

**CITY OF PITTSBURG**  
**Redevelopment Agency Minutes**  
**November 6, 2006**

Chair Michael Kee called the meeting of the Redevelopment Agency to order at 8:01 P.M. in the City Council Chambers at City Hall, 65 Civic Avenue, Pittsburg, California after having convened into Closed Session at 6:00 P.M. for Conference with Legal Council – Anticipated Litigation pursuant to Section 54956.9(b) of the Government Code regarding two cases; Conference with Legal Counsel – Anticipated Litigation pursuant to subdivision (c) of Section 54956.9 regarding three cases; and Public Employee Performance Evaluation for the City Attorney.

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

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

**MEMBERS ABSENT:** None

**STAFF PRESENT**

Executive Director, Marc Grisham  
Assistant Executive Director, Matt Rodriguez  
Legal Counsel, Ruth Ann Ziegler  
City Clerk, Lillian J. Pride  
Deputy City Clerk, Alice Evenson  
Director of Pittsburg Power Company, Garrett Evans  
Director of Engineering and Building, Joe Sbranti  
Director of Economic Development, Brad Nail  
Director of Redevelopment, Randy Starbuck  
Director of Human Resources, Marc Fox  
Director of Public Works, John Fuller  
Director of Planning, Melissa Ayres  
Director of Recreation, Paul Flores  
Chief of Police, Aaron Baker

**CONSIDERATION**

Mayor Kee CONVENED JOINTLY the REDEVELOPMENT AGENCY, the CITY COUNCIL and the PUBLIC FINANCING AUTHORITY to consider the following:

1. **RESOLUTION 06-1158** Authorizing the Issuance of Not to Exceed \$50,000,000  
**Combined w/CC 06-10659** of the Agency's Los Medanos Community Development  
**Combined w/PFA 06-020** Project Subordinate Tax Allocation Bonds, 2006 Series  
A, Not to Exceed \$50,000,000 of the Agency's Los  
Medanos Community Development Project Subordinate  
Tax Allocation Bonds, Taxable 2006 Series B, Not to  
Exceed \$45,000,000 of the Agency's Los Medanos

Community Development Project Subordinate Tax Allocation Refunding Bonds, 2006 Series C and Not to Exceed \$10,000,000 of the Agency's Los Medanos Community Development Project Housing Set Aside Tax Allocation Bonds, Taxable Series 2006

Executive Director Marc Grisham advised that the proposed Agency action would approve the issuance of Series 2006 Subordinate Tax Allocation Bonds including the issuance of non-housing subordinate tax-exempt and taxable Agency financing of \$125 million; a refunding of the outstanding 1993B Agency Bonds (approximately \$40 million) and a housing set aside taxable financing of approximately \$15 million. The new bond financings are estimated to provide the Redevelopment Agency approximately \$93 million in new project funding for both non-housing and housing projects.

The fiscal impact of the action involving the four series of bonds was detailed in the staff report dated November 6, 2006. All costs associated with the bond financing including bond counsel, underwriter, swap counsel, financial advisor, disclosure counsel and the like would be paid through the bond issuance and are accounted for in the annual debt service estimates. There would be no additional impact to Agency revenues.

Mr. Grisham recommended that the Redevelopment Agency, City Council and Pittsburg Public Financing Authority adopt the respective financing resolutions and bond documents as detailed in the staff report.

On motion by Member Johnson, seconded by Member Parent and carried unanimously to adopt Redevelopment Agency Resolution 06-1158.

On motion by Councilmember Johnson, seconded by Councilmember Parent and carried unanimously to adopt City Council Resolution 06-10659.

On motion by Member Johnson, seconded by Member Parent and carried unanimously to adopt Public Financing Authority Resolution 06-020.

2. **RESOLUTION 06-1159** Approval of an Exclusive Negotiating Rights Agreement By and Between the Redevelopment Agency of the City of Pittsburg and Discovery Builders

Mr. Grisham stated that the Redevelopment Agency of the City of Pittsburg and Discovery Builders, Inc. would like to enter into an Exclusive Negotiating Rights Agreement. The purpose of the Agreement is to establish procedures and standards for the negotiation by the Agency and the developer. Successful negotiations would result in a Disposition and Development Agreement (DDA) for acquisition and development of the Agency and developer owned property for the development of a mixed-use project.

Mr. Grisham noted that the process would include environmental studies that would occur as part of the process that would ultimately lead to a Development Agreement (DA)

and a new project.

The Agreement called for the developer to deposit a \$30,000 good faith deposit of which \$5,000 was non-refundable. The Agency would be responsible for the cost of an appraisal to determine the fair market value of the site. The cost of the appraisal could exceed \$5,000, in which case, the Agency would pull the difference from tax increment reserves.

Mr. Grisham recommended that the Agreement between the Agency and the Developer be approved, that the Executive Director of the Agency is authorized and directed to execute the Agreement on behalf of the Agency, that the Executive Director is authorized and directed 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, and that the Executive Director is authorized to modify the Agreement, subject to Agency counsel review and approval, provided such modifications do not materially alter the business terms set forth in the Agreement.

Member Parent clarified with the Director of Redevelopment that there was a typo on Page 3 of the Exclusive Negotiating Rights Agreement which had not identified a Section 1.3.

ALBERT SEENO III and GUILLERMO MUNIZ of the New Mecca Café were present in support of the project. Mr. Seeno stated that he was happy to move forward. He expressed his appreciation to City staff for his/her work in the process and requested approval of the Exclusive Negotiating Rights Agreement to be able to proceed to the next step.

Member Johnson supported the project which would offer more commercial retail in the downtown and which would benefit Old Town Pittsburg.

Member Parent expressed her appreciation to Mr. Muniz for making the improvements to his property. She assured the community that the New Mecca, an icon in Pittsburg, would remain operable as much as possible throughout the process.

Mayor Kee agreed that the New Mecca Café was truly the center of Old Town.

GUILLERMO MUNIZ, owner of the New Mecca Café, stated that he enjoyed being in the City of Pittsburg and wanted to continue doing what he had always done in and for the community.

On motion by Member Johnson, seconded by Member Parent and carried unanimously to adopt Resolution 06-1159.

## **PUBLIC HEARING**

1. **RESOLUTION 06-1160** Approval of an Owner Participation Agreement (OPA) with Pittsburg Unified School District for 998 Railroad

Avenue (Marina Vista Elementary School Site)

Mr. Grisham stated that at the request of the Pittsburg Unified School District (PUSD), the Agency has been working cooperatively regarding the PUSD's efforts to construct the new Marina Vista Elementary School on the block bounded by Railroad Avenue on the east, Black Diamond on the west, East Tenth Street on the south, and Eighth Street on the north. The proposed Owner Participation Agreement pertains to PUSD's acquisition and reuse of APN 085-193-006 and 007, commonly known as 998 Railroad Avenue, as part of the school.

Approval of the OPA would assist the PUSD in securing final funding commitments from the State of California for construction of the school. The Agreement restates the Agency's commitment to pursue using the Polanco Act to secure clean-up contamination on the property. Under the Agreement, the PUSD would reimburse the Agency for any out of pocket costs associated with this clean-up that are not recovered through the Polanco action.

Mr. Grisham recommended that the City Council adopt a resolution authorizing the Executive Director to execute the OPA between the Agency and PUSD and authorizing the Executive Director to take all actions necessary to carry out said OPA.

In response to Member Johnson, Redevelopment Director Randy Starbuck advised that staff continued to proceed with the Polanco Act in terms of the soil and groundwater contamination from the former gas station site as being the right thing to do environmentally.

In response to Member Parent as to whether or not the Agency could hand off the responsibilities of the Polanco Act to the PUSD, Mr. Starbuck stated that if the Agency pursued the development of the site through the Polanco Act and the Agency turned the property over and could hand off the immunity to the eventual property owner, that would be allowed by the Polanco Act. If pursued by the PUSD, there would be no downstream immunity if the property were to be handed off at some point in time. It was the Agency's responsibility and under the law to secure the downstream immunity for the PUSD, which was why the Agency must pursue the process.

Member Parent noted that in a recent meeting with the PUSD, the PUSD seemed to be dissatisfied that the City was not moving fast enough. She clarified that the City did not have to do that work since she understood that the PUSD had the ability to use its condemnation action to acquire the property. She suggested that the PUSD did not seem to understand the benefits of the proposal.

In response to Member Johnson as to the City's indemnity in this case, Mr. Starbuck explained that under the Polanco Act, the Agency would be protected as a Redevelopment Agency and the downstream immunity would flow to whomever the Agency assigned the property to or through the OPA. The Agency's responsibility was to pursue the cleanup. Once clean, the Department of Toxics as well as the Regional Water Quality Control Board, provided the cleanup was done under their guidelines, would issue no further action letters.

Mayor Kee opened the public hearing for Resolution 06-1160. There was no one to speak to the item. Mayor Kee closed the public hearing for Resolution 06-1160.

On motion by Member Johnson, seconded by Vice Chair Glynn and carried unanimously to adopt Resolution 06-1160.

### **CONSENT CALENDAR**

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

- a. **MINUTES** Dated: October 16, 2006

Approved minutes dated October 16, 2006.

