

**CITY OF PITTSBURG**  
**Redevelopment Agency Minutes**  
**July 10, 2006**

Chair Michael Kee called the meeting of the Redevelopment Agency to order at 7:44 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 Counsel - Existing Litigation pursuant to Section 54956.9(a) of the Government Code regarding Redevelopment Agency of the City of Pittsburg vs. Caprio et al, Contra Costa Superior Court Case No. C05-02426; and Conference with Real Property Negotiator pursuant to Section 54656.8 regarding APN 086-100-024.

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, Ruthann Ziegler
- Deputy City Clerk, Alice Evenson
- City Clerk, Lillian Pride
- Director of Engineering and Building, Joe Sbranti
- Director of Economic Development, Brad Nail
- Director of Public Works, John Fuller
- Director of Recreation, Paul Flores
- Police Lieutenant, Wade Derby

**PUBLIC HEARING**

Chair Kee advised that since one of the property owners in the area was a client, he recused himself and left the dais and the Council Chambers at this time.

Vice Chair Glynn chaired the meeting.

1. **RESOLUTION 06-1138** Adopting a Unified Development Area, Bordered by the New York Sough to the North, East Third Street to the South, Bay Harbor Park to the West, and the Eastern Boundary of Parcels 073-020-020 and 073-030-007

Executive Director Marc Grisham advised that the Redevelopment Agency preliminarily adopted the proposal to designate a unified development area (UDA) bordered by the New York Slough to the north, East Third Street to the south, Bay Harbor Park to the west, and the eastern boundary as shown on Exhibit A to the staff report.

The purpose of the meeting was to place into the record and consider the faxed letter received from California Portland Cement and to reconsider formation of the UDA.

Mr. Grisham reported that staff had responded to the questions from California Portland Cement by explaining that no master developer had been selected for the UDA. One of the primary reasons for the UDA was to encourage owner participation rights and include development of the site, which would also include California Portland Cement. Because the information had not previously been submitted, he recommended that the information be considered by the Agency prior to final action on the UDA.

The reconsideration and designation of Block 073 UDA would have no fiscal impact, although \$10,000 had been allocated by Resolution 06-1130 to pay for legal fees and miscellaneous expenses associated with the creation of Block 073 UDA.

Mr. Grisham recommended that the Agency Board adopt the resolution and authorize the Executive Director to consider potential uses such as residential, commercial, recreational/public space, boat storage, port facility, and aquatic center.

Vice Chair Glynn opened the public hearing for Resolution 06-1138.

NADINE HEINRICH, of California Portland Cement, Glendora, commented that several letters had been written to the Redevelopment Agency along with several phone calls asking for information regarding the UDA. She noted that last week the redevelopment plan and the various ordinances had been e-mailed by the City and were under review by California Portland Cement. She stated that was the reason for Portland Cement's opposition given an initial lack of communication and information. She acknowledged the receipt of the information and the information that the property owner could participate in the UDA.

Ms. Heinrich commented that California Portland Cement had felt the City had been very threatening in its letter. She noted that there were a number of issues to discuss, although this was not the forum for those issues. She requested a phone call to be able to address those issues with the City.

Member Johnson verified with Ms. Heinrich the information that had been received and had not been received by California Portland Cement.

Ms. Heinrich clarified that when the property was put up for sale, California Portland Cement had received a phone call of the City's interest to purchase the property. A right of entry had been allowed to permit the City to conduct the necessary Phase I and Phase II investigations. Nothing went beyond that point. Instead, there were subsequent letters on various topics related to the Polanco Act and condemnation issues. She noted that no answers to questions had been offered until this date when Mr. Grisham had advised that the property owner could be a participant and that no master developer had been selected for the UDA.

Mr. Grisham suggested that the correspondence to California Portland Cement had been clear. He noted that the Polanco process was a separate issue. He stated that the issue of the UDA was a first step and that Portland Cement had received the initial notice as had other property owners. He apologized if there had been a lack of information provided. He stated that the area had been in a redevelopment project area for some time. The issue was one of initiating a unification of property and the triggering of property rights as related to owners of property.

Mr. Grisham stated that once the UDA was adopted, the City would put out a proposal, which would go to the property owners affording owner participation rights to develop the property in a manner in keeping with the redevelopment plan. That proposal would be submitted to the Redevelopment Subcommittee to obtain authorization to pursue the proposal.

Ms. Heinrich urged that the lines of communication be opened. She added that California Portland Cement would like to sell the property.

Vice Chair Glynn closed the public hearing for Resolution 06-1138.

Member Parent reported that both as a member of the Subcommittee on the Redevelopment Agency and as a member of the Council, she had received copies of letters from legal counsel for California Portland Cement. She noted that two of those letters had been sent before the hearing. She understood the concern if Portland Cement was trying to sell the property, which could potentially be badly contaminated and explained that was the kind of area in need of development when creating a UDA.

Member Parent commented that she had learned nothing new at this meeting that she had not learned at the last meeting when the UDA had been adopted. She stated that there were now two letters from California Portland Cement legal counsel, along with Ms. Heinrich's testimony. With that additional information, she stated it was still appropriate to adopt the resolution.

