

CITY OF PITTSBURG
Housing Authority Minutes
May 21, 2007

Chair Ben Johnson called the meeting of the Housing Authority to order at 7:47 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 – Anticipated Litigation pursuant to subdivision (b) of Section 54956.9 of the Government Code regarding three cases; and Conference with Real Property Negotiator pursuant to Section 54956.8 regarding 2020 Railroad Avenue (APN 086-100-007, 086-007-021 (portion) and 086-007-022 (portion)).

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

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

MEMBERS EXCUSED: Casey

MEMBERS ABSENT: Wallen

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 Human Resources, Marc Fox
Director of Public Works, John Fuller
Director of Planning, Melissa Ayres
Director of Recreation, Paul Flores
Director of Finance, Marie Simons
Chief of Police, Aaron Baker

CONFLICT OF INTEREST DECLARATION

There was no Conflict of Interest Declaration.

CONSENT CALENDAR

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

a. **DISBURSEMENT LIST** Dated: April 30, 2007

Approved Disbursement List dated April 30, 2007

b. **MINUTES** Dated: April 16, 2007

Approved minutes dated April 16, 2007.

ADJOURNMENT

The meeting of the Housing Authority adjourned at 7:48 P.M. to the next meeting set for June 18, 2007.

Respectfully submitted,

Alice E. Evenson, Secretary

CITY OF PITTSBURG
Redevelopment Agency Minutes
May 21, 2007

Chair Ben Johnson called the meeting of the Redevelopment Agency to order at 7:58 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 – Anticipated Litigation pursuant to subdivision (b) of Section 54956.9 of the Government Code regarding three cases; and Conference with Real Property Negotiator pursuant to Section 54956.8 regarding 2020 Railroad Avenue (APN 086-100-007, 086-007-021 (portion) and 086-007-022 (portion)).

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

MEMBERS PRESENT: Evola, Kee, Parent, Johnson

MEMBERS EXCUSED: Casey

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 Human Resources, Marc Fox
Director of Public Works, John Fuller
Director of Planning, Melissa Ayres
Director of Recreation, Paul Flores
Director of Finance, Marie Simons
Chief of Police, Aaron Baker

PUBLIC HEARING

In Joint Session with the CITY COUNCIL, the REDEVELOPMENT AGENCY took the following actions.

1. **RESOLUTION 07-1202** Approval of a First Amendment to the First Amended and
Combined w/CC 07-10788 Restated Development Agreement By and Among the Redevelopment Agency of the City of Pittsburg, Trinity Housing Foundation, and Black Diamond Old Town, LLC

Executive Director Marc Grisham advised that the Redevelopment Agency of the City of Pittsburg entered into a Disposition and Development Agreement (DDA), dated November 7, 2005, with Black Diamond Old Town, LLC to develop a three-block, mixed-use project in Old Town. The Agency entered into the First Amended and Restated Disposition and Development Agreement, dated June 19, 2006, with the developer and Trinity Housing Foundation. The Agency proposed to enter into a First Amendment to the Amended and Restated DDA to allocate additional funds for the project and to change certain timeframes outlined in the Schedule of Performance associated with Phase II.

On motion by Member Kee, seconded by Member Evola and carried unanimously to adopt Redevelopment Agency Resolution 07-1202.

CONSIDERATION

1. **RESOLUTION 07-1203** Approval of a Real Property Exchange Agreement By
Combined w/CC 07-10791 and Between the Redevelopment Agency of the City of Pittsburg and the Judicial Council of California, Administrative Office of the Courts for a New Pittsburg Superior Courthouse

Under the terms of the proposed agreement, the Agency would deed the courts 3.11 acres of City and Pittsburg Unified School District property, and after construction of a new courthouse on the 3.11 acres, the courts would deed the Agency a portion of the existing court property, consisting of approximately 2.86 acres. The new courthouse would expand Pittsburg court facilities from 4 courtrooms to 7, with the ability to expand to 10 courtrooms at a later date. The Agency would also be required to provide some parking on Agency land for the new courthouse.

On motion by Member Parent, seconded by Member Kee and carried unanimously to adopt Redevelopment Agency Resolution 07-1203.

CONFLICT OF INTEREST DECLARATION

Councilmember Evola advised that his vote on the Consent Calendar would not apply to Item I, based on his financial interest as a source of income from his employer.

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

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

- a. **MINUTES** Dated: May 7, 2007

Approved minutes dated May 7, 2007.

- b. **CLAIMS** #1771 Otto Hernandez Cristales
 Denied claim #1771 Otto Hernandez Cristales.
- c. **RESOLUTION 07-162** Approving the Increase of Funding for the Purchase of Wholesale Electricity and Natural Gas
 Adopted Resolution 07-162.
- d. **RESOLUTION 07-1204** Authorizing Executive Director to Execute Assessment Ballots on Behalf of the Redevelopment Agency for the Proposed Increase to the Citywide Landscaping and Lighting District 1988-01 Annual Assessment
Combined w/CC 07-10792
 Adopted Resolution 07-1204.
- e. **RESOLUTION 07-10792** Authorizing the City Manager to Execute Assessment Ballots on Behalf of the City for the Proposed Increase to the Citywide Landscaping and Lighting District 1988-01 Annual Assessment
Combined w/RDA 07-1204
 Adopted Resolution 07-10792.
- f. **RESOLUTION 07-1205** Authorizing the Sale of 14 West Boulevard to the Redevelopment Agency of the City of Pittsburgh
Combined w/CC 07-10793
 Adopted Resolution 07-1205.
- g. **RESOLUTION 07-10793** Authorizing the Sale of 14 West Boulevard to the Redevelopment Agency of the City of Pittsburgh
Combined w/RDA 07-1205
 Adopted Resolution 07-10793.
- h. **RESOLUTION 07-1206** Appropriating Funds and Extending Agreement for Contract Planning Services
 Adopted Resolution 07-1206.
- i. **ORDINANCE 07-1284** Comprehensive Zoning Code Update, Phase II
 Adopted Ordinance 07-1284.
- j. **RESOLUTION 07-10794** Acceptance of Public Improvements Within Subdivision 8795 Stanford Place for Continuous Maintenance
 Adopted Resolution 07-10794.

- k. **RESOLUTION 07-10795** Establishing a Deposit Reimbursement Account for Buildings Plan Check Services Related to Major Commercial Projects

Adopted Resolution 07-10795.

- l. **RESOLUTION 07-10796** Clarification of the Declaration of Intent Regarding the New Mecca Square Project as it Relates to the New York Landing Historic District

Adopted Resolution 07-10796.

- m. **RESOLUTION 07-10797** Approve Authorizing a Total Expenditure of \$78,000 to Ajilon for Temporary Staffing in the Finance Department and \$118,000 for Utility Billing Postage and Mailing Services to Mail Stream

Adopted Resolution 07-10797.

- n. **RESOLUTION 07-10798** Authorizing Used Oil Block Grant Program Application

Adopted Resolution 07-10798.

- o. **RESOLUTION 07-10799** Approve Authorization of Staffing Increase of One (1) Additional Finance Division Manager Position Within the Finance Department
Combined w/RDA 07-1207

Adopted Resolution 07-10799.

- p. **RESOLUTION 07-1207** Approve Authorization of Staffing Increase of One (1) Additional Finance Division Manager Position Within the Finance Department
Combined w/CC 07-10799

Adopted Resolution 07-1207.

ADJOURNMENT

The meeting of the Redevelopment Agency adjourned at 7:58 P.M. to June 4, 2007.