- b. **RESOLUTION 06-1161** Approval of an Owner Participation, Acquisition Loan, and Rehabilitation Agreement By and Between the Redevelopment Agency of the City of Pittsburg and Palm Plaza Development, Inc.

Adopted Resolution 06-1161.

- c. **RESOLUTION 06-1164** Authorize Use of Redevelopment Agency 2004 Tax Allocation Bond Funds and Cooperative Agreement Between the Redevelopment Agency and the City of Pittsburg for 701 Willow Pass Road Offsite Public Improvements and Approve First Amendment to the Public Improvements Funding Agreement Between Davis & Associates and the City of Pittsburg  
**Combined w/CC 06-10665**

Adopted Redevelopment Agency Resolution 06-1164.

Adopted City Council Resolution 06-10665.

### **ADJOURNMENT**

The meeting of the Redevelopment Agency adjourned at 8:19 P.M. to November 27, 2006.

Respectfully submitted,

Lillian J. Pride, Secretary

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**CITY OF PITTSBURG**  
**Pittsburg Public Financing Authority**  
**November 6, 2006**

Chair Michael Kee called the meeting of the Pittsburg Public Financing Authority to order at 8:20 P.M. in the City Council Chambers at City Hall, 65 Civic Avenue, Pittsburg, California after having convened into Closed Session at 6:00 P.M. for Conference with Legal Council – Anticipated Litigation pursuant to Section 54956.9(b) of the Government Code regarding two cases; Conference with Legal Counsel – Anticipated Litigation pursuant to subdivision (c) of Section 54956.9 regarding three cases; and Public Employee Performance Evaluation for the City Attorney.

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

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

**MEMBERS ABSENT:** None

**STAFF PRESENT**

Executive Director, Marc Grisham  
Assistant Executive Director, Matt Rodriguez  
Legal Counsel, Ruth Ann Ziegler  
City Clerk, Lillian J. Pride  
Deputy City Clerk, Alice Evenson  
Director of Pittsburg Power Company, Garrett Evans  
Director of Engineering and Building, Joe Sbranti  
Director of Economic Development, Brad Nail  
Director of Redevelopment, Randy Starbuck  
Director of Human Resources, Marc Fox  
Director of Public Works, John Fuller  
Director of Planning, Melissa Ayres  
Director of Recreation, Paul Flores  
Chief of Police, Aaron Baker

**CONSIDERATION**

1. **RESOLUTION 06-020** Authorizing the Issuance of Not to Exceed \$50,000,000  
**Combined w/CC 06-10659** of the Agency's Los Medanos Community Development  
**Combined w/RDA 06-1158** Project Subordinate Tax Allocation Bonds, 2006 Series  
A, Not to Exceed \$50,000,000 of the Agency's Los  
Medanos Community Development Project Subordinate  
Tax Allocation Bonds, Taxable 2006 Series B, Not to  
Exceed \$45,000,000 of the Agency's Los Medanos  
Community Development Project Subordinate Tax  
Allocation Refunding Bonds, 2006 Series C and Not to  
Exceed \$10,000,000 of the Agency's Los Medanos  
Community Development Project Housing Set Aside

## Tax Allocation Bonds, Taxable Series 2006

The proposed Authority action would approve the issuance of Series 2006 Subordinate Tax Allocation Bonds including the issuance of non-housing subordinate tax-exempt and taxable Agency financing of \$125 million; a refunding of the outstanding 1993B Agency Bonds (approximately \$40 million) and a housing set aside taxable financing of approximately \$15 million. The new bond financings are estimated to provide the Redevelopment Agency approximately \$93 million in new project funding for both non-housing and housing projects.

In Joint Session with the City Council and the Redevelopment Agency, the Pittsburg Public Financing Authority took the following action:

On motion by Member Johnson, seconded by Member Parent and carried unanimously to adopt Pittsburg Public Financing Authority Resolution 06-020.

### **ADJOURNMENT**

The meeting of the Pittsburg Public Financing Authority adjourned at 8:20 P.M.

Respectfully submitted,

Lillian J. Pride, Secretary

als

**CITY OF PITTSBURG**  
**Pittsburg Power Company Minutes**  
**November 6, 2006**

Chair Michael Kee called the meeting of the Pittsburg Power Company to order at 8:27 P.M. in the City Council Chambers at City Hall, 65 Civic Avenue, Pittsburg, California after having convened into Closed Session at 6:00 P.M. for Conference with Legal Council – Anticipated Litigation pursuant to Section 54956.9(b) of the Government Code regarding two cases; Conference with Legal Counsel – Anticipated Litigation pursuant to subdivision (c) of Section 54956.9 regarding three cases; and Public Employee Performance Evaluation for the City Attorney.

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

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

**MEMBERS ABSENT:** None

**STAFF PRESENT**

Executive Director, Marc Grisham  
Assistant Executive Director, Matt Rodriguez  
Legal Counsel, Ruth Ann Ziegler  
City Clerk, Lillian J. Pride  
Deputy City Clerk, Alice Evenson  
Director of Pittsburg Power Company, Garrett Evans  
Director of Engineering and Building, Joe Sbranti  
Director of Economic Development, Brad Nail  
Director of Redevelopment, Randy Starbuck  
Director of Human Resources, Marc Fox  
Director of Public Works, John Fuller  
Director of Planning, Melissa Ayres  
Director of Recreation, Paul Flores  
Chief of Police, Aaron Baker

Mayor Kee CONVENED JOINTLY the CITY COUNCIL and the PITTSBURG POWER COMPANY to consider the following items from the City Council agenda.

4. **RESOLUTION 06-10661** Certifying the Final Environmental Impact Report, Adopting a Mitigation Monitoring Program, and Adopting CEQA Findings for the Trans Bay Cable Project  
**Combined w/06-1277**
5. **ORDINANCE 06-1277** Introduction of an Ordinance Amending the West Tenth Street Overlay District  
**Combined w/06-10661**

Director of the Pittsburg Power Company Garrett Evans presented an overview of the Trans Bay Cable (TBC) Project and a City initiated proposal to amend the West Tenth Street CS-O (Service Commercial with a Limited Overlay) District (Ordinance No. 00-1171)

for the purpose of permitting a major utility, subject to limitations, to be constructed within that CS-O District, and to allow an increased maximum height limit permitted in that zone for the major utility. Mr. Evans explained that the TBC would be a direct current transmission project connecting the PG&E substation in Pittsburg to the PG&E substation in San Francisco. The TBC designed capacity was 400 MW at +/- 400 kV HCDC Transmission voltage with direct current transmission projects acting like a generator with control over the quantity of MW's scheduled across the Transmission Line.

The responsibilities of the commercial operation would be Babcock & Brown as the developer in cooperation with the Pittsburg Power Company. The Draft Environmental Impact Report (DEIR) and the Final EIR was prepared by an independent environmental consultant as required by the California Environmental Quality Act (CEQA) with the City as the Lead Agency. Ownership of the assets would be transferred to the Pittsburg Power Company with the transmission rights to be transferred to the California Independent System Operator (ISO) (Scheduling Power Flow solely by CAISO). Babcock & Brown would provide the financing with no operational control. The Commercial Operation Target Date is the fourth quarter of 2009/ first quarter of 2010.

Mr. Evans identified the required project approvals, an actual cross section of the cable to be used, and stated that there would be approximately 53 miles of cable in a route that had been carefully chosen and plotted. The cable would be installed through a hydroplow method in a two to six month process. The cable would be buried, would not be exposed, and would dispose 140 to 220 cubic yards per mile of Bay sediment, less than the normal Bay tidal activity. For Pittsburg, the selected site was the East Tenth Street Converter Station and the project would be placed in a way to minimize visual impacts. In San Francisco, there would be an HWC Mitigated Converter Site Station which would not involve the destruction of any historical structures.

Mr. Evans noted some of the topics that had come up in the public outreach process which had occurred since 2004 through a number of resource agencies and public hearings. A formal open house had been conducted in Potrero Hill along with a meeting in the Bayview Hunters Point community. For those meetings, 25,000 public invitations had been sent out to solicit comments and concerns. In Pittsburg, everyone north of Highway 4 had been noticed of a meeting on October 11, 2005 to discuss the topic. Meetings had also been held with the San Francisco Central Waterfront Advisory Committee, the San Francisco Potrero Boosters Association, the San Francisco Public Utilities Commission Citizen's Advisory Committee, Power Subcommittee and with the San Francisco Dogpatch Neighborhood Association, among others.

On top of the general outreach, Mr. Evans stated that CEQA outreach had been conducted with scoping meetings in Pittsburg and San Francisco. He listed the dates of those meetings. He also listed project benefits and stated that the project was not a power plant but a transmission infrastructure project and a way to improve the infrastructure in the Bay Area to serve the needs of the Bay Area. The project would cause a reduction in transmission system losses, would be more efficient with the completion of the loop to San Francisco, would transmit power from existing power generating facilities near Pittsburg

and other transmission lines outside Pittsburg to the Pittsburg substation, and would not disrupt heavily populated areas or sensitive major areas.