On motion by Member Parent, seconded by Member Johnson to adopt Resolution 06-1138, carried by the following vote:

Ayes:	Casey, Johnson, Parent, Glynn
Noes:	None
Absent:	Kee [recused]

Chair Kee rejoined the Agency at this time.

### **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: June 26, 2006

Approved minutes dated June 26, 2006.

**ADJOURNMENT**

The meeting of the Redevelopment Agency adjourned at 7:59 P.M. to July 17, 2006.

Respectfully submitted,

Lillian J. Pride, Secretary

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**CITY OF PITTSBURG**  
**Pittsburg Power Company Minutes**  
**July 10, 2006**

Chair Michael Kee called the meeting of the Pittsburg Power Company to order at 8:00 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 Counsel - Existing Litigation pursuant to Section 54956.9(a) of the Government Code regarding Redevelopment Agency of the City of Pittsburg vs. Caprio et al, Contra Costa Superior Court Case No. C05-02426; and Conference with Real Property Negotiator pursuant to Section 54656.8 regarding APN 086-100-024.

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, Ruthann Ziegler  
Deputy City Clerk, Alice Evenson  
City Clerk, Lillian Pride  
Director of Engineering and Building, Joe Sbranti  
Director of Economic Development, Brad Nail  
Director of Public Works, John Fuller  
Director of Recreation, Paul Flores  
Police Lieutenant, Wade Derby

**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: June 26, 2006

Approved minutes dated June 26, 2006.

**ADJOURNMENT**

The meeting of the Pittsburg Power Company adjourned at 8:00 P.M.

Respectfully submitted,

Lillian J. Pride, Secretary

**CITY OF PITTSBURG**  
**Southwest Pittsburg Geologic Hazard Abatement**  
**District II (GHAD) Minutes**  
**July 10, 2006**

Chair Michael Kee called the meeting of the Southwest Pittsburg Geologic Hazard Abatement District II (GHAD) meeting 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 Counsel - Existing Litigation pursuant to Section 54956.9(a) of the Government Code regarding Redevelopment Agency of the City of Pittsburg vs. Caprio et al, Contra Costa Superior Court Case No. C05-02426; and Conference with Real Property Negotiator pursuant to Section 54656.8 regarding APN 086-100-024.

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, Ruthann Ziegler  
Deputy City Clerk, Alice Evenson  
City Clerk, Lillian Pride  
Director of Engineering and Building, Joe Sbranti  
Director of Economic Development, Brad Nail  
Director of Public Works, John Fuller  
Director of Recreation, Paul Flores  
Police Lieutenant, Wade Derby

**CONSIDERATION**

1. **RESOLUTION 06-015** Renewal of GHAD II District Manager/Geologist Agreement Through June 30, 2008

Executive Director Marc Grisham advised that Mr. William Wigginton had been serving as the District Manager/Geologist through a consultant agreement to provide those services. The agreement expired June 30, 2006, and the services needed to be continued. Mr. Wigginton was well qualified and had demonstrated competence in the last five years as District Manager/Geologist.

As to fiscal impact, the services were paid for entirely from the funds generated by the GHAD II assessments and were allocated in the yearly budget. The cost of services provided under the two year consultant agreement would not exceed \$26,000 a Year.

Mr. Grisham recommended the adoption of the resolution renewing Mr. Wigginton's service through Geolex Inc. as the GHAD II District Manager/Geologist through June 30, 2008 and authorizing the Executive Director to sign the contract to provide services.

On motion by Member Parent, seconded by Member Johnson and carried unanimously to adopt Resolution 06-015.

### **CONSENT CALENDAR**

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

- a. **MINUTES** Dated: June 26, 2006

Approved minutes dated June 26, 2006.

### **ADJOURNMENT**

The meeting of the Southwest Pittsburg Geologic Hazard Abatement District II adjourned at 8:03 P.M.

Respectfully submitted,

Lillian J. Pride, Secretary

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**CITY OF PITTSBURG**  
**City Council Minutes**  
**July 10, 2006**

Mayor Michael Kee called the meeting of the City Council to order at 8:04 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 Counsel - Existing Litigation pursuant to Section 54956.9(a) of the Government Code regarding Redevelopment Agency of the City of Pittsburg vs. Caprio et al, Contra Costa Superior Court Case No. C05-02426; and Conference with Real Property Negotiator pursuant to Section 54656.8 regarding APN 086-100-024.

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, Ruthann Ziegler  
Deputy City Clerk, Alice Evenson  
City Clerk, Lillian Pride  
Director of Engineering and Building, Joe Sbranti  
Director of Economic Development, Brad Nail  
Director of Public Works, John Fuller  
Director of Recreation, Paul Flores  
Police Lieutenant, Wade Derby

**PLEDGE OF ALLEGIANCE**

Mayor Kee led the Pledge of Allegiance.

Mayor Kee considered the following general items at 7:00 P.M. prior to pursuing the Redevelopment Agency agenda.

