding Ronald Huppert and Javier Salgado vs. City of Pittsburg, et al, United States District Court Case No. C05-1433; and Conference with Legal Counsel - Anticipated Litigation pursuant to Section 54956.9(c) regarding sixteen cases.

Chair Parent advised that there was no reportable action from the Closed Session.

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

MEMBERS EXCUSED: Mixon

STAFF PRESENT: Executive Director, Marc Grisham
Assistant Executive Director, Matt Rodriguez
Legal Counsel, Ruthann Ziegler
City Clerk, Lillian Pride
Deputy City Clerk, Alice Evenson
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
Planning Director, Melissa Ayres
Police Chief Aaron Baker

CONSENT CALENDAR

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

a. **DISBURSEMENT LIST** Dated: August 31, 2005

Approved Disbursement List dated August 31, 2005.

b. **MINUTES** Dated: September 19, 2005

Approved Minutes dated September 19, 2005.

ADJOURNMENT

The meeting of the Housing Authority adjourned at 7:38 P.M. to the next meeting on November 21, 2005.

Respectfully submitted,

Lillian J. Pride, Secretary

als

CITY OF PITTSBURG
Redevelopment Agency Minutes
October 17, 2005

Chair Nancy Parent called the meeting of the Redevelopment Agency to order at 7:39 P.M. in the City Council Chambers at City Hall, 65 Civic Avenue, Pittsburg, California after having convened into a Workshop – Overview of Management and Staffing Study of Police Department at 5:00 P.M. and a Closed Session at 6:32 P.M. for Conference with Legal Counsel – Existing Litigation pursuant to Section 54956.9(a) of the Government Code regarding Ronald Huppert and Javier Salgado vs. City of Pittsburg, et al, United States District Court Case No. C05-1433; and Conference with Legal Counsel - Anticipated Litigation pursuant to Section 54956.9(c) regarding sixteen cases.

Chair Parent advised that there was no reportable action from the Closed Session.

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

MEMBERS ABSENT: None

STAFF PRESENT: Executive Director, Marc Grisham
Assistant Executive Director, Matt Rodriguez
Legal Counsel, Ruthann Ziegler
City Clerk, Lillian Pride
Deputy City Clerk, Alice Evenson
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
Planning Director, Melissa Ayres
Police Chief Aaron Baker

CONSIDERATION

1. **RESOLUTION 05-1091** Awarding an Exclusive Negotiating Rights Agreement By And Between the Redevelopment Agency of the City of Pittsburg and Domus Development, LLC

Director of the Redevelopment Agency Garrett Evans reported that on August 2, 2004, the Agency Board approved Resolution No. 04-981 which established a Unified Development Area (UDA) at the northeast corner of Tenth Street and Railroad Avenue.

The Redevelopment Agency of the City of Pittsburg desires to enter into an Exclusive Negotiating Rights Agreement with Domus Development, LLC which provides procedures and standards for the negotiation by the Agency and developer of a Disposition and Development Agreement (DDA) for acquisition and development of the UDA.

Mr. Grisham explained that the Agreement would allow a way for some cost savings since a design build project could be negotiated with a contractor and subs could be bid aggressively. With the tax credits, there were financial advantages the developer could pass on to the private sector with potential cost savings for the City.

There would be no fiscal impacts to the Redevelopment Agency at this time. Mr. Evans recommended that the Agreement between the Developer and the Agency be approved. It was further recommended that the Agency authorize and direct the Executive Director of the Agency to execute the Agreement on behalf of the Agency 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 Agreement.

On motion by Member Glynn, seconded by Member Johnson and carried unanimously to adopt Resolution 05-1091.

- | | |
|---|---|
| 2. <u>REPORT</u> Combined w/CC -05-10403 Combined w/ PPC | Receive Fiscal Year 2004-2005 Year-End Financial Review and Adopt Resolution Authorizing Year-End Adjustments and Reimbursements to and from the General Fund |
|---|---|

Finance Director Marie Simons advised that staff had completed the review of the Fiscal Year 2004-2005 year-end financial status for all City and Redevelopment Agency funds in preparation for the annual audit process that would begin on October 31, 2005. The Fiscal Year 2004-2005 Year-End Financial Review Preliminary – “Unaudited” Report compared all actual revenues and expenses to the amended budget for all City and Redevelopment Agency funds. This report also set forth procedures used in past and current fiscal years for reimbursement by Special Funds to the General Fund for monies advanced by the General Fund for specific administrative support and non-general fund programs.

All funds were on target for the two year operating budget with the exception of the General Funding ending the year with an annual \$2.7 million surplus higher than projected during the two year budget process. One and a half million had come from department savings and \$400,000 from supplemental property taxes and property transfer taxes from a higher level of the sale of homes generated in May and June. The \$2.7 million surplus would also include the one time land sale between the Redevelopment Agency and the City, one time budget balancing measures where monies were taken from the fleet maintenance reserves and power authority reserves. With fiscal prudence the City was in good shape.

Ms. Simons recommended that four additional transfers be made, two of which had been projected in the operating budget; one transfer of \$800,000 from the surplus into the budget stabilization funds to cover this years shortfall, an additional transfer of \$200,000 to cover the golf course revenues shortfall which was less than expected, a transfer of \$357,000 from the General Fund to the Economic Development funds to meet the obligations taken by the Council last spring, and moving \$150,000 of engineering and plan check fees received in May to pay for inspection costs that would occur this year. If approved, the annual \$2.7 million surplus would be reduced to \$1.3 million increasing the General Fund Reserves to \$8.9 million. A General Fund Reserve Policy was expected to be presented to the Redevelopment Agency at its next meeting on October 31.