Mr. Evans identified the fees that would be associated with the project. He stated that the Pittsburg Power Company (PPC) would own the Trans Bay Cable Project, a \$350 million dollar project that would then be turned over to the PPC for \$1, and which would represent several million dollars to the General Fund. Pittsburg would be designated as the point of sale for sales and use taxes generating several million dollars to the General Fund. There would also be an administration compensation sum of \$500,000 per year for the installation and PPC's management role in administering the project.

Mr. Evans identified the key milestones and explained that the DEIR had been issued in May 2006, and the FEIR issued on October 16, 2006 with a hearing before the Pittsburg Planning Commission on October 24. It was anticipated that discretionary acts would occur over the next six months, including the City and County of San Francisco and other discretionary acts with the Bay Area Conservation and Development Commission (BCDC).

Planning Director Melissa Ayres spoke to the West Tenth Street Overlay District and noted that for the project to be built at the preferred location, an amendment to the Overlay District was required. The converter station under the use classifications would be classified as a Major Utility. The Council had initiated a study to review the amendment on December 12, 2005. The changes to the Overlay District were presented to the Planning Commission which would identify the uses permitted in the area, to include Major Utility as a limited permitted use, subject to certain conditions. The way the ordinance was proposed at this time, the converter station could be built at the rear of the properties while maintaining a certain setback from Beacon and West Tenth Streets, with the entire property required to be substantially landscaped to be screened from view.

Ms. Ayres identified a typographical error in the ordinance submitted to the Planning Commission and the City Council which had stated that the converter station would be set back 35 feet minimum from West Tenth Street. She advised that should be amended to 300 feet. The change could be made at this time with the introduction of the ordinance and the ordinance would be brought back and corrected for Council consideration on November 27.

JOAN LAMPHIER, the City's Environmental Consultant, stated that a Final EIR had been prepared and had contained all the responses received on the DEIR and from all the public hearings. Since that time, a letter had been received from the City and County of San Francisco and the City had issued a letter in response to address all the concerns addressed in the DEIR and FEIR documents. She suggested that the environmental review process had been reviewed adequately. She identified the tasks that would have to be taken by the Council and stated that all impacts would be mitigated to a less than significant level.

Councilmember Parent verified that the letter from San Francisco had come in after

the finalization of the documents.

The following summary outlines the expected fiscal benefits of the project to the City of Pittsburg and the Pittsburg Power Company.

- Property taxes on the \$50,000,000 to \$100,000,000 Converter Station (or an in-lieu fee)
- Franchise fee on the project (or an in-lieu fee)
- Comprehensive Payment In-Lieu Fee (CPIF) of \$5,500,000.
- A 50 megawatt, 115 kilovolt transformer and site for potential use to serve retail customers within the City of Pittsburg. The value of this equipment to the Pittsburg Power Company may be paid in an in-lieu fee.
- Ownership of the Transmission Line and Converter Stations for a cost of \$1.00
- Potential to have the project designate Pittsburg as the point of sale for the sales and use tax.
- Administration Compensation sum of \$500,000 per year with escalation clause.

It was recommended that the City Council consider the EIR and Mitigation and Monitoring Plan and adopt a Statement of Findings, approve Purchase and Sale Agreement and the Project Administration Agreement for the Trans Bay DC Transmission Line Project, authorize the Executive Director of the Pittsburg Power Company to execute those agreements, and authorize and direct the Executive Director to take such actions necessary to carry out the obligations of the two agreements.

Mayor Kee opened the public hearing for City Council Resolution 06-10661 and Ordinance 06-1277. There was no one to speak to the two items. Mayor Kee closed the public hearing for City Council Resolution 06-10661 and Ordinance 06-1277.

On motion by Councilmember Johnson, seconded by Councilmember Parent and carried unanimously to adopt Resolution 06-10661.

On motion by Vice Mayor Glynn, seconded by Councilmember Johnson to introduce Ordinance 06-1277 by title only and waive first reading, correcting the setback for the converter station from 35 feet to 300 feet from West Tenth Street. The motions were withdrawn and a recess request was made by staff.

A recess was taken at the request of staff at 8:54 P.M. The joint meeting between the City Council and the Pittsburg Power Company reconvened at 9:09 P.M.

City Attorney Ruth Ann Ziegler stated that the modification to be made to the Zoning Overlay Amendment was that it would specify 250 feet, which would not trigger a need for a re-review of the matter by the Planning Commission. She noted her understanding that Trans Bay Cable and representatives of City staff, the PPC and the environmental team were all comfortable with that amendment.

On motion by Vice Mayor Glynn, seconded by Councilmember Johnson and carried

unanimously to introduce Ordinance 06-1277 by title only and waive first reading, correcting the setback for the converter station from 35 feet to 250 feet from West Tenth Street.

6.     **ORDINANCE 06-1278**     Introduction of an Ordinance Approving a Trans Bay Cable Project Development Agreement AP-04-157 (DA)

Mr. Evans stated that on October 24, 2006, the Planning Commission adopted a resolution recommending that the City Council adopt an ordinance approving a development agreement for ten years between Trans Bay Cable, LLC and the City of Pittsburg to facilitate the construction of the Trans Bay Cable Project. The proposed development agreement would define the rights and responsibilities of the City and Trans Bay Cable LLC in developing a converter station on West Tenth Street as one component of the Trans Bay Cable Project, and would apply to the following Assessor Parcels: 085-270-018, 085-270-019, 085-270-025, and 085-270-035. He noted that of the 7.5 acre site for Pittsburg, 5.4 acres would be filled with the station.

The Development Agreement outlined the responsibilities and obligations. The City would assist TBC with certain rights of way through the streets and provide the PPC supervise the project. TBC would act as the developer and project manager until commercial operations, would pay for all development and operating costs of the project, would manage the project documents and media relations, and would utilize Tar's to finance the project and hand then them over to CAISO. In addition to defining the rights and responsibilities of Trans Bay Cable LLC in developing the Trans Bay Project, Section 6.05 of the proposed Development Agreement includes an analysis of expected fiscal impacts resulting from the project. The proposal would offer the same benefits to the City and to the Pittsburg Power Company as earlier identified. It was recommended that the City Council introduce, waive further reading, and pass to second reading the ordinance approving the Development Agreement.

Mayor Kee opened the public hearing for City Council Ordinance 06-1278. There was no one to speak to the item. Mayor Kee closed the public hearing for City Council Ordinance 06-1278.

On motion by Councilmember Parent, seconded by Councilmember Johnson and carried unanimously to introduce Ordinance 06-1278 by title only and waive first reading.

The Power Company considered the items on the PPC agenda at this time.

**PUBLIC HEARING**

1.     **RESOLUTION 06-155**     Approving and Authorizing the Executive Director to  
      **Combined w/PPC 06-156**     Execute a Purchase and Sale Agreement for the Trans Bay DC Transmission Line Project Between Trans Bay Cable LLC and the Pittsburg Power Company
  
2.     **RESOLUTION 06-156**     Approving and Authorizing the Executive Director to

**Combined w/PPC 06-155**

Execute a Project Administration Agreement for the Trans Bay DC Transmission Line Project Between Trans Bay Cable LLC and the Pittsburg Power Company

Mr. Evans stated that the Pittsburg Power Company had negotiated a joint power development project with Trans Bay Cable LLC, a subsidiary of Babcock and Brown Power Operating Partners LLC on a direct current (DC) transmission line between the City of Pittsburg and the City of San Francisco. The project site in Pittsburg is the West Tenth Street (East/West Alignment) site, with the DC Transmission Line running under the San Francisco Bay to the vicinity of the Potrero Power Plant and Substation. Participation in this project provides significant benefits to both the City of Pittsburg's General Fund and the Pittsburg Power Company.

The fiscal impact and benefits to the PPC were earlier identified, as included in the November 6, 2006 staff report.

Councilmember Johnson asked about the Potrero Station and whether or not the PPC would also own that station, reported by Mr. Evans that final negotiations were ongoing with PG&E on the details of the facilities that would be project assets acquired by PPC.

Chair Kee opened the public hearing for Pittsburg Power Company Resolutions 06-155 and 06-156.

MICHAEL HERNANDEZ, Business Agent of the Plumbers and Steamfitters Union Local 342 and a former resident of Pittsburg, stated that the project would generate generous fees and jobs for local Pittsburg residents. He requested the Council's support of the project.

GREG FEERE, representing the Contra Costa Building and Construction Trades Council, noted that along with the environmental review of projects and CEQA review, the Council would ensure that the project had a positive social and economic return with a focus on local jobs and apprenticeship opportunities that paid health benefits with a pension, allowing workers to retire with dignity. He stated that the Trades Council had negotiated a local project labor agreement to cover the construction of the project with Trans Bay Cable LLC. The Trades Council had also worked in conjunction with the San Francisco Building and Construction Trades Council which had also worked out an agreement. He asked the Council to consider approving the project to allow it to be built on schedule, on budget and safely.

ESPANOLA JACKSON, San Francisco, a long-time resident of Bayview Hunters Point, spoke in support of the proposal. She stated that she had attended the CAISO meetings, the meetings in Potrero Hills, and the California Energy Commission meetings in Sacramento. She noted the number of deaths from asthma and cancer as a result of the old PG&E plant and shipyard plant near her community and she was pleased that the plant

had closed. She expressed her hope that with the transmission line into San Francisco there would be no need for three combustion turbines in her community. She noted that the facility would be on the east side of Third Street and that Potrero Hill would be on the west side. She spoke on behalf of Bayview Hunters Point. She added that the proposal was nowhere close to Dogpatch.