**PRESENTATION**

1. New Employee Introductions

Jennifer Garcia from the Human Resources Department advised that new employees would be introduced by the Department Head. She commented that the last quarter had been slow with respect to recruitments although the next quarter would be more active. She stated that the Department continued to pursue the hiring of the best qualified candidates based on the City's applicant pool.

Director of Engineer and Building Joe Sbranti advised that the Engineering Division and the Public Works Departments had been utilizing interns during the summer months to address the workload. He introduced three such interns at this time, all three of whom were graduates of Pittsburg High School (PHS) and all who were on their way to prestigious colleges.

Mr. Sbranti introduced Jacqueline Perez, a Metropolitan Transportation Commission (MTC) intern in the Transportation Division who would be attending the University of Southern California in the fall.

Mr. Sbranti explained that staff this year had approached PHS to solicit a recommendation for candidates for summer intern work. Two interns had been secured in that process. He introduced Javier Mendez, also working in the Transportation Division working on traffic studies and the GIS program. Mr. Mendez would be attending UCLA in the fall.

Mr. Sbranti also introduced Peter So, the PHS Valedictorian this year, who was working in the Development Division and who would be attending UC Berkeley in the fall.

The three interns each thanked the Council for the opportunity to work for the City during the summer months.

Mr. Sbranti added that the intern program was working well and would continue next summer when the City would again contact PHS to learn of top students who were interested in learning in a system that had been productive for both the students and the City.

Mayor Kee welcomed Jacqueline Perez, Javier Mendes and Peter So to the City.

### **COUNCILMEMBER REPORTS/REMARKS**

Councilmember Parent commented that it had been a pleasure to work on the Mayor's Ice Cream Social. She also advised that she had participated in the festivities associated with the delegation from Shimoneseki, Japan and had been pleased to help introduce members of the delegation to Bocce Ball and to help host those visitors at a luncheon and attend a tour of the Pittsburg Historical Society. She thanked Mr. Flores and the other members of the Council who had helped out with those activities.

Councilmember Parent reported that she had also attended the City's celebration of the Fourth of July working on behalf of a civic organization, Soroptimist International. She acknowledged the Mayor's commitment to that event when he had worked the dunk tank for an hour.

Councilmember Parent also updated the efforts to raise major funds for the Ferris wheel at Small World Park. She expected that the Ferris wheel would be financed within the next two years.

Councilmember Parent also advised that the Creative Arts Building (CAB) group was holding a concert this weekend at the Creative Arts Building, with a new piece of music composed by a jazz artist as a memorial to the Port Chicago explosion and aftermath. The concert was being underwritten through a private donation by a local businessperson. She noted that there would be a panel discussion before the concert at the Historical Society. The day after the concert more than 100 seats would be taken out of the Creative Arts Building for renovation. She added that in the future, Jefferson Airplane would perform in Pittsburg.

Councilmember Johnson reported that he had missed the last meeting because his son was married. He had otherwise attended the American Legion Veterans meeting, the car show and the dinner with the members of the Shimoneseki Sister City delegation.

Vice Mayor Glynn stated that he had attended the Ice Cream Social, the Fireworks display, the dinner at the new Chili's restaurant with the delegation from Shimoneseki and had participated in the delegation's tour of portions of the City and Los Medanos College (LMC). He had also attended the Mayors Conference and had presided over the American Legion meeting.

Councilmember Casey reported that he had attended the Ice Cream Social and the Farmer's Market.

Mayor Kee advised that the annual Ice Cream Social had been well attended and was a great success. He had also participated with the Soroptimists over the Fourth of July in the dunk tank. He commented that little kids had done better at hitting the mark to dunk him than the adults had.

Mayor Kee also reported on the activities associated with the delegation from Shimoneseki, Japan. He took this opportunity to thank Mr. Flores for his work in that regard and thanked all members of the Council for being available to allow members of the delegation to meet each member of the Council. He added that the visitors from Shimoneseki had experienced Bocce, visited the Swim Center, viewed model homes in the community, enjoyed local restaurants, visited the Historical Museum and toured Los Medanos College.

Mayor Kee also reported that he had attended the opening ceremonies for the Junior Giants Little League Baseball Program at the Boys and Girls Club.

## **CITY MANAGER REPORTS/REMARKS**

City Manager Marc Grisham identified special events as follows:

- Car Show – Thursday, July 13 – 6:00 to 8:00 P.M.
- Old Town Farmers Market – Saturday, July 15 - 9:00 A.M. to 1:00 P.M.
- Port Chicago Remembrance Concert - Saturday, July 15
- Splash Dogs at the Marina Boat Ramp – July 15/16 - 11:00 A.M. to 5:00 P.M.

- Old Town Sounds – Central Harbor Park - July 16 - 4:00 to 6:00 P.M.