Respectfully submitted,

Alice E. Evenson, Secretary

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CITY OF PITTSBURG
Pittsburg Power Company Minutes
May 21, 2007

Chair Ben Johnson called the meeting of the Pittsburg Power Company to order at 7:58 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 – Anticipated Litigation pursuant to subdivision (b) of Section 54956.9 of the Government Code regarding three cases; and Conference with Real Property Negotiator pursuant to Section 54956.8 regarding 2020 Railroad Avenue (APN 086-100-007, 086-007-021 (portion) and 086-007-022 (portion)).

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

MEMBERS PRESENT: Evola, Kee, Parent, Johnson

MEMBERS EXCUSED: Casey

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 Human Resources, Marc Fox
Director of Public Works, John Fuller
Director of Planning, Melissa Ayres
Director of Recreation, Paul Flores
Director of Finance, Marie Simons
Chief of Police, Aaron Baker

CONFLICT OF INTEREST DECLARATION

Councilmember Evola advised that his vote on the Consent Calendar would not apply to Item I, based on his financial interest as a source of income from his employer.

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

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

- a. **MINUTES** Dated: May 7, 2007
Approved minutes dated May 7, 2007.
- b. **CLAIMS** #1771 Otto Hernandez Cristales
Denied claim #1771 Otto Hernandez Cristales.
- c. **RESOLUTION 07-162** Approving the Increase of Funding for the Purchase of Wholesale Electricity and Natural Gas
Adopted Resolution 07-162.
- d. **RESOLUTION 07-1204** Authorizing Executive Director to Execute Assessment Ballots on Behalf of the Redevelopment Agency for the Proposed Increase to the Citywide Landscaping and Lighting District 1988-01 Annual Assessment
Combined w/CC 07-10792
Adopted Resolution 07-1204.
- e. **RESOLUTION 07-10792** Authorizing the City Manager to Execute Assessment Ballots on Behalf of the City for the Proposed Increase to the Citywide Landscaping and Lighting District 1988-01 Annual Assessment
Combined w/RDA 07-1204
Adopted Resolution 07-10792.
- f. **RESOLUTION 07-1205** Authorizing the Sale of 14 West Boulevard to the Redevelopment Agency of the City of Pittsburg
Combined w/CC 07-10793
Adopted Resolution 07-1205.
- g. **RESOLUTION 07-10793** Authorizing the Sale of 14 West Boulevard to the Redevelopment Agency of the City of Pittsburg
Combined w/RDA 07-1205
Adopted Resolution 07-10793.
- h. **RESOLUTION 07-1206** Appropriating Funds and Extending Agreement for Contract Planning Services
Adopted Resolution 07-1206.
- i. **ORDINANCE 07-1284** Comprehensive Zoning Code Update, Phase II
Adopted Ordinance 07-1284.

- j. **RESOLUTION 07-10794** Acceptance of Public Improvements Within Subdivision 8795 Stanford Place for Continuous Maintenance

Adopted Resolution 07-10794.

- k. **RESOLUTION 07-10795** Establishing a Deposit Reimbursement Account for Buildings Plan Check Services Related to Major Commercial Projects

Adopted Resolution 07-10795.

- l. **RESOLUTION 07-10796** Clarification of the Declaration of Intent Regarding the New Mecca Square Project as it Relates to the New York Landing Historic District

Adopted Resolution 07-10796.

- m. **RESOLUTION 07-10797** Approve Authorizing a Total Expenditure of \$78,000 to Ajilon for Temporary Staffing in the Finance Department and \$118,000 for Utility Billing Postage and Mailing Services to Mail Stream

Adopted Resolution 07-10797.

- n. **RESOLUTION 07-10798** Authorizing Used Oil Block Grant Program Application

Adopted Resolution 07-10798.

- o. **RESOLUTION 07-10799** Approve Authorization of Staffing Increase of One (1) Additional Finance Division Manager Position Within the Finance Department
Combined w/RDA 07-1207

Adopted Resolution 07-10799.

- p. **RESOLUTION 07-1207** Approve Authorization of Staffing Increase of One (1) Additional Finance Division Manager Position Within the Finance Department
Combined w/CC 07-10799

Adopted Resolution 07-1207.

ADJOURNMENT

The meeting of the Pittsburg Power Company adjourned at 7:58 P.M.

Respectfully submitted,
Alice E. Evenson, Secretary

**CITY OF PITTSBURG
City Council Minutes
May 21, 2007**

Mayor Ben Johnson called the meeting of the City Council to order at 7:49 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 – Anticipated Litigation pursuant to subdivision (b) of Section 54956.9 of the Government Code regarding three cases; and Conference with Real Property Negotiator pursuant to Section 54956.8 regarding 2020 Railroad Avenue (APN 086-100-007, 086-007-021 (portion) and 086-007-022 (portion)).

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

The Mayor also advised that Vice Mayor Casey would be participating in one item via teleconference from 50 Lake Street, Pittsburg, California.

MEMBERS PRESENT: Evola, Kee, Parent, Johnson

MEMBERS EXCUSED: Casey

MEMBERS ABSENT: None

STAFF PRESENT

- City Manager, Marc Grisham
- Assistant City Manager, Matt Rodriguez
- City Attorney, 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 Human Resources, Marc Fox
- Director of Public Works, John Fuller
- Director of Planning, Melissa Ayres
- Director of Recreation, Paul Flores
- Director of Finance, Marie Simons
- Chief of Police, Aaron Baker

Mayor Johnson considered the following general City Council items at 7:02 P.M. prior to pursuing the Housing Authority agenda.

PLEDGE OF ALLEGIANCE

Bruce Ohlson led the Pledge of Allegiance.

PRESENTATION

1. Pittsburg Historical Society

JESS HURTADO, President of the Pittsburg Historical Society, thanked the City Manager, staff and members of the public who had helped assist the organization in its efforts to clean up and expand its facility. He reported that the Historical Society and the City would co-host several Old Town events. The Filipino-American Festival had recently been held and it was hoped that the same could be done with an African-American Festival in June, a Hispanic-American Festival in September, the Italian-American Festival in October, and potentially Irish/Welsh/English-American and Greek-American Festivals in the future.

The Historical Society had also been working with other historical groups in the County, such as the recent Black Diamond Mine Days, to expand the historical experience throughout the County and the East Bay.

Mr. Hurtado added that the Historical Society planned to expand and improve its museum and were installing an elevator to the second floor which would increase space by approximately 60 percent for exhibitions. The Historical Society also planned to add an art gallery of local painters and sculptors, an exhibit of the medical and hospital history of the Camp Stoneman Medical Center, a Family History Room of original Pittsburg families, an expansion of the sports display room, and the addition of a display room to include Bay Point, Clayton, Nortonville, Sommersville and other mining towns in the Bay Area. He invited members of the Council, staff and the public to participate in all of the Historical Society's events. Everyone was also encouraged to visit the Historical Society Museum which was open on Wednesdays from 1:00 to 4:00 p.m. and Saturdays 10:00 a.m. to 2:00 p.m.

2. Visit to Sister City of Shimonoseki, Japan

Mayor Johnson reported that he and Councilmember Kee and Director of Recreation Paul Flores had visited Sister City Shimonoseki, Japan at which time he had met with other members of the Sister City Council to the region. He described all of the events the group had attended including visits to local junior high school students who had come to Pittsburg over the last three years among other members of the community, attendance at cultural activities, a local parade with the Shimonoseki Mayor for an annual festival, and a visit to a recently constructed junior high school which had combined four junior high schools into one. At this time, he presented a video presentation of his visit to that junior high school.

Mayor Johnson displayed a fan with calligraphy of a poem which he presented to the City for display from Sister City Shimonoseki along with artwork of the Shimonoseki waterfront, to be kept in the City's archives.