FRANCISCO DeCOSTA, Director of Environmental Justice Advocacy, suggested that the region had to be evaluated in a holistic manner. He asked that the Council consider the cumulative pollution on both the Pittsburg and San Francisco sites. He supported the project and looked forward to the consideration of the concerns of San Francisco residents. He asked the Council to consider energy in a holistic manner so that it would serve not only Pittsburg and San Francisco but the entire region as well.

ROBERT BUSTOS, Pittsburg, noted the volume of development in the community over the years and suggested that anything that would help keep reliable energy in the community was well worth the effort. He urged the Council's consideration and adoption of the proposal.

DAVID FIERBERG, representing San Francisco Community Power, opposed the project and suggested that it would be a great disservice to the residents of San Francisco. He noted that San Francisco had an Electric Reliability Plan that called for meeting the City's electric reliability needs through a variety of means. He stated that plan had not included the Trans Bay Cable project. He stated that while the Trans Bay Cable project was an option to consider, it was not necessarily the correct option to consider. Based on the CAISO projections, Mr. Fierberg stated that the cable was not needed until 2012. He encouraged the Council to get all the information it needed to make an educated choice. He suggested that the proposal had been pushed through the Pittsburg Planning Department. He questioned the necessity for the project and suggested that not all the information was available to make an informed decision. He opposed the proposal.

MIKE LENGYEL, Pittsburg, requested that at some point the Council consider the idea of imposing a health mitigation fee on the power plants in the City which could pay for trees, trails and bike paths that would offset pollution. He questioned the mitigation of negative impacts and he urged the Council to carefully consider the proposal.

CHARLES DEL MONTE, President of Redwood Painting Company, one of the affected businesses on Tenth Street, had no problem with the project but had a concern for the timing of the project. He stated that the current timing would be insufficient to allow his business to move to a new site in Pittsburg. As a 60-year business that had been located on West Tenth Street for the last 50 years, he expressed concern for the proposal that would jeopardize the successful relocation of the business.

Chair Kee closed the public hearing for Pittsburg Power Company Resolutions 06-155 and 06-156. He took this opportunity to thank those who had spoken to the item, particularly those who had traveled from San Francisco to make comments.

Member Parent commented that there were impacts on existing businesses in the neighborhood of the project. She encouraged Trans Bay Cable LLC to deal with the relocation issues related to those existing businesses.

On motion by Member Johnson, seconded by Vice Chair Glynn and carried unanimously to adopt Resolution 06-155.

On motion by Member Johnson, seconded by Member Casey and carried unanimously to adopt Resolution 06-156.

### **CONSENT CALENDAR**

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

a. **MINUTES** Dated: October 16, 2006

Approved minutes dated October 16, 2006.

b. **RESOLUTION 06-157** Amending Island Energy's Annual Budget for FY 2006-2007 to Provide Funding for a New Billing Software Acquisition/Installation and Associated Expenses

Adopted Resolution 06-157.

c. **RESOLUTION 06-158** Request an Appropriation of Congestion Management/Relief Proposition 42 Funds and Accept the 2006 Patch Paving Contract as Complete  
**Combined w/CC 06-10670**

Adopted Pittsburg Power Company Resolution 06-158.

Adopted City Council Resolution 06-10670.

### **ADJOURNMENT**

The meeting of the Pittsburg Power Company adjourned at 9:39 P.M.

Respectfully submitted,

Lillian J. Pride, Secretary

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**CITY OF PITTSBURG**  
**Southwest Pittsburg Geologic Hazard Abatement District II**  
**November 6, 2006**

Chair Michael Kee called the meeting of the Southwest Pittsburg Geologic Hazard Abatement District (GHAD) II to order at 9:45 P.M. in the City Council Chambers at City Hall, 65 Civic Avenue, Pittsburg, California after having convened into Closed Session at 6:00 P.M. for Conference with Legal Council – Anticipated Litigation pursuant to Section 54956.9(b) of the Government Code regarding two cases; Conference with Legal Counsel – Anticipated Litigation pursuant to subdivision (c) of Section 54956.9 regarding three cases; and Public Employee Performance Evaluation for the City Attorney.

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

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

**MEMBERS ABSENT:** None

**STAFF PRESENT**

- Executive Director, Marc Grisham
- Assistant Executive Director, Matt Rodriguez
- Legal Counsel, Ruth Ann Ziegler
- City Clerk, Lillian J. Pride
- Deputy City Clerk, Alice Evenson
- Director of Pittsburg Power Company, Garrett Evans
- Director of Engineering and Building, Joe Sbranti
- Director of Economic Development, Brad Nail
- Director of Redevelopment, Randy Starbuck
- Director of Human Resources, Marc Fox
- Director of Public Works, John Fuller
- Director of Planning, Melissa Ayres
- Director of Recreation, Paul Flores
- Chief of Police, Aaron Baker

**PUBLIC HEARING**

1. **RESOLUTION 06-017** Approving the Annexation of Vista Del Mar to the Southwest Pittsburg Geologic Hazard Abatement District II

Director of Engineering and Building Joe Sbranti advised that Division 17 of the California Public Resources Code established legal standards for geologic hazard abatement district formation, GHAD financing and the scope of GHAD authority (Section 26500 *et seq.*). On October 12, 2006, the Board of Directors had been presented with a petition for the annexation of Vista Del Mar to the Southwest GHAD. On October 16, 2006, the Board of Directors adopted Resolution No. 06-016, accepting the petition and setting a

hearing on the annexation of Vista Del Mar to the Southwest GHAD. Notice of the hearing was given pursuant to the provisions of Public Resources Code Sections 26564 through 26566. The adoption of the Resolution would approve the annexation of Vista Del Mar to the Southwest GHAD. The budget and assessment for Southwest GHAD activities in Vista Del Mar would be established by future action of the Board of Directors.

Mr. Sbranti stated that this was the first of a multiple step process that would after annexation initiate the completion of an engineering report that would establish fees, require a Proposition 218 vote, levy assessments, and per the planning control previously approved, would then allow the GHAD to take ownership of the properties that would take on maintenance. In relation to concerns with unstable grounds, he stated there would be several years to ensure that slopes were perfectly stable and allow the GHAD to ensure it would inherit a well maintained property.

There is no immediate fiscal impact. Once the property has been annexed to the GHAD and a financing mechanism has been approved by the Board of Directors and affected property owners, the cost associated with the expansion of the Southwest GHAD would be absorbed by an annual assessment paid by individual property owners in Vista Del Mar. With the additional territory, however, Southwest GHAD would assume responsibility for additional geological hazards. It was recommended that the Board adopt a resolution approving the annexation of Vista Del Mar to the Southwest GHAD.

Chair Kee opened the public hearing for Resolution 06-017. There was no one to speak to the item. Chair Kee closed the public hearing for Resolution 06-017.

On motion by Vice Chair Glynn, seconded by Member Casey and carried unanimously to adopt Resolution 06-017.

### **CONSENT CALENDAR**

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

- a. **MINUTES** Dated: October 16, 2006

Approved minutes dated October 16, 2006.

### **ADJOURNMENT**

The meeting of the Southwest Pittsburg Geologic Hazard Abatement District II adjourned at 9:48 P.M.

Respectfully submitted,

Lillian J. Pride, Secretary  
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**CITY OF PITTSBURG**  
**City Council Minutes**  
**November 6, 2006**

Mayor Michael Kee called the meeting of the City Council to order at 7:01 P.M. in the City Council Chambers at City Hall, 65 Civic Avenue, Pittsburg, California after having convened into Closed Session at 6:00 P.M. for Conference with Legal Council – Anticipated Litigation pursuant to Section 54956.9(b) of the Government Code regarding two cases; Conference with Legal Counsel – Anticipated Litigation pursuant to subdivision (c) of Section 54956.9 regarding three cases; and Public Employee Performance Evaluation for the City Attorney.

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

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

**MEMBERS ABSENT:** None

**STAFF PRESENT** City Manager, Marc Grisham  
Assistant City Manager, Matt Rodriguez  
City Attorney, Ruth Ann Ziegler  
City Clerk, Lillian J. Pride  
Deputy City Clerk, Alice Evenson  
Director of Pittsburg Power Company, Garrett Evans  
Director of Engineering and Building, Joe Sbranti  
Director of Economic Development, Brad Nail  
Director of Redevelopment, Randy Starbuck  
Director of Human Resources, Marc Fox  
Director of Public Works, John Fuller  
Director of Planning, Melissa Ayres  
Director of Recreation, Paul Flores  
Chief of Police, Aaron Baker

**PLEDGE OF ALLEGIANCE**

The City Council led the Pledge of Allegiance.

Mayor Kee considered the following general City Council items at 7:02 P.M. prior to pursuing the Redevelopment Agency agenda.

