



# ADMINISTRATIVE REPORT

DATE: JULY 16, 2010

TO: MAYOR AND CITY COUNCIL  
BEN REYES, CITY ATTORNEY

FROM: BELINDA B. ESPINOSA, CITY MANAGER

## PLACES TO BE

- JULY 28 – WASTEWATER TREATMENT JPA MEETING

There will a meeting of the Wastewater Treatment JPA on July 28 at noon in the City of Hercules.

## ITEMS OF INTEREST

- UPDATE ON THE PAVING ON APPIAN WAY AND SIMAS AVENUE

One of the most common calls received by the Public Works Department these days is asking when repairs are going to be made along Appian Way or Simas Avenue. The short answer is, this summer, but here is some additional information.

It is the City's position that both projects failed to meet the contract requirements. Both roadways are continuing to deteriorate, and the most heavily travelled segments have already failed. The City is demanding that both roadways be repaved completely. We have taken all of the legal steps necessary to keep pressure on the contractors to alleviate the problem.

### Simas Avenue

The City is currently advertising for bids for the repaving of Simas Avenue. That project includes the removal and replacement of the asphalt placed last year. Bids are due to the City on August 10, 2010, and we hope to be able to award a construction contract on August 17, 2010. The City will take all necessary actions to recover its costs associated with repaving Simas Avenue. The City will not have to pay for this rebuild as the contractor's surety bond will be billed.

### **Appian Way**

The original contractor for the Appian project has agreed to remove and repave that roadway beginning the second week of August 2010. It's important to note that the work on Appian will take place at no additional cost to the City of Pinole.

- **AFFORDABLE HOMES FOR SALE**

The Agency is nearly finished constructing three new homes on Buena Vista Drive. A current market analysis indicates the market value of the homes to be in the low \$300,000s; however, as part of the Redevelopment Agency's requirement to provide housing and homeownership opportunities to working individuals and families in very low, low, and moderate income categories, the pricing has been reduced.

Each of the three new, custom homes has quaint design elements and Old Town Pinole/Victorian character with distinctive floor plans. Resale of each property is restricted for at least 45 years (e.g. the house that is priced in the "very low income" category can only be sold to another very low income household, etc.)

The home and pricing specifics are:

- 2 BR/2 BA, 1017 SF \$117,200 – designated for very low income
- 3 BR/2 BA, 1237 SF \$208,600 – designated for low income
- 2071 Buena Vista Drive \$271,900 – designated for moderate income

In addition to the reduced pricing, eligible buyers may qualify for down payment assistance through other government programs. Buyers will receive assistance to apply for the various down payment assistance programs.

Construction should be complete by Fall 2010. A photo of the construction progress is attached to this report. Interested parties should contact LaToya Carr, Community Housing Development Corporation, at 510-412-9290 ext. 26 or check the City's Housing webpage for updates at: <http://www.ci.pinole.ca.us/housing/belowmarket.html>.

- **PUBLIC MEETING ON WASTEWATER TREATMENT**

The second public meeting regarding the options for wastewater treatment was held on Thursday July 15 in the City Council Chambers. The first meeting was held last week on July 8 which also included a tour of the Pinole Hercules Wastewater Treatment facility. The meeting was well attended by the public and a lively discussion took place.

The purpose of the meetings was to solicit the public's opinion about the issues and the dialogue in a free discussion of the topic. The meeting began with Staff presenting the two alternatives being considered by the Pinole City Council which included:

- Pinole joining Hercules in transferring our wastewater to West County Sanitation District; or
- Pinole staying alone at the existing plant.

If you will recall, Pinole and Hercules have been sharing the plant since 1971 and now Hercules has decided to leave and transfer their wastewater to West County. There were numerous questions from the public about cost, rate impacts, arguments for and against the move, and about the history of our analysis.

Pinole and Hercules jointly decided to study the environmental impact (EIR) of two options. The first was Pinole and Hercules staying together at the plant and the second was Pinole Only. Subsequent to the EIR being undertaken, Hercules announced that they would not be staying with Pinole. Hercules will have to undertake a new EIR for their decision to go to West County and if Pinole decides to go along with them to West County, the new EIR would include us as well. However, the City Council will certify the EIR for both options on July 20.

This is a very complex subject and we encourage the public to become engaged in this decision making process. The City Council may be making a decision on which option to undertake on July 20.