Councilmember Kee added that the visit to the junior high school had also been very interesting. He noted that out of respect, all students removed their shoes when they entered the school and at the end of each class the teachers moved from class to class, not the students.

PROCLAMATIONS

1. 10 Year Anniversary of Black Diamond Blues Festival

Councilmember Kee presented a proclamation proclaiming June 2-3, 2007 in recognition of the Tenth Anniversary of the Black Diamond Blues Festival to Recreation Director Paul Flores.

As a member of the traveling group to Shimonoseki, Japan, Recreation Director Flores also reported that Shimonoseki was very serious and adamant in continuing its Sister City status and were intent on pursuing economic development and exchange in the area of music and the arts. He noted that the Tenth Anniversary of Sister City Shimonoseki would be May 2008.

Speaking to the Black Diamond Blues Festival, Mr. Flores reported that the event had been well attended, with staff dedicated to the original Old Town event which featured many blues stars and family entertainment while also showcasing the Old Town area. He thanked the City and the community for its continued support of that event.

2. Public Works Week

Councilmember Evola presented a proclamation proclaiming the week of May 20-26 as National Public Works Week in the City of Pittsburg.

Recycling Coordinator Laura Wright thanked the Council for the recognition of Public Works Department employees through National Public Works Week in the City of Pittsburg, a time to celebrate and recognize the employees of the Public Works Department who provided and maintained the infrastructure and services of the City. She noted that National Public Works had been created by the American Public Works Association in 1960 to call attention to the importance of public works in the community.

Ms. Wright explained that over the years observances had included state and local proclamations, parades, and displays of equipment, essay contests, civic contests and open houses. Each year the American Public Works Association had a theme to draw and increase attention to public works. The 2007 theme was "Public Works Moving Life Forward." A sample poster was presented to the Council.

Ms. Wright identified the many responsibilities of the Public Works Department to the City on a 24/7 basis. The community was invited to attend the Public Works Open House scheduled for May 24 at Buchanan Park from 10:00 A.M. to 2:00 P.M., which event would include exhibits, booth activities, staff demonstrations and the like.

COUNCILMEMBER REPORTS/REMARKS

Councilmember Parent reported that local teacher Mia Flores had been selected as one of the finalists for the Fox Sports Network Bay Area Teacher of the Year, with the final selection to be announced during the All Star Game. Ms. Flores had been selected by the members of the staff and faculty of Hillview Junior High School and had been featured on a recent pre-game show prior to an A's v. Giants game. Everyone was encouraged to participate and vote on www.fsnbayarea.com.

Councilmember Parent also reported that she had attended the Kennedy-King Scholarship Foundation Dinner in the City of Concord. Councilmembers had personally supported the foundation with the placement of an ad in the dinner program. Scholarships totaling \$200,000 had been distributed to students graduating from junior college, community college, moving ahead to a four year institution or to a former Kennedy/King scholar now pursuing graduate school.

Councilmember Parent advised that she had also presented a proclamation on behalf of the Mayor to the Foster Care Association which had recently met at the Historical Society in recognition of Foster Care Week, and had attended the Island Energy Advisory meeting at Mare Island with discussions on the rates for the coming year. During the June 4 and June 18 City Council meetings, she expected that presentations would be made for donations to the Small World Ferris Wheel project. Further, she advised that on May 24, she would be testifying before a House Subcommittee seeking \$1.4 million to close the gap on the City's Recycled Water Project. Congressman Miller had introduced a bill that would support that project and future projects and it was hoped that the City would be successful in receiving that grant.

Councilmember Kee reported that he had attended a Violence Prevention Task Force meeting at Central Junior High sponsored by its staff and County probation staff. The goal was to find ways to prevent violence in local schools with a request for a joint session with the Pittsburg Unified School District (PUSD) Board of Directors in June or July prior to the new school year. More information would be presented to the Council when available. He had also attended the Second Annual Pittsburg Youth Golf Tournament, which event had been well attended. He thanked everyone for their involvement for the event which raised over \$35,000 for youth programs.

Councilmember Evola advised that he had attended the Antioch State of the City Address, the Pittsburg State of the City Luncheon, a birthday celebration for Congressman George Miller on behalf of the City, and a Redevelopment Agency Subcommittee meeting. He took this opportunity to commend the good job of the Public Works Department and encouraged everyone to vote on the Lighting and Landscaping District (LLD) ballots which were due on June 4, 2007.

Mayor Johnson reported that he had attended the Pittsburg State of the City Luncheon, a groundbreaking ceremony for the new junior high school, eBART and TRANSPAN Committee meetings, and an American Legion Veterans meeting.

CITY MANAGER REPORTS/REMARKS

City Manager Marc Grisham reported that the PUSD would be announcing the new Superintendent on Wednesday, May 23 and would be hosting a reception for the new Superintendent at the City Hall Fountain Area on June 4, 2007 from 5:00 to 7:00 P.M.

Mr. Grisham stated that the Farmers' Market continued every Saturday at 9:00 A.M. He also announced that Eddie Hart and the City of Pittsburg would host the Hershey's Track and Field Games on May 28 at 11:00 A.M. at the Pittsburg High School Stadium, the Splash Dogs would be at the Pittsburg Marina Launch Ramp on May 26 and 27 at 9:00 AM., and Small World Park and the City's swimming pools were now open on the weekends.

CITIZEN REMARKS

RAMESH PATEL, owner of the Hampton Inn and Suites off of Loveridge Road, Pittsburg, provided a status report on that development. He advised that the project had been delayed due to the creation of a basement in the hotel which would increase the number of rooms from 70 to 96 benefiting the City and increasing tax revenues. The project was on track and he expected it would be open by the first week of October. He thanked the Building and Engineering Departments for their assistance in expediting the project.

Mayor Johnson adjourned to the Housing Authority agenda at 7:47 P.M. and reconvened as the City Council at 7:49 P.M.

Mayor Johnson reported that the City Council agenda would now be taken out of order to allow the Vice Mayor to participate in the following item via teleconference.

City Attorney Ruth Ann Ziegler clarified that while the Vice Mayor was excused, he had the option to participate, and would participate on Resolution 07-10780.

CONSIDERATION

1. **RESOLUTION 07-10780** Denying an Appeal, Adopting a Negative Declaration and Approving Design Review Application No. 05-283 (Dow Chemical Company MEI Project)

The City Council is requested to take action on an appeal filed by Tanya A. Gulesserian of Adams Broadwell Joseph & Cardozo, on behalf of local/regional trade unions.

The appeal related to Planning Commission Resolution No. 9693 approving Design Review Application No. 05-283 for plans to add equipment to an existing three to five story tall steel lattice frame rack system within an existing Methyl Ester Intermediate (MEI) production plant located at 901 Loveridge Road, IG (General Industrial) District; APN 073-

220-028. The public hearing on this item was closed and no further testimony will be accepted. The item was then continued from the May 7, 2007 Council meeting to allow the Council more time to read information it received on this item.

Planning Director Melissa Ayres explained that the Council had been presented with a comment letter from the appellant, Tanya A. Gulesarian, dated May 21, 2007, in response to comments made by staff at the last meeting.

There would be no fiscal impact associated with the project. It was recommended that the City Council adopt a resolution denying the appeal, and adopting the Negative Declaration approving Design Review Application No. 05-283.

Mayor Johnson opened the floor to any public comment. There was no public comment.

Ms. Ziegler advised that the vote would be through a roll call voice vote as a result of the Vice Mayor's participation through teleconference.

On motion by Vice Mayor Casey to adopt Resolution 07-10780, denying the appeal and adopting the Negative Declaration approving Design Review Application No. 05-283.