## **CITIZEN REMARKS**

SCOTT BERNARDI, Antioch, speaking on behalf of Gateway Christian Center, a local church located behind the Loveridge exit and behind Starbucks, identified a zoning problem. He explained that the location of the building in which the church held its services had been designated a commercial area and that religious assembly was not allowed at that location. He requested to be placed on the agenda of a future Council meeting to discuss that issue.

Mr. Bernardi stated that the church had met all requirements for fire permits, Title 24 sections, had communicated with the Fire Protection District, been approved and that all permits had been issued. He stated that the Religious Land Use and Institutionalized Persons Act (RLUIPA) stated that no government shall impose or implement a land use regulation in a manner that treats religious assembly or institution on less than equal terms with a non-religious assembly or institution.

Mr. Bernardi stated that next door to the building in which the Gateway Christian Center was located was a DUI school, which was allowed to hold public assemblies eleven times a week. He stated that Gateway conducted two regular services twice a week; a woman's Bible study and other odd services at various times. He explained that the City's Planning Department advised that the DUI school was allowed because it was classified as personal improvement although Gateway was not allowed to have assembly because it was classified as religious assembly. He suggested that was in direction violation of RLUIPA, which had been adopted by the US Congress in 2001.

Mr. Bernardi sought equal treatment under the law and wanted to continue church services at that location.

Mayor Kee advised that the appropriate method would be to make application to the Planning Department. He recommended that Mr. Bernardi discuss that issue with Planning Director Melissa Ayres or with the City Manager.

LAMONT LANKFORD, Pittsburg, requested that the Gateway Christian Center be placed on an upcoming City Council agenda. He stated that in relation to severe government interest, compelling arguments relating to the effect of traffic, parking or environmental issues provided the government with certain restrictive powers on a number of cases. He stated that the church activities would not impose traffic, parking or environmental issues. He cited case law to indicate that the church would have to be allowed at the subject site under the RLUIPA.

Mr. Lankford commented that in relation to taxes, City planning staff had informed Gateway Christian Center on four separate occasions that historically churches generally eroded and deteriorated the City of Pittsburg.

Mr. Lankford questioned how an institution which offered drug, marriage, financial, family and self-help counseling could possibly erode and deteriorate the City. He stated that the church worked towards the rebuilding and sustaining of the people who made up the community. He cited other case law to indicate that cities could not deny land or property usage based on taxes. He also stated that RLUIPA specifically stated that city planning departments could not generally exclude religious assembly from zones but that such assembly shall be presented to the City Council for review on a case-by-case basis.

Mr. Lankford found it disheartening and troubling to know that City officials and employees would indicate that a church was tarnishing the City's image. He asked that the Gateway Christian Church to be added to a Council agenda in the immediate future.

DEE DEE KRAMER, a Pittsburg businessperson, cited other examples of case law to demonstrate that the denial of assembly based solely on the mediating variable of religion was unlawful. She stated that Gateway Christian Center did not desire any special treatment. It simply wanted to be approved in accordance with federal regulations concerning the right to assembly.

Ms. Kramer listed the credentials of Gateway Christian Center's pastor. She stated that church members embodied the same core values as the City Council, of integrity, respect, pride, trust, partnership, commitment and continuous learning and that members wanted to be a part of the change in the City to promote continuous learning and growth and to do its part to help the City reach its goals.

DR. JOE HERNANDEZ, Brentwood, speaking for Gateway Christian Church, requested to be placed on a future City Council agenda for a public hearing. He described the church's effort to purchase property in three different parts of the City along Railroad Avenue, Leland and Harbor Street and on Garcia Avenue, although he suggested that all three sites had been denied by the City for application. He stated that the church had also been advised by planning staff that Pittsburg was a very unfriendly church community. From a family with long-standing ties in the community, he disagreed that was the view of the City Council or the general consensus of the population of the City.

Dr. Hernandez stated that his right to a public hearing had been denied on four separate occasions. He emphasized that Gateway Christian Center owned the building and that parking was available to comply with the parking code of one stall for every four seats. With 200 people in the congregation, while 50 parking stalls surrounding the area would be required, there were 140 parking stalls surrounding the area with eight handicap spaces. He reiterated the request for a public hearing to consider the matter.

City Manager Grisham clarified the process. He stated that there should be no discrimination against religious institutions and that religious institutions should be treated the same as all other institutions when related to land use planning and use. He offered some background to the situation and read a July 14, 2004 letter that had been addressed the Business License Department, Pittsburg, California.

“Dear Honorable Business License Personnel. The purpose of this letter is to inform you of our intention for applying for a business license with the City of Pittsburg. Our primary use will be for an administrative office for Gateway Christian Center. We will also conduct some counseling for our members within the office area. We plan on using the warehouse area as broadcasting and recording studio. This will not be a commercial motion picture facility open to the public. Our intent is to use the studio on an intermittent basis totaling approximately ten hours a week. If you have any questions about our church, check out our web site or the e-mail address or the cell phone. We look forward to working with you, thank you for your time. God bless you. Very respectfully, Dr. Joe Hernandez, Senior Pastor.”