Ms. Simons noted that staff had reviewed the 2004-2005 year-end financial status of all Citywide funds. Most funds were on target as projected through the Two-Year Adopted Budget process review last May, 2005 except for the General Fund, as described in the October 17, 2005 staff report.

It was recommended that the Agency receive the staff report and adopt a resolution authorizing year-end adjustments and reimbursements to and from the General Fund, and ratifying the existing and proposed City procedure for reimbursing the General Fund for monies advanced for specific administrative support and non-general fund programs.

Mr. Grisham added that as the Agency was aware the Police Department generated the bulk of the savings and had some turnover issues that had been addressed along with compensation issues. A report of the policing issues would be presented to the Agency in the future.

Chair Parent questioned the transfer of money from the fleet reserve. She otherwise commented that the golf course, which was an enterprise that did not operate well as an enterprise, remained a concern with continued costs to the City.

Mr. Grisham noted that one of the items to consider on October 31 was the reserve policy. There would be a recommendation to move money back into the two reserve funds.

On motion by Member Johnson, seconded by Member Casey and carried unanimously to receive Redevelopment Agency Fiscal Year 2004-2005 Year-End Financial Review and adopt Resolution Authorizing Year-End Adjustments and Reimbursements to and from the General Fund.

On motion by Councilmember Johnson, seconded by Councilmember Casey and carried unanimously to adopt City Council Resolution 05-10403.

On motion by Member Johnson, seconded by Member Casey and carried unanimously to receive Pittsburg Power Company Fiscal Year 2004-2005 Year-End Financial Review and adopt Resolution Authorizing Year-End Adjustments and Reimbursements to and from the General Fund.

CONSENT CALENDAR

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

- a. **MINUTES** Dated: October 3, 2005

Approved minutes dated October 3, 2005.

- b. **RESOLUTION 05-1093** Authorizing a Second Amendment to the First Time Home Buyer Program

Adopted Resolution 05-1093.

ADJOURNMENT

The meeting of the Redevelopment Agency adjourned at 7:53 P.M. to October 31, 2005 at 2:30 P.M.

Respectfully submitted,

Lillian J. Pride, Secretary

als

CITY OF PITTSBURG
Pittsburg Power Company Minutes
October 17, 2005

Chair Nancy Parent called the meeting of the Pittsburg Power Company to order at 7:54 P.M. in the City Council Chambers at City Hall, 65 Civic Avenue, Pittsburg, California after having convened into a Workshop – Overview of Management and Staffing Study of Police Department at 5:00 P.M. and a Closed Session at 6:32 P.M. for Conference with Legal Counsel – Existing Litigation pursuant to Section 54956.9(a) of the Government Code regarding Ronald Huppert and Javier Salgado vs. City of Pittsburg, et al, United States District Court Case No. C05-1433; and Conference with Legal Counsel - Anticipated Litigation pursuant to Section 54956.9(c) regarding sixteen cases.

Chair Parent advised that there was no reportable action from the Closed Session.

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

MEMBERS ABSENT: None

STAFF PRESENT: Executive Director, Marc Grisham
Assistant Executive Director, Matt Rodriguez
Legal Counsel, Ruthann Ziegler
City Clerk, Lillian Pride
Deputy City Clerk, Alice Evenson
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
Planning Director, Melissa Ayres
Police Chief Aaron Baker

CONSIDERATION

1. **REPORT** Receive Fiscal Year 2004-2005 Year-End Financial
Combined w/CC -05-10403 Review and Adopt Resolution Authorizing Year-End
Combined w/ RDA Adjustments and Reimbursements to and from the
General Fund

Finance Director Marie Simons reported that staff had completed the review of the Fiscal Year 2004-2005 year-end financial status for all City and Redevelopment Agency funds in preparation for the annual audit process that would begin on October 31, 2005.

The Fiscal Year 2004-2005 Year-End Financial Review Preliminary – “Unaudited” Report compared all actual revenues and expenses to the amended budget for all City and Redevelopment agency funds. This report also set forth procedures used in past and current fiscal years for reimbursement by Special Funds to the General Fund for monies advanced by the General Fund for specific administrative support and non-general fund programs.

In Joint Session with the Redevelopment Agency, the Pittsburg Power Company took the following action:

On motion by Member Johnson, seconded by Member Casey and carried unanimously to receive Pittsburg Power Company Fiscal Year 2004-2005 Year-End Financial Review and adopt Resolution Authorizing Year-End Adjustments and Reimbursements to and from the General Fund.

CONSENT CALENDAR

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

1. **MINUTES** Dated October 3, 2005

Approved minutes dated October 3, 2005.

ADJOURNMENT

The meeting of the Pittsburg Power Company adjourned at 7:55 P.M.