Councilmember Parent seconded the motion.

Councilmember Kee stated that based on his review of all information from an environmental standpoint he found no new information that would contradict the information from the City's consultant.

Councilmember Parent thanked everyone for their participation. She noted that the City's consultant had access to technical information. In her opinion, the California Environmental Quality Act (CEQA) process was complete.

Councilmember Evola advised that he would be voting against the motion.

Mayor Johnson commended staff and the legal representation involved in the evaluation of the appeal. He spoke to the details of the CEQA process, stated that Dow had completed that process, and suggested that the facility was working and that Dow would be improving its process with greater technology and productivity. He did not want to lose a long time business and employer of the City. He supported the motion to deny the appeal.

On motion by Vice Mayor Casey, seconded by Councilmember Parent to adopt Resolution 07-10780, carried by the following roll call vote:

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

Vice Mayor Casey concluded his participation in the meeting at this time.

Mayor Johnson returned to the Combined Consent Calendar of the Redevelopment Agency, Pittsburg Power Company and City Council at 7:58 P.M. and then adjourned back to the City Council agenda at 7:59 P.M.

PUBLIC HEARING

1. **RESOLUTION 07-10735** Appeal of Planning Commission Approval of Victory Outreach Recovery Home (AP-06-379) (UP)

Planning Director Melissa Ayres reported on a continued public hearing on an appeal of the Planning Commission approval for a Use Permit to 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. Ms. Ayres reported that the Council had last heard the item on March 19, 2007, at which time the item had been continued to allow more research and information to be provided. The Chief Building Official had reviewed the property and had identified deficiencies that must be corrected. Staff had prepared a resolution denying the appeal subject to a list of conditions, including the need to bring the property into compliance.

The City would have no fiscal impact as a result of the project. Staff recommended that the City Council deny the appeal and uphold the approval of Use Permit Application No. 06-379, subject to conditions, which would limit the use to 12 clients.

Mayor Johnson advised that the public hearing had been continued from March 19, 2007 for Resolution 07-10735.

PETE CARPINO, Pittsburg, reiterated his prior comments that he was not opposed to the facility although he suggested it should be located elsewhere due to the proximity of the high school and given that the area was a gateway to the City. He urged that the appeal be upheld.

Mayor Johnson closed the public hearing for Resolution 07-10735.

Councilmember Parent spoke to the recent zoning code change that had been made where she understood the use would be grandfathered in.

In response, Ms. Ayres affirmed that the use would be grandfathered in under the new zoning code. If the City Council did not approve the use permit, the use would not be allowed to expand in the future.

Any future changes to the building, its use, or the conditions would not be a change that could be approved since it would be outside of the zoning code, and the use permit could not be amended. The applicant would have to apply for an overlay zone to change the rules requiring Planning Commission and City Council approval.

Councilmember Evola recognized that the Chief Building Official had evaluated the

property and had identified deficiencies that must be corrected to bring the building into compliance. He inquired of the details of the identified deficiencies.

City Engineer Joe Sbranti advised that an inspection of the property had been completed on March 27. A letter from the Chief Building Official had been submitted to the applicant on March 28. The identified deficiencies included Americans with Disabilities Act (ADA) compliance where there must be two exits to and from the basement where the occupants were proposed to be housed. Both exits needed to be ADA accessible with either ramps or lifts. ADA showers and bathrooms were required, as was proper ventilation which would require HVAC modification to the building. Natural lighting improvements would also have to be made to the basement area.

Ms. Ziegler added that as referenced in the March 28 letter from the Chief Building Official, he had made it clear that his letter had not identified all of the changes that must be made and it was not an all inclusive list.

Mr. Sbranti acknowledged that the deficiencies had not gone into detail with structural issues. Adding natural lighting to the basement would require the installation of a number of windows to meet the square footage requirements for natural lighting and there was only a small strip of wall exposed to the above ground area of the building. Solid windows around that room might need to be installed triggering structural concerns that must be addressed. As to whether or not light wells would qualify since it was a basement, he was uncertain that would be feasible.

Mayor Johnson understood that the windows must be a certain parameter which would hamper the issue as well and Mr. Sbranti explained that an exit was not required through the window, but through two separate exits from the basement.

In response to the Mayor, Ms. Ziegler advised that the matter before the Council was to consider either a vote in favor of the staff prepared resolution denying the appeal which would allow the project as approved by the Planning Commission's approved use permit, or a vote in favor of the appellant which would deny the use permit. The Council had been provided with findings to support the staff recommended resolution of denial of the appeal, which would favor granting the use permit. If the Council were to deny the use permit, findings must be prepared and staff must be directed to do so and return with a final vote at the next Council meeting.

Ms. Ziegler went on to clarify that any decision must have findings to support that decision. A yes vote would grant the use permit and a no vote would grant the appeal with no use permit and direction to staff to return with supporting findings.

Councilmember Parent understood that the Council could change the conditions and Ms. Ziegler affirmed that could be done as long as there was evidence to support that change. Councilmember Parent inquired of staff whether or not all applicants were given two years to get things done, and Ms. Ayres noted that typically there was a one-year time period although she had in the past extended the initial time period for those who might

have financial difficulty. There was no precedent one way or another.

When asked by the Mayor, Ms. Ziegler clarified in the event of a tie vote the Planning Commission decision would remain in effect or the Council may decide to continue the public hearing to the next meeting of the Council when five Councilmembers were present to prevent a tie vote.

Mr. Grisham asked that the Council take action one way or another.

Councilmember Parent understood the concerns of the community but noted that such facilities should be provided. While the facility had been operating with six people, she recognized the burden of bringing the building to code. She made a motion to adopt the resolution with a change to Condition 28, with the use permit to expire on January 23, 2008.

Ms. Ayres clarified that Councilmember Parent had been looking at the approved Planning Commission resolution and that the date in Condition 30 of Resolution 07-10735 should be amended to read May 21, 2008.

On motion by Councilmember Parent, seconded by Councilmember Kee to adopt Resolution 07-10735 with Condition 30 to be amended to change the approval date for the use permit to May 21, 2008. The motion **FAILED** by the following vote:

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

Based on the tie vote, Mr. Grisham recommended that either a substitute motion be made or that staff be directed to return to the City Council on June 4 with two resolutions, one to deny the appeal granting the use permit as conditioned, and one to uphold the appeal denying the use permit.

There being no substitute motion, Mayor Johnson advised that the item would be continued to the City Council meeting of June 4, 2007, as a Consideration Item with staff directed to return with two resolutions; one to deny the appeal granting the use permit as conditioned and one to uphold the appeal denying the use permit.

2. **RESOLUTION 07-10779** City-initiated General Plan amendments in Conjunction With the Phase II Zoning Code Update

On May 7, 2007, the Council introduced Ordinance No. 07-1284 amending Pittsburg Municipal Code Title 18 (Zoning Ordinance), in order to implement the goals, policies and land uses in the General Plan. Ordinance No. 07-1284 is being brought back before the Council for adoption.

There were no fiscal impacts associated with these amendments to the Zoning

Ordinance. It was recommended that the City Council move to adopt Ordinance No. 07-1284, amending Pittsburg Municipal Code Title 18 for Phase II of the Zoning Code Update and adopt Resolution 07-10779 adopting the Negative Declaration for the Phase II Zoning Code Update and General Plan Amendments, and amending the Land Use, Downtown, Open Space & Youth & Recreation, Health & Safety and Housing Elements of the General Plan.

Mayor Johnson opened the public hearing for Resolution 07-10779. There was no one to speak to the item. Mayor Johnson closed the public hearing for Resolution 07-10779.