**PROCLAMATION**

1. Daisaku Ikeda SGI Envoy of Peace Day

Mayor Kee presented a Proclamation to honor Daisaku Ikeda SGI Envoy of Peace Day in the City of Pittsburg on November 18, 2006, the 75<sup>th</sup> Anniversary of the Founding of the Soka Gakkai International, a culturally diverse Buddhist Association which promotes peace and personal happiness with 12 million members spread throughout 200 countries and territories Worldwide. He presented the Proclamation to Akiko Look on behalf of Soka Gakkai International (SGI).

MARTIN GELBAUM thanked Mayor Kee and the members of the City Council for the Proclamation and expressed his sincere commitment to contributing to safe and harmonious communities for the benefit of its citizens. He also presented written information on SGI to the City Council.

### **COUNCILMEMBER REPORTS/REMARKS**

Councilmember Johnson reported on the recent Motown concert on Saturday November 4 when 300 people had attended. He cited the upcoming Veterans Day and asked that members of the community honor military veterans. A Veteran's Day Ceremony was scheduled for Saturday, November 11 at 11:00 A.M. with a pancake breakfast from 9:00 to 10:30 A.M. at the Senior Center.

Councilmember Parent reported that she had attended the State of the Schools Luncheon sponsored by the Chamber of Commerce when each of the City's educational institutions had reported on its progress. She commented that the proposed middle school on Range Road had been identified along with a proposed rebuilding of the high school, the subject of Measure J on the November 7 electoral ballot.

Councilmember Parent stated that she had presented information to a class on how elections operate, and had attended a Bridging the Gap Awards Ceremony held by the County Humans Relations Commission. She had also attended, on behalf of Optic, a non-profit organization, an affair that recognized Optic's work with respect to job training and livable wages. She had also judged the Halloween Parade with the Mayor when 150 children had participated. She thanked the Recreation Department for that successful event.

Councilmember Parent further reported that the Senior Center had an extremely well attended concert when students from Hillview Junior High School and the Adult Education Center played in the same orchestra. She had also attended the School District Liaison Committee meeting to exchange information concerning joint issues and had attended a meeting of the Land Use Subcommittee to discuss plans for the development of the Civic Center area layout.

Mayor Kee reported that he had a call from a constituent who recalled a time when residents could request that items be placed on the agenda for Council consideration. He asked the City Manager to verify whether or not that was the case.

Mayor Kee reported on his attendance at the East Bay Division Dinner of the League of Cities Conference and the Mayor's Conference hosted by the City of Pleasant Hill when Association of Bay Area Governments (ABAG) housing projection numbers had been identified. He had also attended a Fitness Walk at Stoneman Elementary School. He thanked Mr. Flores and the Recreation Department for donating items to that event and Old Town Marketing which had also been involved in the event. He had also attended the Bridging the Gap Awards.

Mayor Kee announced that the City of Pittsburg had been recognized for thirty years of working with the League of California Cities.

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

City Manager Marc Grisham had nothing to report.

### **CITIZEN REMARKS**

DAVE CASTRO, the President of the Fifty Plus Club, reported that the Club had donated \$2,000 for the Children's Ferris Wheel at Small World Park.

Councilmember Parent acknowledged the donation for the Ferris wheel, stated that the Ferris wheel would be installed in Small World Park, and advised that the Fifty Plus Club would be recognized on the permanent plaque to be placed with the Ferris wheel, when installed. She also took this opportunity to acknowledge the donation of \$1,000 from Meyers, Nave, Riback, Silver & Wilson and \$250 from the Office of Michael Woods, a Consultant working with the Trans Bay Cable project. She reported that the total amount donated to the project was \$19,480. Donations continued to be accepted.

LILI and BUDDY SANTOSO, operators of the Liberty Hotel Restaurant, who had recently sold the business which was continuing to run and operate, asked Councilmember Parent to read a prepared statement.

Councilmember Parent read a letter from the Santoso's thanking the City, the City Council, Police Chief, Department Heads and their staff, the City Manager and the entire Liberty Hotel crew who had made the restaurant the crown of the East Bay. The letter thanked the City and its residents for the continued support of the business.

Mayor Kee thanked the Santosos for their dedicated service to the community.

JOSHUA KLUTE, Pittsburg, spoke to the Marina Park community and the fact that four of his cars had been vandalized in that community resulting in great expense. He referred to a nearby parking lot owned by the City and noted that the City did not take care of the parking lot where nefarious activities, including drug dealing and prostitution, had occurred.

Mr. Klute described other problems associated with the City-owned parking lot and

with the area and suggested that the City was losing its battle in the downtown. He also understood that the City might be interested in selling the parking lot and that the Marina Park Homeowner's Association (HOA) would be interested in acquiring that property. He also commented on the time involved for the police to respond to complaints from residents.

Mayor Kee urged Mr. Klute to call the police each time he witnessed criminal activity in his neighborhood. He also noted that the Police Chief was present in the audience and could discuss the concerns with Mr. Klute.

WILLIAM LEE, Pittsburg, spoke to the issue of competitive bidding and suggested that the City put projects out to bid to encourage competitive bidding. He also questioned the recent approval of bonds and suggested that the City would not balance out in that case.

CONNIE GAXIOLA, Pittsburg, stated that she was a tenant at 136 West Ninth Street. She stated that residents had received notices to vacate the property within 30 days. Of the violations listed for the building, she suggested that only minor repairs were required. She emphasized that the residents paid the rent, that there were many children residing on the property, that many residents were ill and that they had nowhere else to go. She urged the Council to address the issue. She asked the Council's help to extend the deadline for the repair of the property to allow the residents to remain on that property.

City Manager Grisham explained, when asked, that the property in question was owned by the Berg family. He stated that there were a number of violations on the property and there had been a recent fire at the rear of the property which had damaged the adjacent property. While the property owner had made some repairs, things remained to be done. He stated that the property was not for sale and the City had no interest in acquiring the property but would like to see the property brought to code. He noted that a new roof and gutters had recently been added to the property. He added that the situation between the property owner and the tenants was a private matter.

BERTHA AVELLAN, Pittsburg, spoke in Spanish, translated by a friend. She too spoke to the Berg apartments. Her interpreter stated that Ms. Avella was suffering from cancer, had no place to go and had been given an order to vacate the property in 30 days during the holiday season. Ms. Avellan requested more time or more help in some way to help the residents who were affected and who were being removed from his/her homes. She presented the City with a copy of the 30 day notice to terminate tenancy and a 30 Day Notice of Intention to Terminate Tenancy and Notice to Quit, which had been sent to Edwin and Bertha Urey residents of 112 W. 9<sup>th</sup> Street.

Mr. Grisham reiterated that the property owner had the right to do what he pleased with the property, although he reiterated the need for improvement to the property. He suggested that the City could speak to Mr. Berg to see if the period to vacate could be extended, and to determine the status of improvements to be made.

Mayor Kee clarified with the City Manager that none of the evictions were the result of any City action.

GREG OSORIO, Pittsburg, also spoke to the Ninth Street property and suggested that the deadline was to allow the new property owner to improve the property. He too expressed a desire to see the deadline to vacate be extended. He stated that there had to be a balance of addressing the owner's problems and addressing the problems in the community. He noted that another property near Tenth and Montezuma Streets where residents had been evicted might be due relocation monies due to the property being located within redevelopment. He urged caution if in the foreseeable future for acquired properties to ensure that relocation benefits were offered, where appropriate or needed.

Mr. Osorio also noted with respect to downtown merchants that while he commended the City's progress to date, he questioned whether or not the appropriate value was being placed for those who lived and worked in the community. He suggested that work should have been done in phases to accommodate existing businesses. He suggested that existing City businesses should be the first priority to value those who lived and worked in the community. He questioned whether the properties being relocated would be accommodated.

Mr. Grisham advised that staff had spent considerable time working with existing businesses with respect to potential relocation. He noted that in the case of El 7 Mares, the closure of that business had to do with a sewage spill, not the responsibility of the City although the City was the owner of the building. He stated that staff was still talking with the owners of El 7 Mares and was still providing a resolution that would allow the business to remain in Old Town or take cash settlement, depending on the action the business would like to choose.

MARIE HARRELL-PROPPS, Pittsburg, representing 625 Railroad Avenue, a new pet shop in the community, expressed concern with the City's Planning Department and suggested that the Department eroded the economic development of local businesses. She commented that businesses in the community could be opened and closed without notice. She emphasized the need for a diversity of businesses in the downtown. She suggested that her business should be compensated for its losses given that her business had lost thousands of dollars due to unnecessary and untimely delays and setbacks she suggested were the result of Planning Department staff. She emphasized the need to recognize and encourage small businesses.

Mayor Kee stated that he and the City Manager had met on the issue reported by Ms. Harrell-Propps. He asked that the City Manager be allowed the time to conduct further investigation.

CAROLYN KRANTZ, a Pastoral Associate of St. Peter Martyr Parish, spoke to the Ninth Street Apartment issue related to the Berg property. She urged the City to assist the owner in any way possible to improve the property, get it up to code, and help those who lived in the apartments who were contributing members of the community.