Respectfully submitted,

Lillian J. Pride, Secretary

als

CITY OF PITTSBURG
City Council Minutes
October 17, 2005

Mayor Nancy Parent called the meeting of the City Council to order at 7:56 P.M. in the City Council Chambers at City Hall, 65 Civic Avenue, Pittsburg, California after having convened into a Workshop – Overview of Management and Staffing Study of Police Department at 5:00 P.M. and a Closed Session at 6:32 P.M. for Conference with Legal Counsel – Existing Litigation pursuant to Section 54956.9(a) of the Government Code regarding Ronald Huppert and Javier Salgado vs. City of Pittsburg, et al, United States District Court Case No. C05-1433; and Conference with Legal Counsel - Anticipated Litigation pursuant to Section 54956.9(c) regarding sixteen cases.

Mayor Parent advised that there was no reportable action from the Closed Session.

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

MEMBERS ABSENT: None

STAFF PRESENT: City Manager, Marc Grisham
Assistant City Manager, Matt Rodriguez
City Attorney, Ruthann Ziegler
City Clerk, Lillian Pride
Deputy City Clerk, Alice Evenson
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
Planning Director, Melissa Ayres
Police Chief Aaron Baker

Mayor Parent considered the following general City Council items at 7:16 P.M. prior to pursuing the Housing Authority agenda.

PLEDGE OF ALLEGIANCE

Mayor Parent led the Pledge of Allegiance.

COUNCILMEMBER REPORTS/REMARKS

Vice Mayor Kee reported that he had attended the League of California Cities Conference on October 5 to 8 in the City of San Francisco and had provided information to the Deputy City Clerk to be copied to the Council.

Councilmember Johnson reported that he had also attended the League of California Cities Conference, had attended three Measure P meetings, had participated in five funerals for Veterans, and had attended two American Legion meetings.

Councilmember Glynn reported that he had attended a breakfast sponsored by Supervisor Federal Glover attended by Senator Torlakson and Assemblyman Canciamilla regarding local measures of interest to East County. He had also attended the TRANSPLAN Committee and eBART Partnership Policy Advisory Committee (ePPAC) meetings, a veteran's funeral, a birthday celebration for Planning Commissioner Rosemary Tumbaga, the 80th birthday party for Mrs. Santos, and the 10th Anniversary of Stoneman Village II.

Mayor Parent thanked the Vice Mayor for filling in for her at events she had committed to but had been unable to attend. She reported that the fourth Starbucks had opened in the community. She had also attended a swearing in ceremony for new Superior Court Judge for Contra Costa County, Suzanne Fenstermacher, who was also a Pittsburg resident.

CITY MANAGER REPORTS/REMARKS

There were no City Manager Reports/Remarks.

CITIZENS REMARKS

ELVIN F. SCOTT, President, The Union All Pension and Democratic Research Center, Inc., Pittsburg, commented that he had been working to correct pensions and health and welfare for veterans for some time. He presented the Council with information on his planned five websites as related to his efforts, and took this opportunity to thank those who had helped him up to this point, emphasizing that he would continue his efforts.

BRUCE OHLSON, Pittsburg, advised that he was participating in the Citizen Emergency Response Team Training aimed at the average citizen which was being offered in Bay Point. He described the training being provided and suggested that the City of Pittsburg consider offering the same course.

WILLIE MIMS, Black Political Association (BPA), Pittsburg, spoke to the fact that the Council and the City had committed to increase housing in the community. While he recognized the need for low income housing, he cautioned the Council not to create a bedroom community without also creating a balance between residential and commercial development.

Mr. Mims expressed a desire to see the City be self sustaining. He recommended

that the Council take care with the amount of space being developed in the City and he expressed his hope that there would be some open space left. He further commented on a sign on Herb White Way indicating that a new park would be built in that neighborhood. He pointed out that the area of Carpino/School Street did not have a community park. He sought a commitment from the City to build a park within that neighborhood, one of the oldest in the City, which he described as being full of taxation without representation.

City Manager Grisham reported that the City was initiating the planning process for a park at Martin Luther King Elementary School, which would include a soccer field, play equipment and other recreational play areas and which neighborhood would benefit from additional park facilities and playing fields.

ANDREA ORTIZ, Pittsburg reported on a recent incident where individuals who did not live in her neighborhood appeared to be prowling around neighbors' homes. She expressed concern not only with the potential crime activity, but with the fact that she had been informed that if she were to contact the police those individuals would be informed of who had contacted the police to raise a concern. As a single parent, she was concerned with having to protect herself and her family. She was also concerned that on occasion the police had been slow to respond to calls.

Mr. Grisham asked that the Police Chief, present in the audience, speak with Ms. Ortiz to address her concerns. He clarified that when a crime was reported to the Police Department the name of the person reporting the crime would not be given to the individual(s) in question. He urged residents to contact and report to the Police Department any potential incidents.

Mayor Parent adjourned to the Housing Authority at 7:37 P.M. and reconvened the City Council at 7:56 P.M.

PUBLIC HEARING

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

City Attorney Ruth Ann Ziegler advised that the United States Supreme Court, in the case of *Gonzales vs. Raich*, has recently opined that, notwithstanding state laws to the contrary, the possession and/or use of marijuana remains illegal under federal law. The ordinance would codify the Supreme Court's holding in *Gonzales vs. Raich* by requiring that any use, entitlement, authorization, license or permit issued or allowed under the Pittsburg Municipal Code shall be consistent with both state and federal law. There would be no fiscal impact to the City.

Ms. Ziegler recommended that the City Council adopt an ordinance which would amend the Municipal Code to require that all uses, entitlements, authorizations, licenses, and permits issued or allowed under the Code are consistent with both state and federal law.