On motion by Councilmember Evola, seconded by Mayor Johnson and carried unanimously to adopt Resolution 07-10779.

3. **RESOLUTION 07-10787** Black Diamond (Vidrio) Project – Consideration of Supplemental Environmental Impact Report

Ms. Ayres advised that a Supplemental Environmental Impact Report (SEIR) had been prepared for the Black Diamond (Vidrio) Project in response to a settlement agreement resulting from a CEQA legal challenge on the project. The Council is being asked to certify the SEIR and adopt related CEQA findings. The Redevelopment Agency would consider a separate related request to amend the project Disposition and Development Agreement (DDA).

Ms. Ayres noted that the SEIR for the project contained a general assessment of the New York Landing District and the Scampini building formulated through field, architectural surveys, records, searches and consultation. The SEIR was intended to consider the effect of the proposed project on the Scampini building as an individual resource and as a contributor to the district, to assess the district as a whole and the effect of the project on the district, and to analyze the cost of retaining or incorporating the Scampini building into the project as a project alternative.

The conclusion of the SEIR was that the Scampini building did not meet the criteria for listing on the California Register for Historic Places as an individual resource, the building had not made a significant contribution to the history of the City or the State overall, was not associated with people or persons known to be significant to the area's history, and the building did not qualify as significant or unique in the distinctive characteristics of a type, period of method of construction.

The SEIR had also assessed the effects of the demolition of the Scampini building on the district in qualitative and quantitative terms and the SEIR found that the district retained a good deal of integrity relative to the 1981 survey which had established the district and integrity as defined through the location, design, setting, materials, workmanship, feeling and association. In assessing the individual contribution of the Scampini building to the district, the SEIR found it did not convey a strong sense of setting, feeling or association to the district in that it was visually isolated from the district, located

on the corner surrounded on three sides by vacant land and was a non-contributing building.

The Scampini building had gone through alterations over the years, such as the replacement of several windows and doors, with modern units reducing the integrity and workmanship and design of the individual building. The quantitative analysis had been based on percentage of remaining contributing buildings versus the original total of buildings. From the 1981 survey, with the loss of the Scampini building the district would have lost a total of four contributing buildings since the 1981 survey leaving 80 percent of the district contributing buildings intact. The industry standard for maintaining the Historic District intact was 75 percent of the contributing buildings. The SEIR found no significant impacts related to the loss of the building itself or the district.

Ms. Ayres referenced the second sentence of the second full paragraph on Page 6 of 11 of the May 21 staff report, which should be corrected to read:

Basing quantitative integrity for a District on a percentage of remaining buildings is an accepted practice in the field of cultural resources, and is based on the industry standard that a district may be in danger of decertification if 25% or more of the total number of contributors have been substantially altered or demolished.

There would be no direct fiscal impacts to the City budget associated with the certification of the SEIR.

Ms. Ayres recommended that the City Council adopt a resolution certifying the Black Diamond SEIR, making appropriate CEQA findings and adopting amendments to the previously approved Mitigation and Monitoring Plan.

Mayor Johnson opened the public hearing for Resolution 07-10787.

TOM La FLEUR, Pittsburg, representing the Pittsburg Society for the Preservation of Historical Resources, read into the record a letter he had presented to the Council. He suggested that the SEIR, as submitted, was inadequate, should not be certified and suggested that as the Agency built new projects all contributing buildings in the New York Landing Historic District could and should be retained, rehabilitated and included alongside the new projects. He suggested it would improve and enhance the unique qualities of the community.

Mr. LaFleur applauded recent action by the City Council regarding the New Mecca Plaza project and suggested that approach had been well taken. However, he suggested that once the EIR found the loss of the Scampini building would be an adverse impact that was what it was and such findings were not subject to further evaluation except where new substantial information that could not otherwise have been known without reasonable due diligence would have come forward at the time of the previous EIR. Since the SEIR had not brought such new information, he suggested that finding remained intact.

Mr. LaFleur suggested that the advocates of the Scampini building had not had a fair hearing on the SEIR because the Agency had transferred ownership of the building to facilitate its demolition. The Agency had already started the actual physical demolition of the building until it had been discovered the City had been in error in its demolition, which was also in violation of a settlement agreement. He added that the Agency had unreasonably delayed or withheld public record information and had unreasonably provided incorrect information in response to public record information requests, raising an issue of EIR adequacy since it impeded the public's ability to comment on the EIR constituting a non-response to public comment.

Mr. LaFleur further suggested a lack of evidence to support the infeasibility of the rehabilitation of the Scampini building and disagreed that the findings of the KMA Group could stand. The KMA Study had disclosed the project at \$7,350,000 short of being feasible without regard to the Scampini building. He therefore suggested that the Scampini building would not make an infeasible project further infeasible.

Mr. LaFleur added that the Agency had information at hand including the increase of \$7,350,000, and unless the issue of infeasibility were resolved, could not find that retaining the Scampini building made the project further unfeasible. Further, with the violation of the settlement agreement through the transfer of the building and the demolition of the project and since the General Plan calling the Scampini building a historic resource had become the baseline of the settlement agreement, he asked that the City Council resolve the findings in the SEIR.

Mayor Johnson closed the public hearing for Resolution 07-10787.

Ms. Ziegler asked for a recess to allow staff to properly comment to Mr. LaFleur's letter.

Mayor Johnson declared a recess at 8:36 P.M. The meeting reconvened at 8:52 P.M. with all Councilmembers initially shown as present or excused.

In response to the May 21 letter from Mr. LaFleur and in response to his comments, Ms. Ziegler noted that the overall comments were that all contributing buildings within the New York Landing Historic District should be retained so as to enhance the district, although she stated that was not a legal requirement.

Subsequent to the City's preparation of the initial EIR and the settlement agreement between the City and the Historical Group, which had sued the City, Ms. Ziegler noted that the City had taken extensive steps and time on the matter. A key element of the settlement had been the preparation of an SEIR. The City had engaged in due diligence and had hired experts in the field of historic resources. The matter was back before the Council after more than a year from when the City had first approved the EIR because of the extensive time and diligence of City staff and consultants in the preparation of the matter with no pre-judging of City staff, the City Council or the consultant of the outcome.

Ms. Ziegler explained that the intent of the SEIR had been to reevaluate the issues and the stipulation between the parties had been to fully evaluate the Scampini building and other factors relating to historic or cultural resources. She commented that if the Council did not have an open mind and were bound by the FEIR, the SEIR would have been a sham, not the goal of the City and presumably of Mr. LaFleur and his colleagues. The SEIR had been prepared and its comments replaced that portion of the FEIR related to historic or cultural resources.

Ms. Ziegler responded to the assertion that advocates of the preservation of the Scampini building and the public itself had been denied a fair hearing on the SEIR was not true in that the SEIR had been available for public review for the statutorily required period, a Draft SEIR had been circulated for comment, and the City had received extensive comments solely from the same group that had challenged the EIR. Those comments had been evaluated and responded to in the preparation of the Final SEIR.

As to issues raised as to whether or not there was some degree of impropriety or pre-determination by the Agency and the developer changing relative obligations as to ownership of buildings, Ms. Ziegler clarified that ownership of buildings was not an environmental issue and did not involve a physical impact on the environment which CEQA required be examined. As to the concerns with premature demolition of the building, she noted the Public Records Act request and other correspondence related to the demolition of the building. Since neither the City nor the Agency had undertaken the demolition of the building, there were no documents related to the demolition of the building.