- **CITY MANAGER SPEAKS AT CALIFORNIA REDEVELOPMENT ASSOCIATION**

The California Redevelopment Association held their annual training institute in San Ramon this week. City Manager Belinda Espinosa was one of the speakers for the second year. Her topic included participation with a variety of other panelists to discuss "Negotiating the Disposition and Development and Owner Participation agreements". Other panelists included the Redevelopment Manager from Union City, the Community Development Director from San Leandro, and two from private development.

Attached are the power point slides from Belinda's presentation.

-END-



**EMERGENCY CONTACT  
INFORMATION**

IN CASE OF EMERGENCY PLEASE CALL  
PACIFIC MOUNTAIN CONTRACTORS AT  
360-565-1922.

AFTER HOURS EMERGENCY CONTACT PLEASE  
CALL 360-565-7640.

**JOB SITE  
PATROLLED BY  
24 HOUR  
SECURITY**

## **NEGOTIATING TIPS FOR THE DDA AND OPA**

California Redevelopment Association  
San Ramon Valley Conference Center  
July 15, 2010

### **Critical Elements**

- Be Very Familiar With the Documents
- Be Organized and Methodical About Your Approach
- Have a Strong Negotiating Team From Various Disciplines
- Don't Allow the Developer's Attorneys to Prepare the Legal Documents

## Critical Elements

- Don't Go it Alone—Gather the Right Consultants and Experts
- Have a Third Party Provide a Peer Review of the Proposed Deal
- Understand the Numbers
- “Trust No One” - Review and Confirm

## Critical Elements

- Assure that Your Partners Have A Significant Investment in the Project
- Be Sure Both Parties Have A Share of the Risk
- Most Projects Don't “Pencil Out”  
Be sure to Communicate:
  - *Pro Forma will Identify “the Gap”*
  - *Intrinsic Value of Filling “the Gap”*
  - *The “But for.....” Rule*

## Critical Elements

### □ Always Include a “Way Out”

- *Pay Back Should Be For A Reasonable Amount of Time*
- *Clearly Outline Extension Options and the Agreement Restructuring Terms*
- *Don't Be Ambiguous in Your Terms*
- *Assume That There will be Problems After the Deal is Signed*

## Critical Elements

### □ Who Gets Paid What and When?

- *Be sure You Understand the Reality of the Waterfall*
- *Only Take A First or Second Position in the Waterfall Pay Back*
- *Think Twice About Being a Guarantor... Then Think Again!*

## Critical Elements

### □ Who Gets Paid What and When?

- *Explore Situations When a Loan Should Be Forgivable—Housing*
- *Communicate “Pay Back” Expectations to the Council and Community*

## Critical Elements

### □ Think Twice About Project Ownership

- *Examine Staff Ability to Understand the Complexity of the Deal Administration*
- *Capability to Audit Financials*
- *Unfunded Liabilities for Operating Maintenance and Capital Calls*
- *Negative Perception from Business Community*

## Critical Elements

- Identify the “Non Negotiables” and the “Give Aways” Early On
  - *Check In With Council Often*
  - *Hold Special Workshops*
  - *Ask For A Council Sub-Committee*
  - *Have “One on Ones”*
  - *You Don’t Want To Make a Deal and Then Have to “Pull Back”*

## Critical Elements

- Identify the “Non Negotiables” and the “Give Aways” Early On
  - *Start with Identifying the Goals For Each Party*
  - *Re State Them Over and Over*
  - *Develop A “Working Term Sheet” and Circulate Often*
  - *Look for “Win/Win” Items*

## Critical Elements

### ☐ Identify the Cost/Benefits

- *It's Not Always About Money*
- *Removal of Blight*
- *Beautification*
- *Increase Valuation and Property Taxes*
- *Create Jobs*
- *Catalyst for Other Changes*

***Remember the "But For..." Rule***

## Critical Elements

### ☐ Follow Up with Timely Audits and Financial Reviews

- *Retain a Good Accounting Firm*
- *Retain Experts in the Field to Make Sure the Numbers Match the Deal*
- *Be Sure That Finance is Talking to RDA on All Reporting Documents*

## Critical Elements

- ❑ **Make Sure the Deal Elements are Transparent**
  - *City Council*
  - *Business Community*
  - *Public*