Councilmember Glynn inquired whether or not federal law would always overrule state law as it related to medical marijuana dispensaries.

Ms. Ziegler noted that federal law did supersede. In June 2005 the Supreme Court regarding the *Gonzales v. Raich* decision had found that federal law controlled, and had found that there was no permissible use in light of federal law of marijuana for medical purposes. The United States Supreme Court did not invalidate the state law Compassionate Use Act and it had indicated no minimal exception that would apply. There were some jurisdictions in the state allowing such uses, including a county in Northern California that was being sued for allowing such uses while other cities were being sued for prohibiting such uses.

Ms. Ziegler added that one of the catalysts for the proposed ordinance was that there had been some phone inquiries to City staff as to the City's position on the issue. Some communities had allowed, regulated, adopted a moratorium or banned medical marijuana dispensaries and some communities have been sued as a result. The issue before the Council was to clarify the City's position in response to those phone inquiries that staff received from time to time.

Councilmember Johnson inquired of the position of the City of San Francisco on the issue in that he was aware that city had allowed cannabis clubs.

Ms. Ziegler noted that the cities of San Francisco and Oakland allowed medical marijuana dispensaries that were regulated. The City of Oakland regulated the number of medical marijuana dispensaries, required background checks, certain use permits and other licenses before those dispensaries were allowed to operate.

Mayor Parent opened the public hearing for Ordinance 05-1253. There was no public comment. Mayor Parent closed the public hearing for Ordinance 05-1253.

Mayor Parent questioned why the ordinance was so broad in that whatever the Council did, it must be consistent with state and federal law. She suggested it was possible in the future that a law could arise that the City did not like. She preferred that the Council take a position that the City was not going to permit medical marijuana dispensaries in the City. She questioned whether or not the ordinance could include that statement.

Ms. Ziegler acknowledged that could be one approach although there were three cities that had recently been sued for having a ban on medical marijuana dispensaries, one of which was the City of Concord.

The City of Fresno had been served in June 2005 for an ordinance that had defined a medical marijuana dispensary as one allowing three or more patients, tantamount to a ban. In this instance, the City of Pittsburg needed to be legal in the hope that it would not be sued. She explained that it would be difficult for a court to throw out an ordinance saying a city must comply with state and federal law. She added that as long as the court decision in *Gonzales v. Raich* stood and the Controlled Substances Act as it had been

written stood, it would ban all such uses. Ms. Ziegler noted that after the Supreme Court *Gonzales v. Raich* case ruling, medical marijuana advocates had tried to get legislation to amend the Controlled Substances Act, which efforts had been unsuccessful.

Vice Mayor Kee questioned whether or not the City Attorney saw any resolution of the conflict between federal and state law in the future.

Ms. Ziegler explained that the group suing the City of Fresno was the same filing challenges against ordinances in the cities of Concord, Susanville and Pasadena. The group was looking for a test case and a published appellate court decision supporting its right as it saw it to utilize medical marijuana as allowed by state law. Sooner or later, she suggested that would wind up in the state Supreme Court. She recommended that the City of Pittsburg take a position at this time.

Mayor Parent questioned why the ordinance could not state that the City of Pittsburg would be consistent with federal and state law as it related to controlled substances.

Ms. Ziegler preferred a broader approach rather than a narrower approach, although she stated that the ordinance could be modified if the Council so wished. With the knowledge of the group with four lawsuits pending, she explained that she had been attempting to draft something that would comply with state and federal law and which would be difficult for a state or federal judge to dismiss. Ms. Ziegler added that everything was to be consistent with state and federal law. At the discretion of the Council, the section to be added to the Municipal Code could relate “solely as to controlled substances.”

Councilmember Johnson understood that the ordinance had just come up because of the cannabis clubs and had nothing to do with other controlled substances. If the ordinance met the laws of the Supreme Court, in his opinion the Council should introduce the ordinance and if changes needed to be made, that could be done. He made a motion to that effect.

On motion by Councilmember Johnson, seconded by Councilmember Casey and carried unanimously to introduce Ordinance 05-1253 by title only and waive first reading.

CONSIDERATION

1. **RESOLUTION 05-10403** Receive Fiscal Year 2004-2005 Year-End Financial
Combined w/RDA Review and Adopt Resolution Authorizing Year-End
Combined w/PPC Adjustments and Reimbursements to and from the
General Fund

Finance Director Marie Simons reported that staff had completed the review of the Fiscal Year 2004-2005 year-end financial status for all City and Redevelopment Agency funds in preparation for the annual audit process that will begin on October 31, 2005. The Fiscal Year 2004-2005 Year-End Financial Review Preliminary – “Unaudited” Report compares all actual revenues and expenses to the amended budget for all City and

Redevelopment agency funds. This report also set forth procedures used in past and current fiscal years for reimbursement by Special Funds to the General Fund for monies advanced by the General Fund for specific administrative support and non-general fund programs.

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

On motion by Councilmember Johnson, seconded by Councilmember Casey and carried unanimously to adopt Resolution 05-10403.