Ms. Ziegler added that the City was in the process of responding to the Public Records request made by Mr. LaFleur to provide documents related to asbestos abatement and other work on the interior of the building, a courtesy, since that was not within the scope of Mr. LaFleur's request. Ms. Ziegler advised that asbestos abatement which had been undertaken would be required regardless of any use of the building, whether demolition, rehabilitation, or reuse of the building. No permits were required for that action which was not a discretionary act. She referenced the case of *Martin vs. the City and County of San Francisco* which had examined whether CEQA reached to the interior of a historic building. In that case, the court determined that only those parts visible to the public or available to the public, such as the exterior of the building, were subject to CEQA and historic analysis.

Ms. Ziegler added that with any past analyses of the New York Landing District in prior matters, the interior of the building had never been identified as a contributing factor in terms of any historic or contributing nature of the building.

Ms. Ziegler went on to respond to references made by Mr. LaFleur that the Agency had initiated the partial demolition of the building, removed windows and destroyed the mechanical system. While there had been some problems with the windows and mechanical system, she had discussed with Mr. LaFleur's attorney the fact that vandals had broken into the building twice causing some of the destruction where the City would board up the building to protect it from further break in by vandals.

As to references to withholding public record information, Ms. Ziegler explained that per the Public Records Act, the City was required to respond to a request within 10 days. If strictly responding to Mr. LaFleur's request, there would be no documents provided since there had been no demolition undertaken. The City would provide copies of other documents related to asbestos abatement. Claims and challenges to pro formas were also noted, with Mr. LaFleur having been provided with a copy of the pro forma in the City's possession. Pro formas were prepared by the developers and not the City and the pro forma prepared by AF Evans and given to Keyser Martson, an economic analysts hired by the City to work on the project, had been analyzed with references to it included in the Final EIR. She noted that it had not been in the City's possession at the time Mr. LaFleur had requested copies.

In response to references as to the lack of evidence supporting infeasibility and rehabilitation of the Scampini building, Ms. Ziegler explained that in the EIR analyzing the project, the consultant had determined that the building was a historic resource and an unavoidable significant impact if the building were demolished, with findings of overriding significance necessary if the City/Agency wished to demolish the building. Through the SEIR and a thorough and lengthy analysis of many factors related to the Scampini building and the New York Landing Historic District, it had been determined that the Scampini building was a contributor but on to itself not a historic resource.

If demolished, Ms. Ziegler stated that the SEIR found that would not be a significant impact either to the City, the New York Landing Historic District, or any other scenario. Therefore findings did not have to be made and the City did not have to prove the infeasibility of retaining it. The City had gone the extra step and had put the information in the record related to various Keyser Marston studies.

As to references by Mr. LaFleur that there was a violation of the settlement agreement, Ms. Ziegler advised that the settlement agreement required the examination of alternatives and the use of the baseline General Plan and zoning that existed at or prior to the certification of the initial EIR. The General Plan in effect at that time stated that the building was a contributor and had not identified the building as a historic resource. All of the actions and the General Plan baseline and zoning baseline used had painstakingly been adhered to as to those in effect at the time the EIR had been certified.

Ms. Ziegler reiterated that the suggestion that the demolition of the building had been halted only at the request of the Pittsburg Society for the Preservation of Historical Resources was inaccurate, and the statement that the City had acknowledged the violation was grossly inaccurate since the City had never conceded the settlement agreement had been violated, when in fact it had not been.

Ms. Ayres referenced the second to last paragraph on Page 2 of 11 of the May 21, 2007 staff report, and asked that the paragraph be amended to read:

On October 12, 2006 all parties involved entered into a settlement agreement, and agreed that the City would prepare and certify an SEIR to consider the retention of

the Scampini building as a project alternative.

Councilmember Parent made a motion to adopt Resolution 07-10787. She commented that she had reviewed all of the documentation involved with the proposal. She thanked staff for all of the information to make clear what had occurred historically. The Scampini building was a contributor, built in 1920. As a long time resident, she was unaware of any significance that occurred in the building. Also the building did not appear to be architecturally significant. It was a contributor since it was located on the corner across from the Lepori building. The consultant had shown that the remainder of the historic district would not be negatively affected if the Scampini building was not preserved. As a result, it had been clearly documented that the Scampini building did not need to be preserved in the historical district and was not significant.

Councilmember Kee seconded the motion. He added that it would cost the City or the Redevelopment Agency millions of dollars to save the Scampini building. In his opinion, that money would better spent elsewhere in the Old Town area or elsewhere in the City.

Mayor Johnson stated that he too had spent time reviewing all of the documents for both the original EIR and the SEIR. In many places, the Scampini building had not been identified as a key building in the City, other than as a contributor. He commented that the building was rectangular with no historic significance. He agreed that the restoration of the building would be a very expensive process where the money could be better spent elsewhere. He supported the resolution.

Kit Faubion from the City Attorney's Office added that comments and clarification provided by the City Attorney should be included in the motion.

On motion by Councilmember Parent, seconded by Councilmember Kee and carried unanimously to adopt Resolution 07-10787, as amended, with clarification as provided by the City Attorney.

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

4. **RESOLUTION 07-10788** Approval of a First Amendment to the First Amended and Restated Disposition and Development Agreement By Combined w/RDA 07-1202 And Among the Redevelopment Agency of the City of Pittsburg, Trinity Housing Foundation, and Black Diamond Old Town, LLC

City Manager Marc Grisham advised that the Redevelopment Agency of the City of Pittsburg entered into a Disposition and Development Agreement (DDA), dated November 7, 2005, with Black Diamond Old Town, LLC to develop a three-block, mixed-use project in Old Town. The Agency entered into the First Amended and Restated Disposition and Development Agreement, dated June 19, 2006, with the developer and Trinity Housing Foundation. The Agency proposed to enter into a First Amendment to the Amended and

Restated DDA to allocate additional funds for the project and to change certain timeframes outlined in the Schedule of Performance associated with Phase II.

The proposed changes to the First Amendment would result in a negative fiscal impact of approximately \$356,000. This number based on an estimate from Johnstone Moyer Inc. dated February 27, 2007. The amount includes \$341,992 for sanitary sewer line improvements at Railroad Avenue from Fifth Street to Eighth Street plus an additional \$560 additional cost per lateral for the east side of Railroad Avenue. Staff had conservatively estimated a need for a total of twenty-five laterals on the east side of Railroad Avenue for a cost of \$14,000. Therefore, the total cost would be \$356,000. The funding for this work would come from the 2004 Tax Allocation Bond proceeds.

It was recommended that the Agency Board approve the First Amendment and all exhibits thereto; authorize and direct the Executive Director of the Agency to execute the First Amendment on behalf of the Agency; and all exhibits to the First Amendment; authorize and direct the Agency Secretary to attest thereto; authorize the Executive Director to execute such further documents and take such further actions as may be necessary or appropriate to carry out the Agency's obligations pursuant to the First Amendment; and authorize and direct the Executive Director to file a Notice of Determination with respect to the First Amendment and its authorizing in accordance with the applicable provisions of CEQA.

It was recommended that the City Council approve the First Amendment and all exhibits thereto; and authorize the City Manager to file a Notice of Determination with respect to the First Amendment and its authorizing resolution in accordance with the applicable provisions of CEQA.

Mayor Johnson opened the public hearing for Redevelopment Agency Resolution 07-1202 and City Council Resolution 07-10788. There was no one to speak to the items. Mayor Johnson closed the public hearing for Redevelopment Agency Resolution 07-1202 and City Council Resolution 07-10788.

On motion by Member Kee, seconded by Member Evola and carried unanimously to adopt Redevelopment Agency Resolution 07-1202.