Mr. Grisham stated that when the project started there had been some assumptions based on the letter that the location would not be a site for group assembly. He advised with respect to the process for all uses of assembly, that an application should be filed with the Planning Commission, which would hear all issues related to land use first. Based upon the Commission’s recommendation, the item would then be referred to the City Council. He stated that application should be filed and staff should accept that application and the application should be forwarded to the Planning Commission for the appropriate public hearing. If the outcome of that public hearing was not acceptable to any parties, that decision could be appealed to the City Council which would make the final decision.

City Attorney Ruthann Ziegler confirmed the process described by the City Manager and stated that the applicable federal law was the previously referenced RLUIPA, which prohibits discrimination against religious institutions, although it did not prohibit a city from following its usual processes that would followed for group assembly. With any group assembly, she reported that the City had to be concerned about life safety and health issues related to building code compliance, number of persons, number of parking, compliance with zoning codes, the General Plan, and others.

Mr. Grisham stated that if the appropriate materials were filed by the church, an application would be processed expeditiously and be moved forward to the Planning Commission.

EDDIE HART, Pittsburg, described an event that had occurred the last weekend in June when his son, through the Eddie Hart All In One Foundation, had put on a concert in the City. He had been disappointed at that time in that the concert had received no coverage whatsoever. He explained that over 1,000 kids from the community had attended the concert, there had been no incidents and he thanked the City of Pittsburg Police Department for handling the event, even though that Department had not initially been aware of the event. He emphasized that the youth of the community were starving for that type of event and he urged the City to support activities of that nature.

Mr. Hart took this opportunity to invite members of the City Council to a luncheon in connection with the Eddie Hart Olympic Track and Field/Education Clinic, to be held on July 29. He was appreciative of the role played by the City and the support offered to him.

Mr. Hart added that the Olympians were ready to come to the city and to share what they had to offer to the youth of the community. He encouraged the Council to attend the luncheon and to invite other members of the community to support the dinner.

Mr. Grisham stated that in the future the Eddie Hart events would be included on the City's e-news. For the benefit of the audience, he stated that residents could sign on to the City's website and subscribe to e-news so that all press releases and all community events could be provided through electronic mail.

Mayor Kee adjourned to the Redevelopment Agency agenda at 7:44 P.M. and reconvened as the City Council at 8:04 P.M.

## **PUBLIC HEARING**

### 1. **RESOLUTION 06-10586** Approval of Modified Fire Line Water Service Fee Implementation

City Manager Grisham reported that the City adopted new water and sewer rates in May 2005 and Public Works and Finance Department staff had been implementing the new service charges over the past year. Fire line water service charges were one of the last of these new or revised fees to be implemented. Fire line service charges had met with the greatest amount of customer dissatisfaction of all new water and sewer fees to date.

If adopted as recommended, the amended fire line water service rates would result in an estimated Water Fund revenue loss of \$496,162 in the first year. The accumulated revenue loss of the phased implementation was estimated at \$1,364,189 through 2008 when the City Council would need to reconsider previously adopted rates and a new rate study would be warranted. During this same three-year period, the Water Fund would still receive nearly \$5,000,000 in additional revenue for water system capital improvements as a result of all rate increases adopted in May 2005, including the amended fire line service charges.

The fire line service phased implementation would result in less revenue to support the City's aggressive Capital Improvement Program (CIP) intended to address years of deferred maintenance in the water treatment and distribution systems. Staff was still evaluating water system improvement needs, planning projects, preparing project estimates and establishing project priorities for the various water system improvements that needed to be undertaken.

The approximately twenty percent decrease in CIP revenue in the three years could reasonably be accommodated and would still leave the City with significantly more expenditure capacity than had historically been available. Therefore, staff believed that the tiered implementation of fire service line charges would not create an undue hardship on the water fund or the water system improvement and rehabilitation program.

Mr. Grisham recommended the adoption of the resolution amending fire line water

service rates previously adopted on May 16, 2005, which would reduce the fire line service charges in a phased approach and the initial fee would be 20 percent of the originally recommended fee. Over time there would be an increase in the fee of 10 percent per year. He expressed the staff assertion that the process and the fees were defensible. He otherwise acknowledged that there were issues related to the fees with respect to correct sizing and lines going into the buildings, issues related to private hydrants that should be public, and other issues that staff was working to resolve.

In response to the Vice Mayor as to the proposed reduction and phased fee increase, Public Works Director John Fuller stated that theoretically the 10 percent annual increase would continue until the fee would be increased to its full amount, which would take eight years. As a result, a comprehensive rate review would likely take place prior to the end of that time which could alter that process or leave it as is.

Mr. Fuller stated that the current rate established by the ordinance already adopted provided the inflationary increases for three more years when another rate review would be conducted anyway. At that time, the fire service charges would be only 40 to 50 percent of the original recommendations.

Vice Mayor Glynn referred to fire systems, noted the service provided for those who had paid to have those fire systems installed in new buildings, and recognized that as a requirement mandated by the Contra Costa County Fire Protection District (CCCFPD). He referred to the issues related to the size of the fire line at various points prior to distribution and where the charges would apply, as well as who was servicing the fire system. He commented that most installations had no meter on the fire system itself. He wanted to know where the money was going, who was paying for the service, and what service was being provided.