2. **RESOLUTION 05-10404** Resolution of Intent to Y-Rate the City's Contribution Toward Retiree Medical Premiums

Human Resources Director Marc Fox advised that on July 18, 2005, the Council adopted a resolution of intent to y-rate excess contributions toward retiree medical premiums. Thereafter staff conducted outreach with the retiree health participants by providing three notices regarding the intent to y-rate retiree medical premium contributions; speaking with 38 retirees by telephone; meeting individually with one retiree; corresponding by e-mail with one retiree; and holding two group meetings which were attended by five retirees combined. The resolution before Council brought the matter of y-rating the retiree medical premium contributions back for consideration.

Initially staff had assumed a one percent anticipated increase in Kaiser premiums and a 6.1 percent increase in Health Net premiums, resulting in a first year savings of \$13,500. It now appeared that the Kaiser premium increase would be approximately five percent and the Health Net premium increase approximately ten percent. Incorporating those new rates, the fiscal impact to the City would be a savings of approximately \$21,903 for the period of January 1, 2006 through December 31, 2006. The City's savings would increase each year thereafter as premiums increased while some contributions remained constant.

For retirees whose current health insurance contribution exceeded the promise made at the time of retirement, staff recommended that the contribution be frozen at the dollar amount contributed as of December 31, 2005, until the promise made at retirement equaled or exceeded that contribution amount (also called "y-rating").

JACK HARRIS, Pittsburg, explained that he retired from the Pittsburg Police Department in 1991. Speaking on behalf of the retired Pittsburg Police Officers who would be required to pay a portion of their medical benefits on January 1, 2006, he stated that retirees would also be required to pay subsequent cost increases. He advised that he was also a retiree of the District Attorney's Office and since most of his medical costs were paid by the County, he would not be affected by the resolution. He had been working to increase the medical benefits for Pittsburg Police Officers, particularly in view of the 1995 negotiations between the City and the Police Benefit Association when it had been agreed that service related retirement after July 1, 1995 for those with 20 years of service would receive fully paid medical insurance, equivalent to the Kaiser plan. He emphasized that no

one had considered the retirees before July 1, 1995 who had been overlooked in the passage of that resolution.

Mr. Harris stated that thereafter he and Pittsburg Police Inspector Vince DiMaggio had begun corresponding with the City, which efforts had resulted in significant increases in medical benefit payments for the five retired officers and others with 20 years of service. Those benefits were the same as for those retirees who had retired after July 1, 1995.

Mr. Harris commented that City retirees of several years ago received less income than current retired employees. For some retirees, the benefits were their only income and poor health had prevented secondary employment and income for some. He stated that decreases in revenues to the City should not adversely impact the benefits to retired employees. He questioned whether or not there were any existing employee benefits that could be decreased or eliminated. Mr. Harris added that to the best of his knowledge, the longevity incentive had been discontinued years ago. If it existed today and if it were discontinued, he suggested that could alleviate a significant financial obligation of the City. He suggested that whether the retiree employee benefits were intended to be permanent or not, retired employees had become dependent on those benefits, such as fully paid medical benefits. He urged the Council to consider the concerns of the retirees that would be affected and to find alternative ways to decrease the costs of operating the City.

MEL COOPER, Retired Captain of the Pittsburg Police Department, stated that he was speaking on behalf of three retired Pittsburg Police Officers who each had up to 30 years of service. In 1995, the Active Sworn Personnel had been awarded full paid medical benefits. During the 2000 budget award, the same three officers received 100 percent benefits which had been officially approved by the City Council at that time with a side letter of agreement dated October 7, 2002, attached and incorporated into the official Memorandum of Understanding (MOU) between the City and the Pittsburg Police Association. The side letter of agreement had been deemed to be an official lifetime pending agreement between the City and the three officers.

Mr. Cooper advised that the officers had only recently been informed that the item was a negotiable matter with a letter dated July 5, 2005 from the Department of Human Resources. He stated that he had attended two meetings with the Human Resources Department on the subject on behalf of the three officers. He expressed the officers' intention that they would not accept the proposed reduction in benefits. The Human Resources Department personnel had recommended that he plead his case before the City Council.

Mr. Cooper commented that based on the monetary figures provided by the Human Resources Department, the City would save \$171 a month by reducing retirees' benefits. He asked the Council to reconsider and allow the retirees to retain his/her benefits based on the many years of service that had been given the City and its citizens as highly respected and professional police officers and administrators. He commented that many retirees were on fixed incomes. He noted that his last insurance payment had been \$277 a month in September 2002. Each year those expenses had increased. In 2004, his

personal out of pocket medical expenses had been \$5,000.

WILLIE MIMS, BPA, Pittsburg, supported the retirees' request. He asked the Council to reject the y-rate increase for those who had put in hard time for the City. He pointed out that the prior agenda item for the General Fund reimbursement and adjustments had transferred money to the golf course to fund a shortfall in the amount of \$400,000. If that could be done, he suggested that the City could do more to support rather than penalize its retirees.

GEORGE ANDELIN, Pittsburg, appreciated the years the City had given him in that it had allowed him a decent living through 30 years of service with the City. He noted that the City had denied him disability retirement, although Social Security had provided disability and he lived off of his pension and disability from Social Security. He suggested that the financial numbers were not that significant to reduce benefits to retirees, with the burden always falling on the workers. He questioned whether or not the Council would also y-rate its next increase.

Councilmember Johnson spoke to the reference to a MOU in 2002 and inquired of the City Attorney whether or not that side letter and the MOU was a legal document.

Ms. Ziegler referred to Mr. Fox to clarify that issue.