On motion by Councilmember Kee, seconded by Councilmember Evola and carried unanimously to adopt City Council Resolution 07-10788.

Councilmember Evola recused himself from agenda Items 5 and 6 due to his financial interest as a source of income from his employer. He left the dais and the Council Chambers at this time.

5. **ORDINANCE 07-1285** Introduction of an Ordinance Rezoning Sky Ranch II
 Combined w/07-10789 Development Area RZ-02-21

6. **RESOLUTION 07-10789** Approving CEQA Findings, Adopting a Statement

Ms. Ayres explained that the Planning Commission had recommended that the City Council prezone an approximately 166.5 acre unincorporated site located south of Highlands Ranch and the adjacent City-owned Water Tank site to RS-6-0 (Single-Family Residential) District with an Overlay Zone that would establish minimum lot sizes and allow City water tanks as a permitted use. APNs 089-050-042, -066, -067, and portions of Highlands Ranch Subdivision.

Mr. Grisham thanked the Planning and Engineering Departments for their work and the extensive conditions related to the items to ensure an appropriately graded and safe site. He reported that he had attended the Planning Commission meeting when the project had been proposed and the Planning Commission had also commented on the extensive conditions.

Ms. Ayres advised that in October 2006, the City Council had certified the EIR for the Sky Ranch II project which property was located within the City's Urban Limit Line (ULL) and Sphere of Influence (SOI), although outside of the City's current limits. On May 8, 2007, the Planning Commission had adopted three resolutions; recommending the City Council prezone the property; and resolutions approving the subdivision and design review applications. Those approvals were contingent upon the City Council pre zoning the property and the property being annexed into the City. The Planning Commission had recommended the pre zoning of the property to Single-Family Residential with a minimum lot size of 6,000 square feet and with an 8,000 square foot minimum lot size for all market rate lots. Ten percent of the units would be made available and affordable to Moderate Income households, which lots would be allowed to be 6,000 square feet. It would also establish that water tanks were a permitted use in the district since it was located in a hillside area where water tanks would normally be situated.

Pursuant to the Municipal Code, Ms. Ayres stated that the City Council may prezone a property if it finds that the proposed pre zoning was consistent with the General Plan and finds there was something unique about the property necessitating the overlay district. Staff suggested that the findings could be made with the project to implement General Plan policies promoting high end single family residential development; providing low intensity uses at the southern edge and hillside estate lots. General Plan policies also called for the construction of the Buchanan Road Bypass (BRB), which project would provide the second leg, the first leg being provided through the City of Antioch west of Sommersville Road.

If approved, the development would also implement General Plan policies increasing home ownership opportunities for Moderate Income households, or an alternative would allow the developer to provide the equivalent of five percent of the units, or 21 units, for Very Low Income households off site.

Ms. Ayres explained that the City's Housing Element had identified regional housing

needs for all areas. The units would count towards the next reporting period for 2007-2014. The City had reviewed the Housing Element's vacant and underutilized land maps and key opportunity maps and had found that most of them had been approved with residential developments over the last reporting period. The City would have to annex additional land to meet the Moderate and Above Moderate Income requirements. The subject property, if annexed, would help the City meet those numbers.

The subject property had been developed on two sides by residential development; Highlands Ranch within the City of Pittsburg and the Black Diamond Subdivision located in the City of Antioch, with the development a logical extension of urban development of the community.

Ms. Ayres explained that although the City Council had certified an EIR for the project in October 2006, no findings had been made at that time lacking any entitlements to consider. The Council would be obligated to adopt findings related to any project approved, and before the property was rezoned the City Council was asked to adopt a resolution that would make the appropriate CEQA findings for the project that would review the analyses for alternatives in the EIR, and adopt a Mitigation Monitoring and Reporting Program. The subdivision and design review resolutions, as adopted by the Planning Commission, had copied those conditions in them although the City Council must formally adopt the Mitigation and Monitoring and Reporting Program.

There would be no fiscal impact on the City's adopted budget by rezoning the property in question.

Ms. Ayres recommended that the City Council adopt a resolution approving CEQA findings, adopting a Statement of Overriding Considerations, and adopting a Mitigation Monitoring and Reporting Program for the Sky Ranch II project. It was also recommended that the City Council move to introduce, waive further reading, and move to second reading an ordinance rezoning the Sky Ranch property and adjacent City Water Tank property as described therein.

Councilmember Kee understood that one of the goals of the Inclusionary Housing Ordinance was that the homes appear the same. As such, he questioned the inclusionary homes in the development on 6,000 square foot lots, when the other homes were to be on lots a minimum of 8,000 square feet.

Ms. Ayres explained that the Inclusionary Housing Ordinance would not apply to the proposed development since the application had been deemed complete prior to the adoption of that ordinance. There were provisions in the ordinance that would allow new homes to be affordable by design. One of the ways to facilitate that provision under the ordinance would be to reduce lot sizes, reduce home sizes, and change interior finishes and the like. She suggested that a 6,000 square foot lot would be easier to maintain for someone on a limited income. The project also included larger lots, such as half an acre and acre lots due to the hillside topography. The developer had discussed placing the affordable units on the north side of Buchanan Road in its own neighborhood. She did not

see that visually the public would notice the difference due to the shape of the lots, whether a lot was 6,000 or 8,000 square feet in size.

Councilmember Kee noted that the mitigation monitoring measures had identified that once the development had reached a total of 353 units, the Buchanan Road Bypass must be completed or the James Donlon Extension must be open or that an alternate means be provided. He questioned how that number had been reached since it represented 80 percent of the total number of units.

Ms. Ayres advised that the number had come out of one of the mitigation measures in the EIR. Anything beyond 353 units would result in changes to the Level of Service (LOS) levels to intersections that were unacceptable under the Growth Management Plan.

Councilmember Kee also spoke to Planning Commission Resolution No. 9712, Condition 33, which had recommended that spark arresters be painted the same color as the roof. If the homes were to be upscale, he noted that oftentimes the spark arresters were covered with a copper sheet metal or bronze material offering a patina color.

Ms. Ayres advised that could be considered under the clause for approval, identified as substantially the same.

Councilmember Parent affirmed with staff that 6,000 square feet was the minimum lot size in the City, where almost everything was 6,000 square feet or lower. The developer had agreed to increase the square footage to 8,000 square feet to address General Plan policies for estate lots. She also understood that there was a noise factor identified in the EIR that could not be mitigated with an implication that there would be ways to work on that issue at the Final Map stage of the process.

Ms. Ayres explained that the mitigation measures in the EIR had related primarily to the sound wall along the BRB. There were seven homes; two on Ventura Drive and five others between Range Road and Glen Canyon Circle/Drive where the noise change would increase from 60 up to 66 dBA in the front yards.

Based on the City's Noise Element, a dBA of 65 was the maximum which could be mitigated with walls and double paned windows. In this instance, the homes that could be impacted involved the front yards which could not be mitigated through a rear yard fence or windows. Residents of those homes would experience those noise impacts at the build out of the subdivision.

Mayor Johnson spoke to Resolution No. 9711, Mitigation Measure 123 and requested clarification from staff on the intent of that mitigation measure. He also requested clarification of Mitigation Measure 99 (b).

Mr. Sbranti explained that Mitigation Measure 99 (b) advised that the condition would apply to detention basins constructed as part of the project.

Mayor Johnson also verified with staff that the requirement for sectional roll up doors

for two car garages was a standard design review condition. Staff also clarified that the sound wall was intended to screen adjoining properties that might be exposed to traffic on the James Donlon Extension, and the sound wall may be open or a rural wall on that portion of the Thomas property.

