

CITY OF PITTSBURG
Redevelopment Agency Minutes
June 4, 2007

Chair Ben Johnson called the meeting of the Redevelopment Agency to order at 7:43 P.M. in the City Council Chambers at City Hall, 65 Civic Avenue, Pittsburg, California after having convened for Commission Applicant Interviews at 5:02 P.M. and into Closed Session at 6:30 P.M. for Conference with Legal Counsel – Existing Litigation pursuant to Section 54956.9 (a) of the Government Code regarding Gloria Vaughn, et al vs. City of Antioch, et al, Contra Costa Superior Court Case Number C0-00045; and Conference with Legal Counsel – Anticipated Litigation pursuant to subdivision (b) of Section 54956.9 regarding one case.

Chair Johnson advised that no reportable action had taken place in Closed Session.

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

MEMBERS ABSENT: None

STAFF PRESENT

- Executive Director, Marc Grisham
- Assistant Executive Director, Matt Rodriguez
- Legal Counsel, Ruthann Ziegler
- City Clerk, Alice Evenson
- Director of Housing and Community Programs, Annette Landry
- Director of Engineering and Building, Joe Sbranti
- Director of Economic Development, Brad Nail
- Director of Redevelopment, Randy Starbuck
- Director of Public Works, John Fuller
- Director of Recreation, Paul Flores
- Director of Planning, Melissa Ayres
- Director of Finance, Marie Simons
- Chief of Police, Aaron Baker

PUBLIC HEARING

Mayor Johnson CONVENED JOINTLY the CITY COUNCIL and the REDEVELOPMENT AGENCY to consider the following.

1. **RESOLUTION 07-1196** Authorize the Executive Director to Execute an **Combined w/CC 07-10776** Amended and Restated Lease Agreement By and Between John Phair dba EJ Phair Brewing Company and the Redevelopment Agency of the City of Pittsburg

City Manager Marc Grisham advised that on September 5, 2006, the Agency Board approved the acquisition of 190 East Third Street (APN 085-108-010) for the purpose of making a portion of the property available to John Phair dba EJ Phair Brewing Company.

On November 27, 2006, the Agency and EJ Phair entered into the original Lease Agreement for lease of the premises, commencing as of December 1, 2006. Due to increased building improvement costs, the original Lease Agreement had been amended and restated for approval.

Mr. Grisham noted that initially there was just going to be the brewery with a small tasting room. EJ Phair was now moving forward with a full restaurant as part of the project.

EJ Phair would pay the Agency \$92,475 a year in lease payments for the first year for the Lease Agreement. The lease payments would escalate at 3 percent per year. In the eleventh year, the lease payments would adjust to the then current market rate. The Agency would pay up to \$1,350,000 in tenant improvements to the building and \$580,000 in kitchen improvements and fixture purchases in the form of a 3 percent loan to be repaid starting the 25th month. The original Lease Agreement contained a \$350,000 tenant improvement fund and \$180,000 loan. The majority of the Agency costs would be incurred during the initial term of the Lease Agreement. The costs of the proposed Lease Agreement were more particularly described and analyzed in the report prepared in accordance with Section 33433 of the California Health and Safety Code attached to the staff report dated June 4, 2007. The costs shall be paid from tax increment revenues.

It was recommended that the Agency Board and City Council conduct the public hearing, receive comments and close the public hearing; and that the Agency Board authorize the Executive Director to execute the Amended and Restated Lease Agreement on behalf of the Agency and authorize the Executive Director, with concurrence of the Agency's legal counsel, to make minor modifications to the Lease Agreement as allowed in the Lease Agreement and as may be necessary.

Mayor Johnson opened the public hearing for Redevelopment Agency Resolution 07-1196 and City Council Resolution 07-10776. There was no one to speak. Mayor Johnson closed the public hearing for Redevelopment Agency Resolution 07-1196 and City Council Resolution 07-10776.

On motion by Member Kee, seconded by Vice Chair Casey and carried unanimously to adopt Redevelopment Agency Resolution 07-1196.

On motion by Councilmember Kee, seconded by Vice Mayor Casey and carried unanimously to adopt City Council Resolution 07-10776.

2. **RESOLUTION 07-1208** Approval of a Lease and Two Loan Agreements By
 Combined w/CC 07-10800 and Between the Redevelopment Agency of the City
 Combined w/RDA 07-1209 of Pittsburg and Pacific Plaza Imports, Inc. to Lease and
 Renovate the Property at 675 Railroad Avenue

3. **RESOLUTION 07-1209** Approval of a Lease and Two Loan Agreements By
 Combined w/CC 07-10800 and Between the Redevelopment Agency of the City
 Combined w/RDA 07-1208 of Pittsburg and Pacific Plaza Imports, Inc. to Lease and
 Renovate the Property at 675 Railroad Avenue

Mr. Grisham advised that the Redevelopment Agency of the City of Pittsburg entered into a long term lease agreement for the property at 675-695 Railroad Avenue in March 2005 in order to attract The Mechanics Bank and other commercial tenants to the property. The remaining 3,400 square feet of retail space at the property is vacant and in need of rehabilitation. Agency staff has negotiated lease and loan terms with a gourmet food and drink retailer to lease and rehabilitate the remaining 3,400 square feet of ground floor retail space at the property. The Agency is being requested to approve the proposed lease and loan agreements.

Mr. Grisham added that the loan agreement had been structured with a construction draw schedule to ensure that payments were made in an appropriate manner and that whenever they were tied to inventory and fixtures, the specific inventory and fixtures were noted as part of the lease document.

The fiscal impact for the project would be up to \$1,032,000 from tax increment Reserves; up to \$850,000 in loan funds; and up to \$182,000 for tenant improvements.

Mr. Grisham recommended that the City Council and Agency Board conduct a public hearing and adopt the resolutions approving the proposed lease and loan documents.

Mayor Johnson opened the public hearing for Redevelopment Agency Resolutions 07-1208 and 07-1209 and City Council Resolution 07-10800.