Mr. Fox explained that the same question had been posed to the City Attorney's Office, which had indicated that the City had a continuing obligation to provide those benefits promised to each retiree at the time of retirement. The City did not have a continuing obligation to continue the enhancements that had taken place over the years and had a discretionary option to continue those enhancements in some fashion or another, if the Council wished.

Mr. Fox stated that the Council could, in effect, expire the 1995 benefits and could change the dollar values to another value or percentage, provided it was not less than promised to the retiree at the time of retirement. The process in which the Council had provided the enhancements to retirees was awkward in that they were generally provided through the collective bargaining process, and the retirees were not covered individuals under MMBA which was governed through collective bargaining. While the Council in 1995 had properly chosen to enhance the retiree's health insurance benefits, that had been done in a less than ideal forum.

Vice Mayor Kee requested clarification that the reference to 100 percent benefits had to do with the City paying 100 percent of the benefits at the time of retirement.

Mr. Fox explained that the 100 percent benefits referred to 100 percent of the early retiree health insurance benefits, the most expensive of the least two expensive plans. Since there were only had two plans, it would be 100 percent of the early retirement Health Net rate, as it now existed, or what would exist in January 2006, and each year thereafter. If a retiree was a single individual, that cost would be \$472.88, married with a spouse at the

time of retirement, the cost would be \$945.77. The 25 and 50 percent rates had been based on the Kaiser early retiree amounts of \$320 and \$641.

Councilmember Casey understood that the City could do what had been done to increase the retiree benefits although that had been done in the wrong forum.

Mr. Fox reiterated that the ideal way to increase those enhancements would have been to increase the current employee retiree health benefits through the collective bargaining process and through separate resolution, having increased the retiree health benefits for prior retirees. The Council in 1995 had increased the benefits through the same document and through MOUs. If the Council adopted the current resolution, it would correct the matter for current retirees. Any other action would be acceptable for the practice that was ongoing. He emphasized that the action taken by the prior Council was not wrong, but had not involved the most ideal process.

Mr. Grisham explained that the resolution before the Council would set the retirement medical benefits in the right way, and the way it should be done by specifically identifying retirees. He noted that the bargaining units did not have the right to bargain for retirees. If the Council wanted to do something else, that would also set it right. He would suggest that whatever action was taken, a return time be imposed to ensure annual reviews of the rates.

Councilmember Johnson inquired whether or not inflationary costs had been built into the retiree structure.

Mr. Fox advised that by and large the adoption of the resolution before the Council would not permit additional inflationary costs to be borne by the City. There had been a few occasions, at the time of retirement, that the retiree and spouse had been promised 50 percent coverage while today that retiree and spouse received 100 percent coverage. At some point, the dollars expended now would be less than the 50 percent promised at the time of retirement. In those instances, the retiree would move back to the 50 percent factor and continue to receive the inflationary rates.

Mayor Parent understood the y-rating would result in savings of less than \$2,000 for this year, to which Mr. Fox clarified that the savings to the City would be approximately \$23,000 for the first year, and would be greater the second year due to inflationary costs to the health insurance premiums. The costs would be accumulative in the second year and could be approximately \$35,000 to \$40,000 for the second year.

Mayor Parent recognized that health care costs were out of control and would be an ongoing problem. She also recognized that the City had a growing group of retirees that would increase over time. In her opinion, for this year, the cost for those retirees was something that the City could absorb. She agreed that the issue would have to be revisited by the City each year or every couple of years. For \$23,000, she suggested that the problem was not big enough to require action this year although she agreed that the situation must be tracked.

Mr. Grisham acknowledged that the figure for this year was not significant and could be covered in the next two year budget, although he emphasized that the Council needed to be aware that if such a decision was made, retiree health benefits was one of the largest issues. He noted that the City would have to start reporting medical benefit liabilities and might have to hold money in the reserves to pay those costs in the future. Part of the problem was that income was not keeping pace with the cost of medical benefits. This year, during negotiations with bargaining units, the City had asked current employees to give up some benefits which had been done in many areas, including the medical field.

Mr. Fox clarified in response to the Mayor that employees, with the exception of sworn police officers, participated in Social Security. Police officers hired after April 1986, also participated in Medicare. Most of the retirees participated in a Medicare supplement plan. Five retirees between Kaiser and Health Net Plans had coordinated benefit plans to allow him/her to use Medicare or go to the doctor of choice outside of the Kaiser or Health Net networks. Retirees in the City's Health Net and Kaiser plans had been notified that there was no need to do anything with Part D, in that it would be automatically part of his/her Kaiser or Health Net plans.

The supplement plan would not cost the retiree anything more. From preliminary information from the Benefits Broker, it would help to slow some of the growth in premiums, in that the carrier, Health Net or Kaiser would collect the money directly from the federal government, to be used to help offset the premiums.

Mayor Parent also understood that current employees had negotiated co-pays at ten dollars.

Mr. Grisham noted that change had been made to the current employee benefits, including changes to the disability insurance, and the elimination of the enhanced retirement benefit.

Mr. Fox added that the City had also suspended or outright eliminated the deferred compensation match and had eliminated the short term disability insurance program with a Citywide cap on vacation buy back. The primary cut to the current employee health benefits had been the ten dollar co-pay, which would also affect current retirees. The primary benefit cut in the next two years would be the employer paid member contribution to the Public Employment Retirement System (PERS) and a potential 9 percent reduction in what was reported to PERS as retirement eligible income, which would not affect the retirees.