ALICIA LEONE, Pittsburg, also spoke to the Ninth Street property. A member of Contra Costa Interfaith Sponsoring Committee (CCISCO) and a member of St. Peter Martyr, she asked those who were residents to stand up in the audience to be identified. She stated that there were approximately 40 people living in the eleven apartment units. She suggested that since some of the abatement of issues had been completed while the tenants resided in the apartments there was no reason that the tenants would have to be removed to allow the completion of that abatement.

ELEUTERIO PENA, Pittsburg, spoke in Spanish. His comments were interpreted by Ms. Leone. Mr. Pena represented CCISCO and noted that the organization was fighting for the tenants. He asked the Council to intercede to help the residents who needed the housing.

TOM LaFLEUR, Pacific Community Services, Inc., Pittsburg, also spoke to the Ninth and York Street apartment building property and noted his understanding of the situation where deferred maintenance had to be addressed since the property owner, Mr. Berg, had neglected the property. He recognized the City's need for code enforcement action but suggested that there was no life threatening situation that would require the vacation of the building. He stated that the City's actions related to code enforcement had forced Mr. Berg to sell the property to another party, which he suggested required the total vacation of the building to abate the situation. Mr. LaFleur emphasized the negative impacts to the residents of the apartments and urged the City to aggressively work with the property owner to address the concerns.

Mayor Kee noted that it was not the City's practice to red tag buildings with code violations unless there were life and safety threatening issues. He stated that the City had always worked with property owners to address the problems and the need to uphold public safety. He emphasized the balancing act of allowing the building to be repaired while at the same time keeping it functioning.

Mr. Grisham stated that he had not been aware that the building had been sold. He stated that the City could work with the property owner. He stated that the City could not do anything to avoid vacation since it was the property owner's right to do so. He stated that City staff would determine the situation between the buyer and the seller and see if something could be done to allow the tenants to remain on the property. He added, when asked, that the City was doing nothing to require the vacation of the building, simply informing the seller that renovating the building was about fifteen years overdue.

Councilmember Parent noted that Mr. LaFleur and his services could advise the tenants whether or not the evictions were proper.

Mayor Kee adjourned to the Redevelopment Agency agenda at 8:01 P.M. and reconvened as the City Council at 9:49 P.M.

## **CONSIDERATION**

1.     **RESOLUTION 06-10659**     Authorizing the Issuance of Not to Exceed \$50,000,000  
           **Combined w/RDA 06-1158**     of the Agency's Los Medanos Community Development  
           **Combined w/PFA 06-020**     Project Subordinate Tax Allocation Bonds, 2006 Series  
   A, Not to Exceed \$50,000,000 of the Agency's Los  
   Medanos Community Development Project Subordinate  
   Tax Allocation Bonds, Taxable 2006 Series B, Not to  
   Exceed \$45,000,000 of the Agency's Los Medanos  
   Community Development Project Subordinate Tax  
   Allocation Refunding Bonds, 2006 Series C and Not to  
   Exceed \$10,000,000 of the Agency's Los Medanos  
   Community Development Project Housing Set Aside  
   Tax Allocation Bonds, Taxable Series 2006

The proposed action would approve the issuance of Series 2006 Subordinate Tax Allocation Bonds including the issuance of non-housing subordinate tax-exempt and taxable Agency financing of \$125 Million; a refunding of the outstanding 1993B Agency Bonds (approximately \$40 million) and a housing set aside taxable financing of approximately \$15 million. The new bond financings are estimated to provide the Redevelopment Agency approximately \$93 million in new project funding for both non-housing and housing projects.

In Joint Session with the Redevelopment Agency and the Public Financing Authority, the City Council took the following action:

On motion by Councilmember Johnson, seconded by Councilmember Parent and carried unanimously to adopt City Council Resolution 06-10659.

**PUBLIC HEARING**

1.     **ORDINANCE 06-1276**     Introduction of an Ordinance Amending Chapter 15.90  
           **Combined w/CC 06-10651**     "Transportation Mitigation Fee," of the Pittsburg  
   Municipal Code
  
2.     **RESOLUTION 06-10651**     Adoption of a Resolution Approving and Adopting the  
           **Combined w/CC 06-1276**     Pittsburg Local Transportation Mitigation Fee (LTMF)  
   Program Update Report Including a Revised Schedule  
   of Local Transportation Mitigation Fees and a Revised  
   List of Transportation Improvement Projects

Director of Engineering and Building Joe Sbranti advised that Ordinance 06-1276 and Resolution 06-10651 would adopt new local transportation mitigation fees based upon a Pittsburg Local Transportation Mitigation Fee (LTMF) Study Update report dated October 2006, which was prepared by the City's consultant, Fehr & Peers. The report includes several options for updating the fee, summarized in Tables 9A and 9B of the report. The new fees would be based upon new growth projections and a revised list of transportation improvement projects necessary to mitigate development's local transportation impacts.

The City collects the local transportation mitigation fee from developers and administers the fee projects' construction. If City Council approves staff's recommendations, the current single-family residential fee of \$4,020 per unit would be increased to \$6,834, the current multi-family residential fee of \$2,733 per unit would be increased to \$4,172 and the current commercial and industrial fee of \$0.63 per square foot would be increased to \$1.27.

Mr. Sbranti recommended that the City Council approve and adopt: (1) a resolution approving the Pittsburg Local Transportation Mitigation Fee (LTMF) Program Update Report and establishing a revised local transportation mitigation fee schedule, which is listed and detailed in the report as Option 2 in Table 9B; and (2) an ordinance amending Chapter 15.90, "Transportation Mitigation Fee" of the Pittsburg Municipal Code.

Councilmember Johnson stated that consistent with his prior votes, he would not support the resolution and ordinance. As to the regional versus City fees, he understood that the City fees remained in the City.

Mr. Sbranti explained that the fees being discussed were controlled by the Pittsburg City Council with no outside influence considered. He referred to the report by Fehr & Peers, specifically Pages 31 and 32 where several options had been presented, which would include Range Road as a full interchange and overcrossing as identified in Table 9A, and the option of Range Road as an overcrossing alone without the interchange as identified in Table 9B. He stated that the staff recommendation was to utilize Option 2 from Table 9B where the fees would vary.

Mr. Sbranti added that the comparison most frequently used was the comparison to residential fees, with the current fees a little over \$4,000 per residential unit. The recommendation would set the fee at \$6,766, a 70 percent increase. He stated that the fee had gone up because construction costs had increased. There had also been projects added to the list to mitigate developments that the City had undertaken.

In response to Councilmember Johnson as to how to address costs for infill projects, Mr. Sbranti stated that the City's policy had been that for infill projects, the fee would be calculated (getting credits to offset what used to be on the property), which had been the City's policy and which could be formalized by an ordinance.

Councilmember Johnson verified with staff that a home replaced with a new home would not have to pay a traffic mitigation fee although a site where a home had never before been placed would pay a fee.

Councilmember Parent expressed concern that the contractor who had written the report was prepared to stand behind the accuracy that the nexus existed.

JULIE MORGAN, Fehr & Peers, stated that the firm had been working on the situation for several years in close cooperation with City staff and the City Attorney and was fully responsible for the technical work in the document.

In response to Councilmember Johnson as to the process taken to prepare the

numbers, Ms. Morgan stated that Fehr & Peers had worked on the nexus studies for other regional fees in Eastern Contra Costa County and had taken a count of new development expected in a given area. A count of new infrastructure improvements projected to be needed over that same time period in order to serve the traffic demand of the additional development had also been taken. An analysis of the cost estimates of what that cost would be, with the creation of an equal unit of measure, divided by the total amount of cost of infrastructure with the overall pool of development to pay for that infrastructure had resulted in the fee for new development.

Ms. Morgan stated that the costs would be apportioned accordingly since some portion of the costs would not be included in Pittsburg's fees because they would be associated with other development.

Councilmember Johnson suggested that some of the numbers calculated in the formula were not correct.

Ms. Morgan explained that the projections were for future conditions, 20 to 25 years in the future, which assumed the completion of the Highway 4 Widening Project, among other improvements expected to be completed during that timeframe. She stated that the traffic patterns of today might shift over time. She noted that a count of the split in traffic, proportion of trips generated within Pittsburg had been taken into consideration, which could be either an origin in the City of Pittsburg or a designation in Pittsburg. She noted that a high percentage of trips that were Pittsburg related in some fashion had been identified.

Mayor Kee referred to Resolution 06-10651, Exhibit A, which had listed the local transportation mitigation fees although the acronym used was for a regional mitigation fee and should be corrected. He asked if there had been comments from business owners or the Chamber of Commerce regarding the commercial fees.

Mr. Sbranti stated that no comments had been received. He also stated that the area of the fee was approximately 80 percent subsidized by the City. That subsidy had been left in place to encourage business in the community.

Mayor Kee opened the public hearing for Ordinance 06-1276 and Resolution 06-10651.

ALBERT SEENO III, Discovery Builders, Inc. commented that he had a discussion with the City Manager and the City Engineer related to some of his concerns. He had requested of the City Manager a continuance of the item to no later than the November 27 City Council meeting to allow a discussion of the remaining issues.

WILSON WENDT, representing the Seeno entities, stated that Mr. Seeno had requested a continuance.