MARK BOLOURIHI of Pacific Plaza Imports, Inc., stated that he wanted to bring a world class gourmet and specialty food business to the City, to be a destination for those outside of the City. He looked forward in participating in City events and functions in the downtown. He took this opportunity to thank staff for the creation of the venture.

Mayor Johnson closed the public hearing for Redevelopment Agency Resolutions 07-1208 and 07-1209 and City Council Resolution 07-10800.

On motion by Member Evola, seconded by Vice Chair Casey and carried unanimously to adopt Redevelopment Agency Resolution 07-1208.

On motion by Member Evola, seconded by Vice Chair Casey and carried unanimously to adopt Redevelopment Agency Resolution 07-1209.

On motion by Councilmember Evola, seconded by Vice Mayor Casey and carried unanimously to adopt City Council Resolution 07-10800.

TIMI TUMBAGA, Pittsburg, presented items to the City Council in celebration of the opening of Pacific Plaza Imports, Inc. and invited everyone to the ceremony for the groundbreaking of the Promenade on Saturday where Pacific Plaza Imports' delicacies would be featured.

4. **RESOLUTION 07-1210** Approving Amendment #4 to the Disposition and
Combined w/CC 07-10801 Development and Loan Agreement By and Between the
Redevelopment Agency of the City of Pittsburg and
Gateway Mixed Use Development, a California Limited
Partnership, Authorizing an Additional \$675,000 for the
10th/Cumberland Infrastructure Account, Contract 2006-
05 Gateway Off-site Improvements Plans, and Contract
2006-05B Gateway Underground Utility Project; as Well
as Approving the Developer as Agent for Off-Site and
Tenant Improvements Not to Exceed \$3,110,000;
Authorizing the Executive Director to Reallocate
Remaining Balances; Authorizing the City Engineer to
Approve a Percentage of the Construction Contingency
Budget; and Accompanying City Council Resolution.

Mr. Grisham advised that the item pertained to the mixed-use building currently under construction at the Northeast corner of East Tenth Street and Railroad Avenue. This action allocates funding necessary for certain off-site and utility underground improvements necessary for the Gateway Project. Additionally, this action authorizes Domus Development LLC, a California limited liability company, a general partner of the developer of the Gateway Project, to act as the Agency's limited agent to construct the off-site component and certain tenant improvements to be constructed and installed within a portion of the ground floor of the Gateway Project which the Agency intends to lease to the City of Pittsburg Housing Authority. He anticipated that the building would be open by September 2007.

Through this action the Agency would allocate an additional \$675,000 for the Gateway Project for the Off-Site Component. The current approved budget for Gateway Off-Site Component is \$2,050,000. Staff requests that an additional \$675,000 of new funding be budgeted for the 10th/Cumberland Infrastructure Account to allow for the newly identified utility underground improvements. The Off-Site Component budget would then total \$2,725,000, consisting of \$1,840,000 for the Off-Site Improvements, and \$885,000 for the Underground Utilities Improvements. The Tenant Improvement costs of \$950,000 were previously allocated in December 2006.

Under the Third Amendment, the Developer was authorized to expend \$250,000 as agent for the Agency for the Agency Component. Under the Fourth Amendment, the Agency would authorize Domus to act as agent for the Agency for the Off-Site Component, the Agency Component, and the Housing Authority Component. Thus, the total reimbursement to and the developer for acting as the agent of the Agency would be \$3,360,000. This reimbursement is comprised of the original \$25,000 authorized in December 2006 (pursuant to the Third Amendment), plus the current activities of \$1,480,000 for Off-Site Improvements, \$775,000 for Underground Utility Improvements, and \$855,000 for Housing Authority Tenant Improvements the Agency shall pay in accordance with the Fourth Amendment.

A summary of the funding for the Off-Site Improvements, Utility Underground

Improvements, Tenant Improvements, Developer acting as Agent for the Agency, the total Project Budget, and a summary of the Total Project Budget were identified in the June 4, 2007 staff report.

Staff recommended that the Agency Board adopt a resolution approving: the additional funds for the 10th/Cumberland Account Incorporating the new Underground Utility Improvements as part of the Off-Site Improvements Component; authorizing an increase in budget for the Off-Site Component, from \$2,050,000 to \$2, 725,000; authorizing Domus to act as agent for the Agency for the Off-Site Component, the Housing Authority Component, and the Agency Component, not to exceed \$3,360,000; authorizing the Executive Director to reallocate remaining balances from all four projects relating to the Gateway Project construction (2005-04, 2006-05, 2006-05B, and 2006-13) to be used where appropriate or necessary; authorizing the City Engineer to have the ability to approve the use of up to 50 percent of the construction contingency budget, wherein above fifty percent approval is contingent the Executive Director; and authorize the Executive Director to execute the Fourth Amendment and take such further action as necessary to implement the Fourth Amendment.

It was recommended that the City Council adopt a resolution regarding the Fourth Amendment in accordance with the Redevelopment Law.

Councilmember Parent calculated the contingency for the additional construction at 25 percent which appeared to be high.

In response, City Engineer Joe Sbranti stated that would be reevaluated although with underground projects, as was the case with the subject development with off-site work with the digging up of old infrastructure, the contingency was kept high. Any leftover funds would be pushed back into the project. No contingency was authorized until it was proven that the funds were needed.

Mayor Johnson opened the public hearing for Redevelopment Agency Resolution 07-1210 and City Council Resolution 07-10801. There was no one to speak. Mayor Johnson closed the public hearing for Redevelopment Agency Resolution 07-1210 and City Council Resolution 07-10801.

On motion by Member Parent, seconded by Member Kee and carried unanimously to adopt Redevelopment Agency Resolution 07-1210.

On motion by Councilmember Parent, seconded by Councilmember Kee and carried unanimously to adopt City Council Resolution 07-10801.