In response, Mr. Fuller referred to the staff report and described the size reduction and/or appeal process earlier identified and of which customers had been made aware. As to the services that the fire lines offered, he stated that every service in the City, domestic or otherwise, benefited from certain fixed City charges. He noted, for example, that a domestic water service 10 inches in size providing half a million gallons a month to a business required a monthly water read. The cost of providing meter reading to that type of business or to a residential customer was the same. He explained that there were many costs in the system not driven by the amount of water used but driven by the system itself. Therefore there were fixed charges and non-fixed charges.

Mr. Fuller explained that all of the service connections in the City were reduced to an equivalent three quarter inch single family meter size, and then the size of the meter's capacity to deliver water was multiplied by the cost of one three-quarter inch meter, which was how the larger meter services were determined. Four inch fire lines, for instances, received the same equivalent charges times the number of three-quarter inch services represented. As such, every meter in the system had to bear the fixed cost in the system that existed whether a drop of water was delivered or not.

That cost represented the cost of maintaining the plant, the cost of keeping

reservoirs full even if no water was being distributed. It was noted that fire line services represented the smallest piece of the fixed cost attributed to every meter in the system multiplied by the difference in size from a three-quarter inch meter.

In further response to the Vice Mayor, Mr. Fuller stated that in 10 years it was expected that the rates would balance out costs, although another rate study would be done during that time period and some of the costs might be shifted in different directions. He stated that the City had not conducted a comprehensive rate study of that kind for decades. He had worked for the City for eight years and had started the process four years ago.

Vice Mayor Glynn was concerned because as the City was trying to bring businesses into the City the fire line water service fee could serve as a deterrent to a business locating in the City. He emphasized that as an issue.

Mr. Fuller expressed his opinion that the City's rate structure was defensible and relatively equivalent to the biggest water provider in the area, the Contra Costa Water District (CCWD).

As to the cost of potable water versus recycled water for providing water to water mains in further response to the Vice Mayor, Mr. Fuller stated that the recycled water price quoted by the Delta Diablo Sanitation District (DDSD) was significantly less than the water from the CCWD, with a quarter of the price, although in order to be able to put recycled water into fire mains there had to be a dual system, which the City did not have. He explained that the cost of that infrastructure was prohibitive.

Mr. Grisham added that the issue was not just a dual system, it was one of exposure. When using reclaimed water warning signs had to be posted, staff had to limit contact with reclaimed water, and discussions would have to occur with the CCCFPD to determine what impact that would have on a firefighter who had excessive exposure to reclaimed water.

Vice Mayor Glynn was concerned with the magnitude of the increase. He had no problem with the cost of inflation but with the 10 percent increase over the years.

Councilmember Johnson suggested that every sprinkler system was essentially the same.

In response, Assistant Public Works Director Walter Pease reported that the system going into the building was usually four to six inches dependent upon the number of heads on the circuit.

In response to Councilmember Johnson as to the pressure it would take to push the water through into the system in a building the size of City Hall, Mr. Fuller explained that the pipes would be larger when tracked back to the street.

Mr. Fuller added that professional fire line companies would do calculations to get

the lines down to 2 inches. Without those calculations, the CCCFPD would look for any sprinkler system to be four inches in size.

Mr. Fuller stated that the same thing would apply with residential houses that might need fire sprinklers. He explained that if a house was situated down a private road or reasonably far removed from a fire hydrant, a fire sprinkler system would be required in lieu of installing a hydrant close to that house. For a single family house using a combined service, he stated that the domestic could be taken out of the same service as the fire. A single family house with combined services were in the one to one and a half inch size.

If approving the staff recommendation, Councilmember Johnson asked how long it would take for credits to be applied to the affected ratepayer.

Mr. Fuller stated that if adopted, the charges would be at the new rate, which was 20 percent of the original rate. The new rate would be applied to the bill and any overages would be credited to the bill until the overpayment had been completely paid back.

Councilmember Casey stated that two to three meetings ago he had made a simple request for facts. He characterized the staff report as vague and confusing. He wanted to know what the fire fees were offering since that would have made it easier for him to understand what people were paying for fire service and what benefit was being provided. He did not understand the service and he expressed concern with the costs involved. He noted that a four inch line, which was \$155, would now be reduced to \$31. He questioned what the \$31 would be used for. He reiterated his request for a list of businesses in the City and what each business was paying for fire service.

Mayor Kee noted his understanding that the business owners were paying for the fact that the City had to have the water available if it was ever wanted or needed.

Councilmember Casey asked if the service went to the CCCFPD.

Mr. Grisham explained that the study had included the information but was not a simple rate study. He used the analogy of paying for an alarm service that might never go off and if it did, people would respond. The fire service charge related to a whole fixed system that the City had to maintain with sufficient pressure, with valves, and where the hydrants were cleaned out on a regular basis in a system that had to provide enough capacity to handle a fire in commercial buildings.