Mr. Wendt supported an opportunity to meet with staff to address some issues that

had been documented in materials to be submitted for the record if the Council were to continue the item. He submitted those materials to each member of the Council at this time. He stated that a letter had been submitted from his firm, Miller Starr & Regalia, dated November 6, 2006, along with a letter from their consultant, Abrams Associates. He suggested that the fee did not satisfy the requirements of AB 1600 as codified in Government Code which required that before the fee could be increased or adopted, the City must show the reasonable relationship between the fee and the development upon which the fee was being imposed. Mr. Wendt did not believe that the reasonable relationship had been shown for a number of reasons. He stated that when looking at the breakdown of where the improvements were located and the breakdown of the residential users, those of which would bear the entire fee, all residential development in the south of the City and majority of improvements were north of Highway 4. He stated that traffic posed by the generation of the residential units had been shown to go in an east/west direction. He noted that the regional fee and the City fee worked hand in hand in this situation.

Mr. Wendt suggested that the fee was addressing improvements that would allow traffic to go in a north/south direction for commercial development north of Highway 4 and to ameliorate current regional traffic impacts that would get worse in the future. For those and a number of other reasons, he suggested that the City's burden in showing the reasonable relationship had not been met and that the fee would not be upheld.

STEPHEN ABRAMS, Abrams Associates, Pleasant Hill, stated that there were major problems with the report and that it did not meet nexus requirements. He used California Avenue as an example and stated that the report had explained that there were zero deficiencies on any of the routes assumed, with the exception of the Buchanan Bypass that would not be in the City limits. It had also explained that there was a Level of Service (LOS) F at one of the intersections at the end of that segment it did not count and that the segment itself did not have an existing deficiency. He suggested that the reason the report had suggested that 96 percent of new traffic on the roadway would be due to Pittsburg was a result of erroneous model assumptions.

Mr. Abrams stated that the Countywide model had assumed the complete construction of the Buchanan Road Bypass, the State Route 4 Bypass, eBART, and a metering program along the entire length of the State Route 4 Bypass. He suggested that assumptions had been picked and chosen from the model and that the numbers used for the model were different from the numbers in the General Plan and General Plan EIR. He noted that according to the General Plan, only 16 percent traveled to jobs in Pittsburg. He suggested that the program was unfair and there was no nexus. He submitted 16 pages of comments to support his opinion.

TIM COTTON, William Lyon Homes, Danville, questioned why the commercial component of the traffic fee was subsidized while no portion of the residential fee was subsidized.

Mayor Kee stated that as proposed by staff, the residential fee would include a 15

percent subsidy and would not be charged at its full rate.

Councilmember Johnson requested that the item be continued since he had not had sufficient time to consider the additional material that had just been submitted. He requested a continuance until at least the meeting of November 27.

Vice Mayor Glynn seconded the motion to continue to November 27, 2006.

City Attorney Ziegler agreed with the suggestion for a continuance but recommended that the public hearing be closed at this point. She noted that there had been several meetings noticed by the City Engineer between the developer and other interested parties. The item had been on the Council agenda before and had been continued and there had been ample time for meetings and comments. She referred to the notebook of material submitted this date and the letter from Mr. Wendt. She objected to the well thought out study having been characterized by the letter as "voodoo science." She recommended that the public hearing be closed with the item continued to November 27. Ms. Ziegler advised that either she, Ms. Morgan or Mr. Sbranti would meet with Councilmember Johnson or any other concerned party during that time to respond to any questions and return at the meeting of November 27 when staff would have in-depth response to submit to the City Council.

Councilmember Parent affirmed that the item had previously been continued at the request of the Seeno Companies and that once again material had been submitted at the last minute. She expressed her hope that the continuance was not a tactic allowing any effort to pull building permits to subrogate the fees.

Mr. Wendt expressed concern that the flexibility be left to allow Mr. Seeno to meet with staff and address the concerns.

Councilmember Casey verified with Mr. Sbranti that Fehr & Peers had been hired in September 2002, with two workshops in July and August, with pages of corresponding e-mails between Mr. Wendt and Mr. Abrams over the last several weeks and with no material submitted by either party during that time. He verified that he had not seen the materials submitted this date during that time.

Councilmember Johnson clarified with the City Attorney that if the public hearing was closed, those who had addressed the Council at this time could speak under Public Comment although it would not be considered as part of the hearing record on the fees. He did not agree as part of his motion to close the public hearing and then continue the item.

Mayor Kee expressed his disappointment with the last minute submittal of information.

Vice Mayor Glynn withdrew his second from the motion by Councilmember Johnson.

There was no second to the motion to continue the item. The motion died.

Councilmember Parent commented that even Option 1 fell short by \$30 million for the cost of the project, to which Mr. Sbranti stated that Option 1 on Table 9B would fall \$30 million short since the City would be required to subsidize the commercial and industrial projects, and under Option 2 subsidizing both commercial and residential to the tune of \$37 million.

Mr. Sbranti explained that Option 2 was the recommended option. The additional \$7 million would subsidize residential development and other monies would be used to subsidize.

Councilmember Parent stated that the residential fees to be charged compared to fees in neighboring cities would be substantially less than the fees of jurisdictions to the east. She found it interesting to assume that anyone south of the freeway would only go east and west at the same time the same developer wanted to put money in housing as well as commercial development at Third and Railroad Avenue, at Third and Harbor Street, and with a proposal on School and Harbor Streets, while the City was attempting to build up Old Town in the hope that people living south of the freeway would learn that something important was happening north of the freeway where there could be another school, and where a community facility was being built for everyone in the City.

Councilmember Johnson referred to Option 2 including \$32 million for Range Road although he understood that Range Road would now cost \$110 million to build. He suggested that if Range Road was removed it would reduce the required dollar amount. He also suggested that there was no one building in the Range Road area that would be paying the fee. He questioned the economics of subsidizing \$37 million. He suggested that the dollar allocation could be reduced and that the fees would be reduced. He suggested that the Range Road project be taken out.

Mr. Sbranti explained that Table 9B had already eliminated the \$32 million for the interchange portion of Range Road. The overcrossing at Range Road was an additional \$22 million that could be removed as well as another alternative, with a recalculation of the fees for that option. If the overpass option was removed, it would not net a savings of the entire \$22 million. He stated that there were 34 projects, many in the southwest portion of the town, many of which could be eliminated to reduce the fee. He suggested that would have the biggest impact on reducing the fee and the shortfall.

On the assurance that the nexus was there and that the consultant was prepared to stand behind the numbers and because she believed that the numbers were still fair whether residential was subsidized or not, well below other areas making it competitive for developers to build in the City as opposed to going farther east and further impacting Highway 4, Councilmember Parent made a motion to introduce Ordinance 06-1276 using Table 9B, Option 1.

Mayor Kee closed the public hearing at this time.

Vice Mayor Glynn asked if Range Road would be considered a major arterial road, to which Mr. Sbranti stated it would be a key connection given the limited number of crossings over Highway 4 but might not meet the definition of a major arterial road.

Mr. Sbranti added that major arterials were identified as routes of regional significance; Leland Road, Buchanan Road and several others in the city. He was not aware of the criteria required to meet that designation.

Vice Mayor Glynn suggested that there was a difference. He suggested that the issue was whether or not what had been proposed met the criteria for nexus. He agreed that the issue had been studied in depth. He noted that no other jurisdiction to the east or west had similar problems.

On motion by Councilmember Parent, seconded by Mayor Kee to introduce Ordinance 06-1276 by title only and waive first reading, approving, Option 1 and Table 9B. The motion failed by the following vote:

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

On motion by Councilmember Parent, seconded by Mayor Kee to introduce Ordinance 06-1276 by title only and waive first reading, approving Option 2 and Table 9B. The motion carried by the following vote:

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

On motion by Councilmember Parent, seconded by Mayor Kee to adopt Resolution 06-10651, carried by the following vote:

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

3. **RESOLUTION 06-10660** Adoption of a Resolution Denying an Appeal and Approving Design Review Application No. 06-293 (Koch Carbon Bulk Storage Warehouse)

Planning Director Melissa Ayres stated that the City Council is requested to take action on an appeal filed by Mike Lengyel, a Pittsburg resident, regarding Planning Commission Resolution No. 9655 approving Design Review Application No. 06-324 and allowing the construction of a 65.5 foot tall, 118,000 square foot metal building with related site improvements at an existing marine terminal located on a 15.58 acre site at 707 East Third Street in the IG (General Industrial) District; APN 073-020-020.

Ms. Ayres stated that the seven reasons for the appeal had been reviewed in detail and it was recommended that the appeal reasons were not warranted.

There would be no fiscal impact associated with the project. Staff recommended that the City Council adopt a resolution denying the appeal and approving Design Review Application No. 06-324, subject to conditions.

MIKE LENGYEL, Pittsburg, the Appellant, noted that the project had been controversial. Referring to the documents related to the project, he suggested that the proposal and the site plan were completely different from what had been reviewed as part of the environmental documents. He stated that the current project had been turned solely into a coke operation with a large shed. He suggested that the changes to the project would require an Addendum to the EIR and a revised use permit. He emphasized that the nature of the project had been changed. He commented that in 1995 when the project had originally been approved there had been no review of the coke product itself.