5. **RESOLUTION 07-1211** Approval of the Agency List of Projects, Allocations and Funding Sources

The Redevelopment Agency of the City of Pittsburg is engaging in various activities in its efforts to remove blighting conditions that still remain in the Los Medanos Community Development Project Area.

With the sale of Tax Allocation Bonds in December 2006, and given the complexity of projects and funding sources, the Agency desires to revise its current list of projects and prioritize the use of funds from the 2006 Bonds.

As recommended, Mayor Johnson opened the public hearing for Resolution 07-1211 and continued the item to the meeting of June 18, 2007.

CONSIDERATION

1. **RESOLUTION 07-1212** Consideration of an Exclusive Negotiating Rights Agreement (ENRA) with Garaventa Enterprises, Inc. for a Mid-Rise Office Building in the Civic Center

Mr. Grisham reported that staff had negotiated a 90-day ENRA with Garaventa Enterprises for the design and construction of a mid-rise office building in the Civic Center. He stated that the company had previously expressed an interest if there was a situation where the project might become available. He stated there had been initial discussions with Garaventa Enterprises. Permission was sought to initiate a formal negotiation period to see if there might be a possibility for a project.

Councilmember Kee verified with staff that the Agency would own all the drawings, documents, and the like that would be produced and the Agency would have the right to do whatever it would like with those documents.

The current allocated budget for the project is \$650,000. The requested budget increase is \$850,000, for a total of \$1.5 million to be funded from tax increment reserves.

Staff recommended that the Agency adopt a resolution approving the proposed ENRA.

MIKE LENGYEL, Pittsburg, expressed his hope that a 99-year lease would be included for the Pittsburg Unified School District (PUSD) or Library property. He also requested a limited timeframe to lock the developer into the project given the need for a nice library. He proposed something grander than giving away the frontage of Civic Drive for housing. He asked the City to keep the land and bank it for future generations.

Mr. Grisham stated that from discussions both the Library and the PUSD were extremely excited about the way the project was being approached and how those two uses were being tied together. He stated rather than forcing people, people were interested and excited about the opportunity being provided.

Redevelopment Director Randy Starbuck stated that formal action by the PUSD was anticipated by June 27.

Member Kee stated with respect to the Library that everyone would love to have a grand Library although the City received only a limited amount of money from the County. He stated that a separate Library building had been explored on Civic Avenue.

Member Kee commented that he would rather have twice as many books in the proposed space than half the books in a grander building. The City did not have the funds to fund what the County did not.

On motion by Councilmember Evola, seconded by Councilmember Kee and carried unanimously to adopt Resolution 07-1212.

2. **RESOLUTION 07-1213** Authorizing the Executive Director to Execute a Consultant Agreement By and Between the Redevelopment Agency of the City of Pittsburg and the Contra Costa County Employment and Human Service Department on Behalf of the Workforce Development Board's Contra Costa Small Business Development Center

Mr. Grisham reported that the Redevelopment Agency of the City of Pittsburg, consistent with its goals and strategies outlined in the Agency's Implementation Plan, had a continued partnership with the Contra Costa County Employment and Human Service Department on Behalf of the Workforce Development Board's Contra Costa Small Business Development Center. The consultant provides business counseling services, training, and seminars to the Pittsburg community. The Agency desires to execute a Consultant Agreement to retain the services of the consultant.

The Agency shall compensate the consultant in the amount not to exceed a total of \$20,000; \$10,000 for each fiscal year 2007-2008 and 2008-2009.

Staff recommended that the Executive Director be authorized to execute the Consultant Agreement by and between the Agency and the consultant for fiscal years 2007-2008 and 2008-2009 for the sum not to exceed \$20,000.

On motion by Chair Johnson, seconded by Vice Chair Casey and carried unanimously to adopt Resolution 07-1213.

CONFLICT OF INTEREST DECLARATION

Member Evola identified a conflict with a source of income from his employer with respect to Items c. and g. on the Consent Calendar. His vote on the Consent Calendar therefore did not apply to Items c. and g.

City Engineer Joe Sbranti identified a revised Memorandum of Understanding (MOU) presented to the Council regarding parks within the San Marco area related to Item g. on the Consent Calendar, which MOU replaced the MOU in the Council packets.

COMBINED REDEVELOPMENT AGENCY, PITTSBURG POWER COMPANY AND CITY COUNCIL CONSENT CALENDAR

CONSENT CALENDAR

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

- a. **MINUTES** Dated: May 21, 2007

Approved Minutes dated May 21, 2007.
- b. **CLAIMS** #1783, Saul Calderon, Marina Calderon and Edwin Calderon

Denied claim #1783, Saul Calderon, Marina Calderon and Edwin Calderon.
- c. **ORDINANCE 07-1285** Adoption of an Ordinance Rezoning Sky Ranch II Development Area RZ-02-21

Adopted Ordinance 07-1285.
- d. **RESOLUTION 07-1214** Allocating Funding and Awarding Contract 2006-11, Combined w/CC 07-10805 El Dorado Heights Water/Sewer Improvements Project to Atlas Peak Construction of Napa, California

Adopted Resolution 07-1214.
- e. **RESOLUTION 07-10805** Allocating Funding and Awarding Contract 2006-11, Combined w/RDA 07-1214 El Dorado Heights Water/Sewer Improvements Project to Atlas Peak Construction of Napa, California

Adopted Resolution 07-10805.
- f. **RESOLUTION 07-10806** Awarding Contract No. 2004-10B, Downtown Pittsburg Utility Underground Project

Adopted Resolution 07-10806.
- g. **RESOLUTION 07-10807** Authorization to Enter into a Memorandum of Understanding with Seecon Financial and Construction Co. Inc., Regarding San Marco Parks

Adopted Resolution 07-10807.
- h. **RESOLUTION 07-10808** Approval of Final Map for Condominium Purposes for Subdivision 9101, Delta Hawaii

Adopted Resolution 07-10808.
- i. **RESOLUTION 07-10809** Authorizing Fiscal Year 2006/07 Capital Outlay for Information Technology Equipment

Adopted Resolution 07-10809.