Mr. Grisham explained that in some cases the fire lines to buildings were significantly larger in size than required. When the issue had been presented to the City, the City had recalculated the fees. When recalculated he suggested that the numbers would be reduced significantly. Since recalculation took time and in recognition of the concerns from those affected by higher fees, a reduction of a fee that had already been approved had been recommended, by 80 percent. In the meanwhile, staff would work with those affected, where those fees could be reduced even further.

Anything paid up to that point would be credited back to the ratepayer.

Mayor Kee opened the public hearing for Resolution 06-10586.

MIKE STOIBER, President of the Pittsburg Chamber of Commerce, spoke to the fire service fees and distributed a handout to identify the rate structures of Brentwood and the Contra Costa Water District, which he described as simplified. He stated that the Brentwood rate was \$1 per inch times 2. In the case of a 6-inch main, the Brentwood charge would be \$12 monthly. For the Contra Costa Water District, the charge was 11 cents per day on a 6-inch pipe, or approximately \$6 a month billed bimonthly. He suggested that the cost of flushing the fire hydrants in the City should be a cost shared by all ratepayers. He suggested that some charges were being applied to just a small percentage of businesses in the community because those businesses were required by ordinance to install a fire sprinkler system.

Mr. Stoiber stated that the business community opposed the fire line water service fee. He requested that the Council delay action on the item and pursue further evaluation and consider a more equitable charge.

BOB GARRISON, Sierra Pacific Properties, Pittsburg, noted that the company managed five shopping centers in the City along with a number of industrial buildings that were all sprinklered. He noted that their leases were in most cases triple net leases where all expenses were passed on to the tenants. He was concerned how the fee would affect those tenants. He urged the Council to reconsider the fees and he questioned how the fee would be administered and billed.

Mr. Fuller explained that common services such as would serve a shopping center would have one main fire line. The property owner would be billed in that case. He added that Sierra Pacific Properties had attended the meetings and there had been discussions with that company, which had indicated no concern at that time of passing the increase on to the leases.

BOB BERGER, San Mateo, the owner of the Pittsburg Towne Center, expressed concern for the confusing proposal. He questioned what the money would fund. He requested a continuance of the discussion and emphasized the need to uncomplicate the proposal, make it as simple and possible and communicate directly and understandably to those affected by the fees. He suggested that tenants would be leaving due to the cost of the fee. He supported something fair and equitable and he urged better communications in the process.

MARY MORRIS, Oakley, representing Central Valley Tire Service, referred to the fair implementation of the charges. She noted that some businesses had been charged for fire line service while others had not. She supported something fair across the board.

NOEL BURT, Antioch, noted that he had been talking to a lot of businessmen in the community.

Mr. Burt suggested that the money being generated by the fee would be used by the

City to balance the budget. He agreed that businesses would be leaving the City because of the increased costs of doing business in the City.

STAN DAVIS, Pittsburg, spoke to the issue of equity and noted that there were a number of places in the City that were not paying for the service. While he did not object to an increase, he suggested that the process was incorrect. He noted that residential and commercial uses benefited from upgraded capital improvements. He suggested that the situation was unnecessarily complicated. He explained that his bill had increased from \$160 to \$2,500 and he had lost a tenant because of that. He asked that the fee be based on consumption. He had seen nothing from the City that reasonably explained the fees and their purpose.

Mayor Kee closed the public hearing for Resolution 06-10586.

Councilmember Parent commented that she had read the engineer's report. She referred to the system that was paid for by households but benefited only businesses, which had been split off and a charge made to businesses for their portion that was servicing only them and which had then provided a reduction to the households which for the last 30 years had borne the cost of maintaining the system. She stated that had all been included in the report. She commented that approximately 15,000 residential units in the City had received reductions in water bills because the businesses now had to pay their fair share.

With respect to process, Councilmember Parent stated that given the preparation of the report and the knowledge that businesses would be affected, meetings had been held at the Chamber of Commerce. She verified that Sierra Pacific Properties had attended the meeting with the Chamber of Commerce. She commented that the notice of the proposed fee had gone out through the Chamber of Commerce. She also commented that anyone could get a Council agenda and be apprised of all items to be considered by the Council. She explained the public hearing process and noted that few people had attended the public hearing on the item.

To clarify the point, Mr. Fuller advised that there had been one meeting at the Chamber of Commerce and two meetings at City Hall to discuss the matter.

Councilmember Parent re-emphasized the process, stated that the proposal that had been made to cut back on the fee would mean that over a period of several years there would be \$1 million less to maintain the water system that serviced the community while figuring out whether businesses should, in fact, have the size of service that was existing. She emphasized that process would take cooperation, which cooperation had been offered two months ago. She added that two months ago she had arranged for copies of the report to be given to some businesses.

Councilmember Parent recognized that people did not want to pay more than he/she

had to pay. She stated that the City provided a service and charged for that service, and tried to charge only the City's cost and to apportion the charges between the users of the service fairly. She emphasized that in all the process conducted to date, no one had indicated that the report establishing the fees was faulty.