Mr. Lengyel expressed concern for a number of factors of the project, particularly related to air quality and other health impacts. As to the actual structure itself, he suggested that signage should be considered for the site at some point in time. He also objected to the height of the structure and the fact that 51 truck trips would be increased to 229 trucks per day with an increase in ships from 20 to 70 per day, resulting in an increase in emissions where the Bay Area Air Quality Management District (BAAQMD) had recommended three mitigations.

Mr. Lengyel added that diesel exhaust had been ruled to be a toxic air contaminant in 1998 and should also be addressed in any environmental update on air quality. He again asked that an Addendum to the EIR be required due to the change from domes to a shed, and that the project would now include an in-line crusher, essentially a manufacturing and refining process.

Mayor Kee opened the public hearing for Resolution 06-10660.

PAT BALDWIN, Koch Carbon, Wichita, Kansas, explained that as the lead agency under CEQA, the City of Pittsburg had worked diligently with Koch Carbon over the past several months to evaluate the proposed expansion of the enclosed storage and to ensure that the project met all requirements to ensure protection of health and environment. The project was part of an overall initiative spearheaded by the City to develop the Pittsburg waterfront to ensure economic redevelopment and reduce blight in the area. He noted that Resolution 06-0955 recorded that the project had met the requirements of the City code for design approval and that it was within the scope of the earlier EIR to comply with requirements of CEQA. Mr. Baldwin stated that the business was an environmentally responsible operator using state of the art technology for environmental protection praised by government entities. The City's Planning Commission approved the project on September 12, 2006. He requested that the City Council deny the appeal and approve the project.

Mayor Kee closed the public hearing for Resolution 06-10660.

Project Planner Chris Barton stated that the findings in the proposed resolution addressed the original reasons for the appeal. He summarized the reasons offered by Mr. Lengyel to deny the design review. He noted that the EIR had originally reviewed bulk storage items that could be trucked in and transported to the site on a truck. In 1995, it had been determined that petroleum coke would be the product primarily used at the facility. At a later date there could be other bulk storage types of products that could be shipped out of the location which would not change the project. He noted that nine domes had originally been envisioned for the site in the EIR. The new warehouse would replace four of those domes. He added that the shed was functionally equivalent from an air quality standpoint regarding the impacts that had been analyzed in the EIR.

Mr. Barton commented that there was already an in-line crusher at the facility allowing the product to be broken down into a smaller size and hauled onto conveyors into ships. The in-line crusher was totally enclosed with no possible impact. It was also an ancillary component integral to the operation on the site. With respect to a health mitigation fee, he stated that the health impacts associated with the project and air quality had been addressed in the initial mitigation measures identified for the project. In addition, a truck bypass had been constructed with the Bay Area Bulk Terminal a part of the force driving the construction of the truck bypass.

Mr. Barton stated that should a sign be approved, it would have to meet all City requirements. He also stated with respect to building height that the zoning code looked at the building height to be measured as an average of the pitch of the roof. From a zoning standpoint, the building would be 65.5 feet and in the district where the property was located, the building could be as high as 75 feet. The proposal would be within that height limit. With respect to the other claims raised by Mr. Lengyel to support his appeal, Mr. Barton stated that they were outlined in the staff report and within the findings section of the resolution.

Ms. Ayres added that in addition to the design review application, the applicant was also obligated to the original conditions of approval in the use permit. One of the conditions would require compliance with the BAAQMD air quality permit which would also be required of the subject project.

Mr. Barton stated that when the Planning Commission had approved the project, it had approved a Statement of Overriding Consideration which had considered regional air quality impacts.

In rebuttal, Mr. Lengyel noted that Condition 40 was in the EIR and had indicated that nothing could be higher than 75 feet. As for the BAAQMD, he urged the City to be mindful of bad effects for air quality development.

Mr. Lengyel read a portion of a November 3 letter from the BAAQMD, which had identified the conditions they requested be imposed on the project. He suggested that there could be bad effects from land use and economic development as a result of air quality effects. He reiterated his request for an Addendum to the EIR he described as the

minimal thing that should be done.

In response to Councilmember Johnson as to the design of the conveyers, Mr. Baldwin verified that the conveyers were enclosed. He added that there would be a tie-in to the current ship loader, which was currently enclosed.

Councilmember Parent spoke to the overriding considerations related to air quality and inquired if staff was speaking to a decision made in 1995.

Mr. Barton clarified that the approval in 1995 has been for a use permit for the property. The matter before the City Council was the design review and not the operational characteristics related to the use. The warehouse would operate under the original use permit. He added that the applicant did have an application before the BAAQMD which might be ready to issue that permit pending final approval from the City on the project. The BAAQMD had the discretion to add additional conditions that could be governed by the Clean Air Act.

On motion by Councilmember Johnson, seconded by Councilmember Casey and carried unanimously to adopt Resolution 06-10660.

4.     **RESOLUTION 06-10661**     Certifying the Final Environmental Impact Report, Adopting a Mitigation Monitoring Program, and Adopting CEQA Findings for the Trans Bay Cable Project  
       **Combined w/06-1277**
  
5.     **ORDINANCE 06-1277**     Introduction of an Ordinance Amending the West Tenth Street Overlay District  
       **Combined w/06-10661**

A City initiated proposal to amend the West Tenth Street CS-O (Service Commercial with a Limited Overlay) District (Ordinance No. 00-1171) for the purpose of permitting a major utility, subject to limitations, to be constructed within that CS-O District, and to allow an increased maximum height limit permitted in that zone for the major utility.

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

On motion by Councilmember Johnson, seconded by Councilmember Parent and carried unanimously to adopt City Council Resolution 06-10661.

On motion by Vice Mayor Glynn, seconded by Councilmember Johnson and carried unanimously to introduce Ordinance 06-1277 by title only and waive first reading, correcting the setback for the converter station from 35 feet to 250 feet from West Tenth Street.

6.     **ORDINANCE 06-1278**     Introduction of an Ordinance Approving a Trans Bay Cable Project Development Agreement AP-04-157 (DA)

On October 24, 2006 the Planning Commission adopted a resolution recommending that the City Council adopt an ordinance approving a development agreement for ten years

between Trans Bay Cable, LLC and the City of Pittsburg to facilitate the construction of the Trans Bay Cable Project. The proposed DA would define the rights and responsibilities of the City and Trans Bay Cable LLC in developing a converter station on West Tenth Street as one component of the Trans Bay Cable Project, and would apply to the following assessor parcels: 085-270-018, 085-270-019, 085-270-025, and 085-270-035.

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

On motion by Councilmember Parent, seconded by Councilmember Johnson and carried unanimously to introduce Ordinance 06-1278 by title only and waive first reading.

### **CONSENT CALENDAR**

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

- a. **MINUTES** Dated: October 16, 2006 and October 25, 2006  
Approved minutes dated October 16, 2006 and October 25, 2006.
- b. **RESOLUTION 06-10662** Modify the City's Staffing Allocation  
Adopted Resolution 06-10662.
- c. **RESOLUTION 06-10663** Authorize Funding for Preparation of a Sanitary Sewer Management Plan  
Adopted Resolution 06-10663.
- d. **RESOLUTION 06-10664** Acceptance of the Final Map, Improvement Plans, and Subdivision Improvement Agreement for Subdivision 8892, Stanford Place II  
Adopted Resolution 06-10664.
- e. **RESOLUTION 06-10665** Authorize Use of Redevelopment Agency 2004 Tax Allocation Bond Funds and Cooperative Agreement Between the Redevelopment Agency and the City of Pittsburg for 701 Willow Pass Road Offsite Public Improvements and Approve First Amendment to the Public Improvements Funding Agreement Between Davis & Associates and the City of Pittsburg  
**Combined w/RDA 06-1164**

In Joint Session with the Redevelopment Agency, adopted Resolution 06-10665.

- f. **RESOLUTION 06-10666** City Facilities Janitorial Maintenance Contract Award  
Adopted Resolution 06-10666.
- g. **RESOLUTION 06-10667** Initiation of Proceedings for the Creation of Overlay Landscaping and Lighting Assessment District 2006-01  
Adopted Resolution 06-10667.
- h. **RESOLUTION 06-10668** Approving the Transfer of Prior Year Grant Balances as of June 30, 2006 into the Fiscal Year 2006-2007 Budget for the City of Pittsburg in the Amount of \$500,034  
Adopted Resolution 06-10668.
- i. **RESOLUTION 06-10669** Pittsburg Port Feasibility Study  
Adopted Resolution 06-10669.
- j. **RESOLUTION 06-10670** Request an Appropriation of Congestion Management/ Relief Proposition 42 Funds and Accept the 2006 Patch Paving Contract as Complete  
**Combined w/PPC 06-158**  
In Joint Session with the Pittsburg Power Company, adopted Resolution 06-10670.
- k. **REPORT** Receive and File the Quarterly Investment Report as of June 30, 2006  
Received and Filed the Quarterly Investment Report as of June 30, 2006.

### **ADJOURNMENT**

The City Council adjourned in *HONOR OF THOSE WHO HAVE FOUGHT FOR THE RIGHT TO VOTE*, at 11:18 P.M. to an adjourned regular meeting on November 27, 2006.

Respectfully submitted,

Lillian J. Pride, City Clerk  
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