- j. **MINUTE ORDER** Letter in Support of Separate Bay Point Zip Code

Adopted letter in support of separate Bay Point Zip Code.

ADJOURNMENT

The meeting of the Redevelopment Agency adjourned at 8:07 P.M. to the next meeting set for June 18, 2007.

Respectfully submitted,

Alice E. Evenson, Secretary

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CITY OF PITTSBURG
Pittsburg Power Company Minutes
June 4, 2007

Chair Ben Johnson called the meeting of the Pittsburg Power Company to order at 8:46 P.M. in the City Council Chambers at City Hall, 65 Civic Avenue, Pittsburg, California after having convened for Commission Applicant Interviews at 5:02 P.M. and into Closed Session at 6:30 P.M. for Conference with Legal Counsel – Existing Litigation pursuant to Section 54956.9 (a) of the Government Code regarding Gloria Vaughn, et al vs. City of Antioch, et al, Contra Costa Superior Court Case Number C0-00045; and Conference with Legal Counsel – Anticipated Litigation pursuant to subdivision (b) of Section 54956.9 regarding one case.

Chair Johnson advised that no reportable action had taken place in Closed Session.

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

MEMBERS ABSENT: None

STAFF PRESENT Executive Director, Marc Grisham
Assistant Executive Director, Matt Rodriguez
Legal Counsel, Ruthann Ziegler
City Clerk, Alice Evenson
Director of Housing and Community Programs, Annette Landry
Director of Engineering and Building, Joe Sbranti
Director of Economic Development, Brad Nail
Director of Redevelopment, Randy Starbuck
Director of Public Works, John Fuller
Director of Recreation, Paul Flores
Director of Planning, Melissa Ayres
Director of Finance, Marie Simons
Chief of Police, Aaron Baker

In Joint Session with the City Council and the Redevelopment Agency, the Pittsburg Power Company considered the Combined Consent Calendar.

CONFLICT OF INTEREST DECLARATION

Member Evola identified a conflict with a source of income from his employer with respect to Items c. and g. on the Consent Calendar. His vote on the Consent Calendar therefore did not apply to Items c. and g.

City Engineer Joe Sbranti identified a revised Memorandum of Understanding (MOU) presented to the Council regarding parks within the San Marco area related to Item g. on the Consent Calendar, which MOU replaced the MOU in the Council packets.

COMBINED REDEVELOPMENT AGENCY, PITTSBURG POWER COMPANY AND CITY COUNCIL CONSENT CALENDAR

CONSENT CALENDAR

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

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- b. **CLAIMS** #1783, Saul Calderon, Marina Calderon and Edwin Calderon

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Adopted Resolution 07-1214.

- e. **RESOLUTION 07-10805** Allocating Funding and Awarding Contract 2006-11, Combined w/RDA 07-1214 El Dorado Heights Water/Sewer Improvements Project to Atlas Peak Construction of Napa, California

Adopted Resolution 07-10805.

- f. **RESOLUTION 07-10806** Awarding Contract No. 2004-10B, Downtown Pittsburg Utility Underground Project

Adopted Resolution 07-10806.

- g. **RESOLUTION 07-10807** Authorization to Enter into a Memorandum of Understanding with Secon Financial and Construction Co. Inc., Regarding San Marco Parks

Adopted Resolution 07-10807.

- h. **RESOLUTION 07-10808** Approval of Final Map for Condominium Purposes for Subdivision 9101, Delta Hawaii

Adopted Resolution 07-10808.

- i. **RESOLUTION 07-10809** Authorizing Fiscal Year 2006/07 Capital Outlay for Information Technology Equipment

Adopted Resolution 07-10809.

- j. **MINUTE ORDER** Letter in Support of Separate Bay Point Zip Code

Adopted letter in support of separate Bay Point Zip Code.

ADJOURNMENT

The meeting of the Pittsburg Power Company adjourned at 8:46 P.M.

Respectfully submitted,

Alice E. Evenson, Secretary

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CITY OF PITTSBURG
City Council Minutes
June 4, 2007

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Mayor Johnson advised that no reportable action had taken place in Closed Session.

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

MEMBERS ABSENT: None

STAFF PRESENT City Manager, Marc Grisham
Assistant City Manager, Matt Rodriguez
Legal Counsel, Ruthann Ziegler
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Director of Housing and Community Programs, Annette Landry
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Director of Planning, Melissa Ayres
Director of Finance, Marie Simons
Chief of Police, Aaron Baker

Mayor Johnson considered the following general City Council items at 7:06 P.M. prior to pursuing the Redevelopment Agency agenda.

PLEDGE OF ALLEGIANCE

Pete Carpino led the Pledge of Allegiance.

FERRIS WHEEL DONATION PRESENTATION

1. Pittsburg Women's Community League

SUE FERGUSON introduced a number of members of the Pittsburg Women's

Community League comprised of 30 people, which had held the ultimate home party raising a total of \$2,867 in donations for the Small World Park Ferris Wheel. For the Ferris Wheel Project, she presented the donation to Councilmember Parent.

Councilmember Parent reported that the total amount raised to date for the Ferris wheel was \$29,600. She noted that another presentation would be made at the next Council meeting. She explained that the larger contributions would be memorialized on a plaque to be placed on the Ferris wheel, when installed.

PRESENTATION

1. STAND! Delta Project

DANIEL SCOTT, representing STAND! Delta Project, the Domestic Violence Prevention Enhancement Leadership through Alliance, reported that there were five statewide Delta teams with each of the teams in different communities producing a variety of activities to help prevent intimate partner violence, a significant health problem in the Country. He identified the statistics of intimate partner violence in the County and in the City, spoke to the many impacts leading to domestic violence, identified the costs to serve those who had experienced domestic violence, and cited the number of local organizations that worked to address those suffering from domestic violence. Efforts were being focused on East County with a media campaign to prevent domestic violence. He displayed posters which would be placed in different County agencies to promote those efforts.