Councilmember Johnson asked the Council to leave the medical benefits as is for this year, and reevaluate the situation next year in terms of the adoption of the resolution. Since the retirees had been informed of the potential reduction, there was time to adjust. At this time next year, the City would have a better idea of the status of the budget. He understood that past MOUs were only as good as the people who had approved them. At this time, he made a motion to carry forward and allow the rate to remain the same as this

year for the retiree benefits, with the matter to be reevaluated next year at the same time period.

Mr. Andelin commented that his Medicare through Social Security was his primary source of medical. Health Net was the secondary. With Medicare as his primary source and Health Net as the secondary, he questioned why the City was paying so much for a secondary medical source. He asked that staff be directed to find out what Health Net was charging to be a secondary source.

Mr. Harris clarified that the bargaining groups did not bargain for retirees. It was his recollection that the bylaws for the Pittsburg Police Benefit Association mandated negotiations for the retirees, which had been done when he had retired and which was something he understood had not changed and had been recognized by the City of Pittsburg.

Mr. Grisham clarified that the bargaining units were not bargaining for the retirees which issue had been clarified by all of the bargaining units.

Councilmember Glynn suggested that the motion was a singular motion, that the retiree recipients be named.

Councilmember Johnson suggested that the 95 member retiree benefits not be changed. Mayor Parent understood that the Council was speaking of 102 retirees.

Mr. Fox inquired whether or not the intent of the motion had been to keep the retirees eligible at the percentage or dollar value received today, to receive the inflationary increases that other people received, or to freeze the benefits for one year.

Councilmember Johnson recommended that the benefits be carried forward as they current existed for this year.

Mr. Grisham explained that if carrying the benefits through for the next year that would mean that the contribution to the insurance program would increase by inflation, as it had for all other employees, with the issue to be reevaluated in the next year. He stated that would be contrary to the staff recommendation.

Mr. Fox understood that the motion would be to reject the resolution before the Council and direct staff to return in a year from now, and or adopt the resolution for a one year period. The third option would be to adopt the resolution in its entirety.

Councilmember Johnson rejected the resolution before the Council with the matter to be brought back next year for review.

Mr. Grisham clarified that if the motion was to reject the resolution, the retirees would continue on as he/she was now, with a return of the matter in a year for further review.

Councilmember Casey inquired of the average age of the retirees under discussion.

Mr. Fox had not calculated the average ages of the retirees although that could be done for the discussion in the next year. Those who would retire in the next year would not be affected by the matter since those benefits currently provided for the 25, 50 or 100 percent level. Those retirees who would be affected had been promised when he/she had originally retired either no retiring health contribution or \$55 for a single, \$110 if married, or for some people 50 percent in recognition of 20 years or more service to the City.

Councilmember Johnson restated his motion to reject the resolution and bring the matter back to revisit the issue next year at this time.

Councilmember Glynn seconded the motion and inquired whether or not there would be any ramifications in the next year if the motion was adopted in terms of whether or not it would impact other bargaining units.

Mr. Grisham advised that the matter would be completely separated out from the units and should never have been tied in with the bargaining units. The matter would be returned to the Council before the insurance premiums were adjusted again. He recommended that the issue be reconsidered at this time next year.

Mayor Parent inquired whether or not the next year's increase was known.

Mr. Grisham explained that staff had estimated information which would vary in the plan and which could be less or more.

Mr. Fox reiterated that staff would be meeting with the Benefit Broker on November 1, 2005 to learn of the 2006 rates. New rates would become effective on January 1, 2006.

Mayor Parent commented that if the Council was to reevaluate the matter in December 2006, it would still be enough time and the new figures for the following year would be known.

Mr. Grisham commented that could be done, although it would be close. He recommended that the issue be reevaluated at the second meeting in November 2006.

Mayor Parent offered an amendment to the motion to bring the matter back for reconsideration at the second meeting in November 2006.

Councilmember Johnson accepted the amendment to the motion. Councilmember Glynn, as to the second to the motion, also accepted the amendment.

On motion by Councilmember Johnson, seconded by Councilmember Glynn, and carried unanimously to reject Resolution 05-10404, and return the issue of y-rating the City's Contribution Toward Retiree Medical Premiums for reconsideration by the City Council during the second meeting of the Council in November 2006.

City Clerk Lillian Pride thanked staff for the efforts in notifying the retirees and asked that the same notification process be used for the reconsideration hearing in November 2006.

Vice Mayor Kee agreed that the same notification process be followed when the item returned to the Council for reconsideration in November 2006 and that the retirees also be notified that the benefits would continue for the next year.

3. **MINUTE ORDER** City Council Recess for Winter Months

Mr. Grisham commented that historically, the City Council took a recess during the winter months to allow for both staff and Council vacations during the holiday season. This recess has typically been taken during the period that would encompass the second meeting of December. There would be no fiscal impact.

Mr. Grisham did not recommend that the second meeting of December be canceled given the volume of activity and key issues before the Council. He suggested that the Council could consider moving the regularly scheduled meeting of December 19 to Monday, December 12, if it was determined that there was necessary business that needed to be concluded prior to the end of the year.