Mr. Sbranti verified that Mitigation Measure 123 related to the issue of the diversion of traffic whereby local streets were being used as cut through access points. In the past, the City had taken steps to discourage the use of those streets for cut through traffic. Speed humps and no right turn signs had been installed along Ventura Drive. If further means were needed to discourage the cut through traffic, the developer would take 100 percent responsibility for the cost of those measures.

Mayor Johnson opened the public hearing for Ordinance 07-1285 and Resolution 07-10789.

LOUIS PARSONS, Discovery Builders, thanked the staff for their efforts and hard work. He welcomed any comments from the Council.

Mayor Johnson closed the public hearing for Ordinance 07-1285 and Resolution 10789.

On motion by Councilmember Parent, seconded by Councilmember Kee to introduce Ordinance 07-1285 by title only and waive first reading, carried by the following vote:

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

On motion by Councilmember Parent, seconded by Councilmember Kee to adopt Resolution 07-10789, carried by the following vote:

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

Councilmember Evola returned to the dais at this time.

7. **RESOLUTION 07-10790** Establishing an Appeals Processing Fee

It is necessary to establish enforceable minimum standards for existing structures and property located within the City of Pittsburg. City Ordinance No. 06-1272, entitled "Maintenance of Boarded and Vacant Buildings" and Ordinance No. 05-1245, entitled "Administrative Citations" each support the issuance of citations and fines to gain compliance with minimum standards. In addition they each support the levying of an "Appeals Processing Fee" to recover the costs of providing an avenue for appealing such citations and fines. The establishment of an "Appeals Processing Fee" would provide a

positive fiscal impact as the City would no longer depend upon the General Fund to provide support for such hearings.

It was recommended that the City Council approve a resolution to provide a means by which to recover the costs of providing the ability to appeal a citation or fine before the City's Hearing Officer.

Mayor Johnson opened the public hearing for Resolution 07-10790. There was no one to speak to the item. Mayor Johnson closed the public hearing for Resolution 07-10790.

On motion by Councilmember Evola, seconded by Councilmember Kee and carried unanimously to adopt Resolution 07-10790.

CONSIDERATION

2. **RESOLUTION 07-10791** Approval of a Real Property Exchange Agreement By
Combined w/RDA 07-1203 and Between the Redevelopment Agency of the City of
Pittsburg and the Judicial Council of California,
Administrative Office of the Courts for a New Pittsburg
Superior Courthouse

Mr. Grisham explained that under the terms of the proposed agreement, the Agency would deed the courts 3.11 acres of City and Pittsburg Unified School District (PUSD) property, and after construction of a new courthouse on the 3.11 acres, the courts would deed the Agency a portion of the existing court property, consisting of approximately 2.86 acres. The new courthouse would expand Pittsburg court facilities from 4 courtrooms to 7, with the ability to expand to 10 courtrooms at a later date. The Agency would also be required to provide some parking on Agency land for the new courthouse.

With respect to fiscal impact, there would be a cost of \$2.5 million for design and relocation of existing utilities, as yet undetermined costs for the Agency purchase of City land for conveyance to the courts, asbestos abatement and costs of demolition of improvements at 2000, 2010 and 2020 Railroad Avenue, costs for creation of a parking lot at the existing courthouse location, and the cost of designing and constructing a new road abutting the new courthouse site on the north side from Railroad Avenue. That amount would be funded with \$1.5 million from 2004 tax exempt bonds and \$1 million from 2006 tax exempt bonds.

Staff recommended that the Agency Board adopt a resolution approving the agreement with the courts for the exchange of properties and other provisions. Staff further recommended that the City Council adopt a resolution making certain findings required under Health & Safety Code Section 33445.

On motion by Member Parent, seconded by Member Kee and carried unanimously to adopt Redevelopment Agency Resolution 07-1203.

On motion by Councilmember Parent, seconded by Councilmember Kee and carried unanimously to adopt City Council Resolution 07-10791.

In response to Councilmember Kee, Redevelopment Director Randy Starbuck advised that there would be environmental remediation of the site by the court at its expense and the City would have access to those documents to ensure that the property was clean, which would be documented in the process.

CONFLICT OF INTEREST DECLARATION

Councilmember Evola advised that his vote on the Consent Calendar would not apply to Item I, based on his financial interest as a source of income from his employer.

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

On motion by Councilmember Parent, seconded by Councilmember Kee and carried unanimously to adopt the Consent Calendar, as follows.

- a. **MINUTES** Dated: May 7, 2007
Approved minutes dated May 7, 2007.
- b. **CLAIMS** #1771 Otto Hernandez Cristales
Denied claim #1771 Otto Hernandez Cristales.
- c. **RESOLUTION 07-162** Approving the Increase of Funding for the Purchase of Wholesale Electricity and Natural Gas
Adopted Resolution 07-162.
- d. **RESOLUTION 07-1204** Authorizing Executive Director to Execute Assessment Ballots on Behalf of the Redevelopment Agency for the Proposed Increase to the Citywide Landscaping and Lighting District 19888-01 Annual Assessment
Combined w/CC 07-10792
Adopted Resolution 07-1204.
- e. **RESOLUTION 07-10792** Authorizing the City Manager to Execute Assessment Ballots on Behalf of the City for the Proposed Increase to the Citywide Landscaping and Lighting District 1988-01 Annual Assessment
Combined w/RDA 07-1204
Adopted Resolution 07-10792.

- f. **RESOLUTION 07-1205** Authorizing the Sale of 14 West Boulevard to the
Combined w/CC 07-10793 Redevelopment Agency of the City of Pittsburg
- Adopted Resolution 07-1205.
- g. **RESOLUTION 07-10793** Authorizing the Sale of 14 West Boulevard to the
Combined w/RDA 07-1205 Redevelopment Agency of the City of Pittsburg
- Adopted Resolution 07-10793.
- h. **RESOLUTION 07-1206** Appropriating Funds and Extending Agreement for
Contract Planning Services
- Adopted Resolution 07-1206.
- i. **ORDINANCE 07-1284** Comprehensive Zoning Code Update, Phase II
- Adopted Ordinance 07-1284.
- j. **RESOLUTION 07-10794** Acceptance of Public Improvements Within Subdivision
8795 Stanford Place for Continuous Maintenance
- Adopted Resolution 07-10794.
- k. **RESOLUTION 07-10795** Establishing a Deposit Reimbursement Account for
Buildings Plan Check Services Related to Major
Commercial Projects
- Adopted Resolution 07-10795.
- l. **RESOLUTION 07-10796** Clarification of the Declaration of Intent Regarding the
New Mecca Square Project as it Relates to the New
York Landing Historic District
- Adopted Resolution 07-10796.
- m. **RESOLUTION 07-10797** Approve Authorizing a Total Expenditure of \$78,000 to
Ajilon for Temporary Staffing in the Finance Department
and \$118,000 for Utility Billing Postage and Mailing
Services to Mail Stream
- Adopted Resolution 07-10797.
- n. **RESOLUTION 07-10798** Authorizing Used Oil Block Grant Program Application
- Adopted Resolution 07-10798.

- o. **RESOLUTION 07-10799** Approve Authorization of Staffing Increase of One (1)
Combined w/RDA 07-1207 Additional Finance Division Manager Position Within the
Finance Department

Adopted Resolution 07-10799.

- p. **RESOLUTION 07-1207** Approve Authorization of Staffing Increase of One (1)
Combined w/CC 07-10799 Additional Finance Division Manager Position Within the
Finance Department

Adopted Resolution 07-1207.

ADJOURNMENT

The City Council adjourned at 9:51 P.M to June 4, 2007.

Respectfully submitted,

Alice E. Evenson, City Clerk

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