PROCLAMATIONS

1. Honoring Alex Gaston

Councilmember Parent presented the Proclamation to honor Alex Gaston as California State Games 2006 Athlete of the Year and in acknowledgement of his volunteer hours with the City of Pittsburg. She commended him as a positive representation of the youth in Pittsburg.

ALEX GASTON, Pittsburg, thanked the City Council for the honor and the recognition.

COUNCILMEMBER REPORTS/REMARKS

Councilmember Parent reported that she had presented a Memorial Scholarship on behalf of the Michael Decker Foundation during the Pittsburg High School Honors Night. She noted that 89 students had received awards totaling more than \$1.4 million in scholarships and grants, showcasing the number of young people in the City who were doing well.

Councilmember Parent also reported that on May 23 she had traveled to Washington, D.C., along with other representatives from Bay Area wastewater institutions,

and had testified on May 24 before a House Subcommittee on Water Resources about a bill being introduced by Congressman Miller which would provide between \$1.4 to \$1.8 million to the City of Pittsburg to close the gap for the building of the Recycled Water Project. The project would extend the pipes farther south to accommodate recycled water in cooperation with the Delta Diablo Sanitation District (DDSD) and the City of Pittsburg. She noted that it appeared as if those funds might be allocated. On that same day, Senators Boxer and Feinstein had introduced an identical Bill in the Senate.

Vice Mayor Casey stated that he recently had successful eye surgery.

Mayor Johnson reported that he had traveled to Eureka in the last two weeks when his wife had been installed as President of the Danish Brotherhood for California and Nevada. He had also attended the Blues Festival and the community meeting sponsored by Supervisor Federal Glover in Antioch related to issues of housing, transportation and crime. He urged members of the public to become involved in those meetings.

CITY MANAGER REPORTS/REMARKS

City Manager Marc Grisham thanked all those involved in the Blues Festival, which had been a successful, well-run event. He made the following announcements:

- Old Town Custom Car Show would start on Thursday, June 7, from 6:00 to 8:00 P.M.
- Ribbon Cutting Ceremony for the Elks Lodge on Friday, June 8 at 12:00 P.M.
- Farmer's Market at its new location in front of the California Theater on Saturday, June 9 from 9:00 A.M. to 12:00 P.M.
- Marina Promenade Dedication on Saturday, June 9 at 10:00 A.M.

Mr. Grisham also reported that June 4 represented his third anniversary with the City of Pittsburg. He stated that he planned on continuing and enjoying being a part of Pittsburg.

CITIZEN REMARKS

BRUCE OHLSON, Pittsburg, representing the East Bay Bicycle Coalition, referred to the new bike lanes on Harbor Street and Stoneman Avenue and stated that the Pittsburg bicycle community was very pleased with those bike lanes. He thanked all those who had made those lanes possible. He praised the Engineering Department for its excellent work and stated that the Pittsburg bicycle community would continue to work with City staff to make the transportation infrastructure responsive to all citizens.

MIKE LENGYEL, Pittsburg, asked for a copy of the policy of the Brown Act and a legal opinion in writing related to agenda items given his understanding that the Brown Act allowed the public to speak to any item on the agenda.

Mr. Lengyel noted that the public was no longer allowed to remove any item from the

Consent Calendar, which was intended for routine items.

In response, City Attorney Ruthann Ziegler stated that the Brown Act required that members of the public be given an opportunity to comment and the new format offered the public an opportunity to speak to an item on or off an agenda. She explained that there was nothing in the Brown Act that would mandate comment on the Consent Calendar, at the same time the Consent Calendar was heard. The only requirement was that public comment be allowed at, or prior to, when a matter was heard. There was also nothing in the Brown Act that stated that speakers had an unlimited amount of time to speak. The Brown Act allowed cities to adopt reasonable rules and regulations limiting the amount of time per speaker and limiting the amount of time overall per topic, which was exactly what the City had done.

PETE CARPINO, Pittsburg, spoke to the dire need for a master calendar for members of many organizations to avoid conflicts with other clubs and organizations and suggested the City take the lead on this project. On another matter, he noted that he had previously asked for an agenda item on the Council agenda to reevaluate the entertainment permit for the Mehran Restaurant which had been due for evaluation in November 2006. He asked when that item could be placed on a future Council agenda.

Mr. Grisham stated that could be accomplished within the next 30 days.

RON JOHNSON, Jr., Pittsburg, referred to the City Council's Special Meeting on Thursday, May 31 at 8:00 A.M. regarding the Scampini Building. In light of the actions of the City Council, City Manager and City Attorney and the question of legality in that case, he spoke to the Historic Resources Commission (HRC) which was to have been created to comply with Department of Interior requirements to address historic districts.

Mr. Johnson suggested that the Scampini Building had become an issue because it was part of an historic district. He stated that the issue was not the building itself, but the district, and the action that had impinged on that federally prescribed and recognized historic district through the claim of progress. He stated that the City had a vast history that must be protected. He added that the HRC created by the City had not met, nor had it met when it had become part of the Planning Commission in 2004 when the regulations had been changed.

Mayor Johnson adjourned to the Redevelopment Agency agenda at 7:43 P.M. and reconvened as the City Council at 8:08 P.M.

PUBLIC HEARING

1. **RESOLUTION 07-10776** Authorize the Executive Director to Execute an
Combined w/RDA 07-1196 Amended and Restated Lease Agreement By and
Between John Phair dba EJ Phair Brewing Company
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Combined w/RDA 07-1209 Pittsburg and Pacific Plaza Imports, Inc. to Lease and
Renovate the Property at 675 Railroad Avenue

Mr. Grisham advised that the Redevelopment Agency of the City of Pittsburg entered into a long term lease agreement for the property at 675-695 Railroad Avenue in March 2005 in order to attract The Mechanics Bank and other commercial tenants to the property. The remaining 3,400 square feet of retail space at the property is vacant and in need of rehabilitation. Agency staff has negotiated lease and loan terms with a gourmet food and drink retailer to lease and rehabilitate the remaining 3,400 square feet of ground floor retail space at the property. The Agency is being requested to approve the proposed lease and loan agreements. The loan agreement had been structured with a construction draw schedule to ensure that payments were made in an appropriate manner and that whenever they were tied to inventory and fixtures, the specific inventory and fixtures were noted as part of the lease document.