Vice Mayor Kee stated that he would be out of town for the second meeting in December. If there was any business that needed to be conducted prior to that time, he would encourage a Special Meeting before that date, or after Christmas.

Councilmember Casey suggested that the second meeting in December be scheduled for December 12.

On motion by Councilmember Casey, seconded by Councilmember Johnson and carried unanimously to move the regularly scheduled meeting of December 19 to Monday, December 12, 2005.

CONSENT CALENDAR

Mayor Parent advised that the City Manager had requested that Consent Calendar item f. be removed from the Consent Calendar, since it must be voted on by the Council and could not be considered as a Consent Calendar item.

Councilmember Johnson requested the removal of Item a.

Mayor Parent advised that Consent Calendar items a, c, f, and i would be removed from the Consent Calendar.

On motion by Councilmember Casey, seconded by Councilmember Glynn and carried unanimously to adopt the Consent Calendar, as shown, with the removal of Items a, c, f and i.

- b. **CLAIMS** #1649 Terri Lashay Knight; #1652 Antwana Strong and Clarence Strong; #1672 Jose F. Hernandez

Denied claims #1649 Terri Lashay Knight, #1652 Antwana Strong and Clarence Strong, and #1672 Jose F. Hernandez.

- d. **RESOLUTION 05-10406** Approval of Proposed Territory for Annexation to the Community Facilities District (CFD) No. 2005-01 (Public Safety Services)

Adopted Resolution 05-10406.

- e. **RESOLUTION 05-10407** Approving Loans from General Fund to San Marco Community Facilities District No. 2004-1 Fund and Community Facilities District No. 2005-1 (Public Safety Services) Fund to Cover Cost Incurred in Fiscal Year 2004-2005 and Fiscal Year 2005-2006; to be Repaid from Future Tax Assessments

Adopted Resolution 05-10407.

- g. **RESOLUTION 05-10409** Authorizing the City to Treat Police Officer-Trainees in the Same Fashion as Full-time Employees by the City Paying the Employee Share of PERS

Adopted Resolution 05-10409.

- h. **RESOLUTION 05-10410** Approving a List of Material Testing and Hazardous Material Testing Firms for On-Call Material Testing/ Environmental Testing Services Related to the City's Capital Improvement Projects and Authorizing the City Manager to Enter into Agreements with Selected Firms

Adopted Resolution 05-10410.

- j. **RESOLUTION 05-10412** Approval of a Pre-qualification Process for Selecting Contractors for the City Bed and Breakfast Project

Adopted Resolution 05-10412.

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

- a. **MINUTES** Dated: October 3, 2005

Councilmember Johnson requested that the motion reflected under Resolution 05-10389, combined w/RDA 05-1084, as shown on Page 5 of 20 of the October 3, 2005

minutes be amended to reflect that he had recused himself on the vote for that item.

On motion by Councilmember Glynn, seconded by Councilmember Johnson, and carried unanimously to approve the minutes of the October 3, 2005 meeting, as amended.

- c. **RESOLUTION 05-10405** Approval of Agreement to Fund Bailey Road Mitigation Measures and to Establish an Administrative Fee to Implement the Agreement, as well as Authorize Mayor to Execute the Agreement.

Mr. Grisham requested that the item be continued for a thirty day period.

As previously noted, the following item was removed from the Consent Calendar because it was not a Consent Calendar item.

- f. **RESOLUTION 05-10408** Approval and Authorization of the City of Pittsburg Community Facilities District No. 2005-2 (Vista Del Mar) to Issue and Sell Special Tax Bonds Series 2005

On motion by Councilmember Glynn, seconded by Councilmember Johnson, and carried unanimously to adopt Resolution 05-10408.

- i. **RESOLUTION 05-10411** Approval of a Pre-qualification Process for Selecting Contractors for the City Mixed-Use Project at East Tenth Street and Railroad Avenue

WILLIE MIMS, BPA, Pittsburg questioned the pre-qualification process and inquired whether or not it would be a trend for future projects in the City. In that regard he questioned the fairness of the process.

Mr. Grisham advised that the pre-qualification process would be brought back and had been adopted by many cities, specifically for complex projects.

Mr. Mims also referenced Page 3 of the staff report, which had stated that the additional benefit of the pre-qualification process would be that it should reduce the number of change orders and minimize other issues. Given that there was no guarantee there would be no change orders, he suggested that statement should not have been included in the staff report. Speaking to the same page and the list of requirements for qualifications, he verified with the City Manager that if an individual did not follow the pre-qualification process, that individual would not be eligible to bid on the project.

Mr. Mims questioned whether or not a background check would be done on those meeting the pre-qualification process requirements.

Mr. Grisham explained that the City asked for background on projects previously completed and whether or not those projects were germane to the construction that would be taking place.

City Engineer Joe Sbranti added that the City would also conduct a background check through the interviews of past clients and through an extensive list of questions to the prior customers served to ensure work of good quality.

Councilmember Johnson commended staff for the preparation of the pre-qualification and approval forms which had been well put together.

On motion by Councilmember Glynn, seconded by Councilmember Johnson, and carried unanimously to adopt Resolution 05-10411.

ADJOURNMENT

The City Council adjourned at 9:13 P.M. to October 31, 2005 at 2:30 P.M. and thereafter to November 7, 2005 at 7:00 P.M.

Respectfully submitted,

Lillian J. Pride, City Clerk

als