In response to Councilmember Johnson, Mr. Fuller explained that there was no billing for the water take in the event of a fire in that every customer in the system absorbed the water lost in fighting a fire.

Councilmember Casey referred to some businesses with fire service and some without. He characterized the system as unfair.

Councilmember Johnson clarified with staff that a no vote on the resolution would mean that the previously approved action requiring a 100 percent fire line water service fee would remain in effect.

Councilmember Parent moved the adoption of the recommendation from staff to reduce the fire service charge to 20 percent of the original charge, with credits for all overages and that the charge be increased annually.

Councilmember Casey suggested that rather than an automatic annual increase, pending a new study that the 20 percent charge be applied at this time with a status report in a year. He reiterated that he needed to know the difference between fire service and water service.

Councilmember Parent had no objection to coming back to the Council next year and no objection to having the situation returned to the Council in eight months. She wanted people to know that he/she was receiving an 80 percent discount for something that was justified. She supported an automatic adjustment with an eight month review by the Council.

On motion by Councilmember Parent, seconded by Councilmember Casey and carried unanimously to adopt Resolution 06-10586 with the staff recommendation subject to a review of the automatic increase in eight months.

Mr. Grisham clarified that the update in eight months would include not only what had been done in terms of adjusting facilities downward based on assessments subject to information provided, but would include information related to the fire equity issue.

Councilmember Parent urged staff to meet with the Chamber of Commerce. She did not feel that a letter needed to be sent to every business with a fire service meter. Within six months she requested that business people in the community be educated about the City's water system.

Councilmember Johnson urged members of the public to talk to the Public Works

Director to address the issues.

## **CONSENT CALENDAR**

On motion by Councilmember Parent, seconded by Vice Mayor Glynn and carried unanimously to adopt the Consent Calendar, as follows with the removal of Item j, and with an amendment to the minutes to correct the time in the middle of the first page changing 7:17 P.M. to 6:00 P.M.

- a.     **MINUTES**                             Dated: June 26, 2006
- Approved minutes dated June 26, 2006.
- b.     **CLAIMS**                             #1712, Philip Liborio Gangi; #1714 Bishop D.O. Jones;  
#1717 Anthony Ferrell; #1719 Yvonne and Lucio  
Iniguez; #1721 Edgar Ramirez
- Denied claims #1712, Philip Liborio Gangi; #1714 Bishop D.O. Jones; 1717 Anthony  
Ferrell; #1719 Yvonne and Lucio Iniguez; and #1721 Edgar Ramirez
- c.     **ORDINANCE 06-1264**     Adoption of an Ordinance to Prezone Applicable  
Portions of the Mirant Power Generation Plant  
Annexation Project Area (RZ-02-13)
- Adopted Ordinance 06-1264.
- d.     **ORDINANCE 06-1265**     Adoption of an Ordinance to Amend Chapter 18.84 of  
the Pittsburg Municipal Code to Regulate the Storage of  
Coke, Coal and Sulfur
- Adopted Ordinance 06-1265.
- e.     **RESOLUTION 06-10587**     Request to Adopt the New Classification of Lead Police  
Records Clerk
- Adopted Resolution 06-10587.
- f.     **RESOLUTION 06-10588**     Approval of City Manager Employment Agreement
- Adopted Resolution 06-10588.
- g.     **RESOLUTION 06-10589**     Award FY 2006/07 Purchase Contract for Fuel Supplies
- Adopted Resolution 06-10589.
- h.     **RESOLUTION 06-10590**     Authorizing Allocation for FY 2006-07 Temporary

## Housing Relocation Program

Adopted Resolution 06-10590.

- i. **RESOLUTION 06-10591** Adopt County Standard Utility Trench Detail

Adopted Resolution 06-10591.

- k. **RESOLUTION 06-10592** Accepting as Complete Contract 02-07; Marina Dock Replacement Project (Phase II), and Approving Consultant Agreement Amendment Number 4 with Concept Marine Associates, Inc.

Adopted Resolution 06-10592.

- l. **RESOLUTION 06-10593** Approving Application to the Local Grant Program Under the East Bay Regional Park District, Regional Open Space, Wildlife, Shoreline, and Parks Bond Ordinance Phase I for the City Park Soccer Field Project

Adopted Resolution 06-10593.

The following item was removed from the Consent Calendar for discussion.

- j. **REPORT** Receive and File the Quarterly Investment Report as of March 31, 2006

In response to Vice Mayor Glynn as to who was required to fill out and submit the report, the Treasurer or the Chief Fiscal Officer, Mr. Grisham reported that the Treasurer signed off on the report and the City's Chief Financial Officer, the Finance Director, prepared the report.

On motion by Vice Mayor Glynn, seconded by Councilmember Johnson and carried unanimously to receive and file Quarterly Investment Report as of March 31, 2006.

### **ADJOURNMENT**

The City Council adjourned at 9:19 P.M. to July 17, 2006.

Respectfully submitted,

Lillian J. Pride, City Clerk

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