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

On motion by Councilmember Evola, seconded by Vice Mayor Casey and carried unanimously to adopt City Council Resolution 07-10800.

3. **RESOLUTION 07-10801** Approving Amendment #4 to the Disposition and
Combined w/RDA 07-1210 Development and Loan Agreement by and Between the
Redevelopment Agency of the City of Pittsburg and
Gateway Mixed Use Development, a California Limited
Partnership, Authorizing an Additional \$675,000 for the
10th/Cumberland Infrastructure Account, Contract 2006-
05 Gateway Off-site Improvements Plans, and Contract
2006-05B Gateway Underground Utility Project; as Well
as Approving the Developer as Agent for Off-Site and

Tenant Improvements Not to Exceed \$3,110,000; Authorizing the Executive Director to Reallocate Remaining Balances; Authorizing the City Engineer to Approve a Percentage of the Construction Contingency Budget; and Accompanying City Council Resolution

This item pertains to the mixed-use building currently under construction at the Northeast corner of E. 10 Street and Railroad Avenue. This action allocates funding necessary for certain off-site and utility underground improvements necessary for the Gateway Project. Additionally, this action authorizes Domus Development LLC, a California limited liability company, a general partner of the developer of the Gateway Project, to act as the Agency's limited agent to construct the Off-Site Component and certain tenant improvements to be constructed and installed within a portion of the ground floor of the Gateway Project which the Agency intends to lease to the City of Pittsburg Housing Authority.

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

On motion by Councilmember Parent, seconded by Councilmember Kee and carried unanimously to adopt Resolution 07-10801.

4. **RESOLUTION 07-10802** Directing the City Clerk to Tabulate Assessment Ballots For the Proposed Increase to the Citywide Landscaping and Lighting District 1988-01 Annual Assessment and Approving the Engineer's Report as Modified

The City is proposing an increase to the existing Citywide Landscaping and Lighting District 1988-01 for FY 2007-08 and for each future year following approval of the assessment increase. Each record owner of a parcel subject to the proposed assessment increase was mailed notice and ballot materials related to the increase. Prior to ordering the improvements and levying an increased assessment the City Council must hold a public hearing. At the public hearing, the City Council will hear and consider testimony related to final approval of the engineer's report and increased assessments, make a "last call" for ballots, close the public hearing and direct the City Clerk or her designee to tabulate ballots that were submitted prior to the conclusion of the public hearing. This item will be continued to June 18, 2007 so that ballots may be tallied and a determination may be made as to whether or not a majority protest against the proposed assessment increase.

Mayor Johnson stated that the item related to the public hearing for the proposed increase to the annual Citywide Landscaping and Lighting District 1988-01 annual assessments and approving the City Engineer's Report as modified. The Council would consider all comments made at the public hearing before taking action on the proposed increase.

Property owners affected by the proposed increase had been mailed notice and assessment ballot materials more than 45 days ago. Anyone who wished to submit a

ballot, or change a vote previously submitted, may do so before the conclusion of the public hearing. A last call for ballots before the public hearing was closed would be made.

For FY 2007-08 the Engineer's Report estimated that with the proposed \$25 per benefit factor increase for all residential uses, the district would collect \$2,718,820.41 in assessments this year. This amount includes a school district subsidy of \$57,619.40 and the City of Pittsburg assessment of \$47,701.34, which would be paid by the City's General Fund. The Public Works Department estimated that the City would expend \$3,775,903 during fiscal year 2007-08 in managing the district, which would result in a total general fund fiscal year 2007-08 impact of \$1,162,433.33 which includes the school subsidy, City assessments and a general benefit contribution. Without the increase to the district, the General Fund would be responsible for an additional \$433,694.

Staff recommended the adoption of a resolution directing the City Clerk or her designee to tabulate the assessment ballots submitted prior to the conclusion of the public hearing and approving the engineer's report as modified by the City Engineer.

Mayor Johnson opened the public hearing for Resolution 07-10802.

DANIEL BORSUK, Pittsburg, expressed concern with the ballot process and questioned the legality with the way the ballot had been mailed and its presentation in that the names of the property owners had been listed on the ballot. In his opinion, there was an issue if one voted one way or another, or that preferential treatment could be made if one was identified in the ballot. He was uneasy that he could be casting a ballot where the City would know how he had voted. He added that in his neighborhood there had been a deterioration in the level of services. His street had pot holes, sidewalks were lifting up, graffiti was on the road signs and the sidewalks and there were unkempt trees. If the LLD was to fill the gap in the budget, he was concerned that that the LLD had been formed to be more preferential to newer developments than to his section of the City that was over 30 years old.

Mr. Borsuk expressed concern for an equal level of service. He stated that he and his wife suggested there was some preference given to the newer parts of the City and to the downtown and he was concerned that the increase in taxes would not be evenly distributed.

CARYN WEGERBAUER, Pittsburg, spoke in support of the assessment and urged each resident to support the assessment because maintaining and supporting real property required an ongoing investment. She stated that each property owner would be asked to pay an additional \$25 annually or less in what she suggested was a reasonable investment on behalf of each property owner. She stated that real property owners had also benefited from Proposition 13, although the downside was that over the years cities had suffered with fewer funds into their general funds. Ms. Wegerbauer stated that the City had been investing tremendous dollars to the Redevelopment Agency and she suggested that property owners would see a return on that investment.

JOAN ABRAMS, Pittsburg, speaking in opposition to the proposed assessment, commented that she was at a loss as to why there was a meeting with a public hearing if the ballots had already been received. She suggested there might some who had not received ballots. She noted that some of her friends on Stoneman Avenue who had a P.O. Box had not received a ballot. She did not know the questions of the scientific survey or who had been surveyed, or the results of that survey other than the recommendation for an increase in the LLD. She referred to a number of names on the ballot and suggested that many would not be subject to the increase because they did not live in Pittsburg. She questioned the process, objected to the proposed increase, and noted that some would oppose the increase even if it was adopted.

Mayor Johnson made the last call for the ballots at this time and advised where the ballots were to be placed.

Mayor Johnson closed the public hearing and continued the item to June 18, 2007. He reported that the City Clerk or her designee would oversee the tabulation of ballots tomorrow morning, June 5, 2007 at 8:00 A.M. The ballot tabulation process was open to the public and would take place in Conference Room 4B located on the first floor of City Hall between the Payment Center and Planning/Building/Engineering Counter. The results of the assessment balloting would be announced and certified at the next City Council meeting on June 18, 2007. If a majority protest existed, any procedures related to the proposed assessment increase would be abandoned.

In response to the comments, Ms. Ziegler stated that the first speaker had raised two issues; one related to the names on the ballot and that by he and his wife signing the ballot there was no unanimity how he and his wife had voted. The process as identified by the Mayor was that the ballot tabulation process was open to the public. The California Public Records Act required that the ballot be open to the public and the City was bound by the Public Records Act and the ballots, once opened, were part of the public record.

With respect to the second question as to whether the assessment would be preferential to new development as opposed to existing or older development, Ms. Ziegler stated that was not how the system had been set up although she deferred to the City Engineer on that point.

City Engineer Joe Sbranti stated that a Community Facilities District (CFD) had been applied to some of the new developments and more new developments would have a CFD applied. A CFD of approximately \$72 was being applied to the Vista del Mar development and would be applied to at least two more developments in the future. The Sky Ranch development would include a CFD, as would the Vidrio development.

Mr. Sbranti added that many of the newer developments would be paying not only the base amount Citywide at \$77.18, but also a new charge of \$72. In the case of many cities in the surrounding area, he stated that the fees were substantially higher. He noted that the City of Oakley's average fee was over \$450 for their landscaping and lighting and in some cases fees were as high as \$1,400. The City's fee was \$77.18 and had been that

amount for 16 or 17 years. A \$25 increase to place the fee at \$102.18 was now being requested.

Ms. Ziegler added that the matter had been on the Council agenda several times, as the Council had considered whether or not to have an increase, and the Council had considered several matters related to the issue. This was the last step in the process. As to why there was now a public hearing in terms of gathering the ballots, she stated that applicable law required the last public hearing in the process and required identification that at the conclusion of the public hearing all votes would have to be in. The City's action was to comply with that process.

As to whether or not some had not received the ballots, Ms. Ziegler stated that the City had endeavored to mail ballots to all those who were to receive the ballots. She stated that while not a perfect process, the City's records may not reflect a recent change in ownership, although the City was complying with the law in terms of who was or was not receiving the ballots.

City Engineer Sbranti stated that the County's tax roll was used to send the ballots, whether the address was a physical address or a P.O. Box.

Ms. Ziegler advised that applicable law required the City to use the County's tax roll.

Councilmember Parent reported that the Council had considered the issue carefully and had waited a long time to institute a request for a change. She did not see that the City could continue operating with many more parks and lights and medians that had been added in the last 16 years without an increase, which increase she suggested was very modest.

On motion by Councilmember Parent, seconded by Councilmember Kee and carried unanimously to adopt Resolution 07-10802.

5. **RESOLUTION 07-10803** Approval of the 2007-2008 Community Development Block Grant (CDBG) Annual Action Plan

Assistant City Manager Matt Rodriguez advised that the Department of Housing and Urban Development (HUD) required the City Council to review and approve the 2007-2008 Community Development Block Grant Annual Action Plan. The Annual Action Plan included the CDBG funding recommendations for the 2007-2008 program years that the Council approved on March 20, 2006 as part of a two year funding cycle for July 1, 2006 through June 30, 2008. HUD also required a public hearing and public comment period before submitting the Annual Action Plan to HUD.

Staff recommended that the City Council open the public hearing, receive testimony, close the public hearing and the public comment period for the 2007-2008 Annual Action Plan and adopt the resolution.

Director of Housing and Community Programs Annette Landry noted a couple of minor changes for 2007-08 from the current year 2006-07, regarding three agencies which had withdrawn applications for funding in the second year; including the Cambridge Community Center, Rebuilding Together, and St. Joseph's Academy for the Deaf. Also, the Housing Rehab Division grant amount had been decreased by \$5,000. Rather than the \$105,000 it had received for the current year, it only applied for \$100,000 for the second year. As a result, an additional \$27,000 had been carried over and had been included with the current funding entitlement of \$665,878 which allowed the continuation of funding at the current level for this year.

Mayor Johnson opened the public hearing for Resolution 07-10803. There was no one to speak. Mayor Johnson closed the public hearing for Resolution 07-10803.

When asked by Mayor Johnson, Ms. Landry affirmed that there might be additional funding allocations for the next fiscal year.

Councilmember Kee thanked Ms. Landry, the members of the CDBG Subcommittee and the members of the Community Advisory Commission (CAC) for their time and commitment to the process.

On motion by Councilmember Kee, seconded by Vice Mayor Casey and carried unanimously to adopt Resolution 07-10803.

6. **ORDINANCE 07-1286** Introduction of an Ordinance Amending Section 2.04.060 of the Pittsburg Municipal Code Relating to City Commissioners

Mr. Rodriguez stated that the City Council appoints residents to serve, at the pleasure of the City Council, on various City commissions. The ordinance, if approved, would delete the existing requirement that a commissioner, prior to removal, be provided with the grounds for removal and an opportunity for a public hearing. These amendments effectively clarify that a commissioner serves at the will of the City Council and can be removed with a majority vote of the City Council. This is the first reading of the proposed ordinance.

Staff recommended that the City Council introduce and waive first reading, and read by title only, an ordinance amending Title 2 Administration and Personnel, Chapter 2.04.060 entitled City Commissions-Appointment-Removal from office of the City Commissioners-Conduct of Business of City Commissions.

Mayor Johnson opened the public hearing for Ordinance 07-1286. There was no one to speak. Mayor Johnson closed the public hearing for Ordinance 07-1286.

Councilmember Parent advised that she had received one e-mail on the issue from a Commissioner and had responded by e-mail that the Council did not do anything on a whim. She referred to the rules and regulations concerning the Commissions and when

she had read the proposed ordinance she missed the inconsistency between the term Commissioners served at will and the provision having to do with a hearing system. It was her belief that there would always be a reason given if a term of a Commissioner was to be terminated because it would have to be at a public meeting of the Council, at which time members of the Council would identify their particular votes.

Councilmember Kee verified that as a member of the subcommittee who had reviewed all of the City commissions it was never the intent of the subcommittee to include such a provision. It had been one of those things that had slipped through even with all of the reading of the ordinance. He described the action as a housekeeping issue.

On motion by Councilmember Parent, seconded by Councilmember Kee and carried unanimously to introduce Ordinance 07-1286 by title only and waive first reading.

7. **ORDINANCE 07-1287** Introduction of Ordinance Adopting Description of Eminent Domain Program for the Community Development Plan for the Los Medanos Community Development Project Pursuant to New Health and Safety Code Section 33342.7

Mr. Rodriguez recommended that the City Council introduce and waive first reading of the proposed ordinance that contains a description of the previously approved eminent domain program of the Redevelopment Agency of the City of Pittsburg pursuant to the Community Development Plan for the Los Medanos Community Development Project for the Los Medanos Community Development Project Area, and that the City Council adopt the Notice of Exemption for the Ordinance.

There would be no fiscal impact associated with the adoption of the ordinance. Staff recommended that the City Council introduce, waive the first reading of the ordinance.

Mayor Johnson opened the public hearing for Ordinance 07-1287. There was no one to speak. Mayor Johnson closed the public hearing for Ordinance 07-1287.

On motion by Vice Mayor Casey, seconded by Mayor Johnson and carried unanimously to introduce Ordinance 07-1287 by title only and waive first reading.

CONSIDERATION

1. **RESOLUTION 07-10804** Appeal of Planning Commission Approval of Victory Outreach Recovery Home AP-06-379 (UP)

Mr. Rodriguez advised of the continued public hearing on an appeal of the Planning Commission approval for a Use Permit.

The Use Permit would allow Victory Outreach Recovery Home to operate a residential care facility for 12 men recovering from drug and alcohol abuse at 102 School

Street in the CO (Office Commercial) District. APN 086-190-037

There would be no fiscal impact as a result of the project. It was recommended that the City Council move to adopt a resolution upholding the appeal and denying the Use Permit Application No. 06-379; or move to adopt a resolution denying the appeal and approving Use Permit Application No. 06-379.

On motion by Councilmember Evola, seconded by Vice Mayor Casey to adopt Resolution No. 07-10804, Upholding the Appeal and Denying a Use Permit to Establish a Residential Protective Care Facility for Drug and Alcohol Treatment at 102 School Street for the Victory Outreach Recovery Home. The motion carried by the following vote:

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

CONFLICT OF INTEREST DECLARATION

Member Evola identified a conflict with a source of income from his employer with respect to Items c. and g. on the Consent Calendar. His vote on the Consent Calendar therefore did not apply to Items c. and g.

City Engineer Joe Sbranti identified a revised Memorandum of Understanding (MOU) presented to the Council regarding parks within the San Marco area related to Item g. on the Consent Calendar, which MOU replaced the MOU in the Council packets.

COMBINED REDEVELOPMENT AGENCY, PITTSBURG POWER COMPANY AND CITY COUNCIL CONSENT CALENDAR

CONSENT CALENDAR

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

- a. **MINUTES** Dated: May 21, 2007

Approved Minutes dated May 21, 2007.
- b. **CLAIMS** #1783, Saul Calderon, Marina Calderon and Edwin Calderon

Denied claim #1783, Saul Calderon, Marina Calderon and Edwin Calderon.
- c. **ORDINANCE 07-1285** Adoption of an Ordinance Rezoning Sky Ranch II Development Area RZ-02-21
Adopted Ordinance 07-1285.

- d. **RESOLUTION 07-1214** Allocating Funding and Awarding Contract 2006-11,
Combined w/CC 07-10805 El Dorado Heights Water/Sewer Improvements Project
to Atlas Peak Construction of Napa, California

Adopted Resolution 07-1214.

- e. **RESOLUTION 07-10805** Allocating Funding and Awarding Contract 2006-11,
Combined w/RDA 07-1214 El Dorado Heights Water/Sewer Improvements Project
to Atlas Peak Construction of Napa, California

Adopted Resolution 07-10805.

- f. **RESOLUTION 07-10806** Awarding Contract No. 2004-10B, Downtown Pittsburg
Utility Underground Project

Adopted Resolution 07-10806.

- g. **RESOLUTION 07-10807** Authorization to Enter into a Memorandum of
Understanding with Seecon Financial and Construction
Co. Inc., Regarding San Marco Parks

Adopted Resolution 07-10807.

- h. **RESOLUTION 07-10808** Approval of Final Map for Condominium Purposes for
Subdivision 9101, Delta Hawaii

Adopted Resolution 07-10808.

- i. **RESOLUTION 07-10809** Authorizing Fiscal Year 2006/07 Capital Outlay for
Information Technology Equipment

Adopted Resolution 07-10809.

- j. **MINUTE ORDER** Letter in Support of Separate Bay Point Zip Code

Adopted letter in support of separate Bay Point Zip Code.

ADJOURNMENT

The City Council adjourned at 8:49 P.M. to June 18, 2007.

Respectfully submitted,

Alice E. Evenson, City Clerk