

**PINOLE CITY COUNCIL
PINOLE REDEVELOPMENT AGENCY
MINUTES
JULY 7, 2009**

1. CALL TO ORDER & PLEDGE OF ALLEGIANCE IN HONOR OF THE US MILITARY TROOPS

The Regular Pinole City Council Meeting / Redevelopment Agency Board of Directors was held at the Pinole Council Chambers located at 2131 Pear Street, Pinole, California. Mayor Fujita called the meeting to order at 5:30 PM. Mayor Fujita led the flag salute and Pledge of Allegiance.

2. ROLL CALL, CITY CLERK/SECRETARY'S REPORT & STATEMENT OF CONFLICT

A. COUNCIL MEMBERS PRESENT

Roy V. Swearingen, Council Member
Peter Murray, Council Member was absent / excused
Mary Horton, Council Member was absent when the meeting convened.
Debbie Long, Mayor Pro Tem
Virginia Fujita, Mayor

The voting record reflects the absence of Council Member Murray. Council Member Horton arrived at 6:34 p.m.

B. STAFF PRESENT

Belinda Espinosa, City Manager / Executive Director
Inga Lintvedt, Assistant City Attorney
Michelle Fitzer, Human Resources Director/Asst to the City Manager
Dean Allison, Public Works Director
Paul Clancy, Police Chief
Jim Parrott, Fire Chief
Amy Wooldridge, Recreation Director
Winston Rhodes, Planning Manager
Mary Drazba, Economic Development Director
Patricia Athenour, City Clerk/Agency Secretary

City Clerk Athenour announced that the agenda was posted on Thursday, July 2, 2009 at 3 P.M. All legally required notice was provided. She asked the Council and Redevelopment Board of Directors whether there were any conflicts with any items on the agenda. None were reported.

Ms. Athenour said that she had requested Council's availability for a Special Meeting on Tuesday, July 28, 2009 for a workshop to discuss fire service delivery options. All but one member can attend. She sought direction from Council whether to retain the date or find one that works for all. There was direction to consider Wednesday, July 29th or to keep it on July 28th.

City Clerk Athenour advised Council that staff had provided a memo at the dais regarding Item 7G, stating there was an omission of the word “over” on Page 2, Section 2F of the Ordinance. It referred to the requirement for design approval on the painting of commercial buildings over 4,000 square feet. Copies were made available for the public also.

3. CONVENE TO A CLOSED SESSION (5:30 – 7:00 PM)

At 5:42 p.m., Mayor Fujita convened the noticed Closed Session:

- A. Pursuant To Government Code Government Code §54956.8, The Redevelopment Agency Board of Directors Will Meet To Confer With Real Property Negotiator, Charlie Long, Regarding Property Known As The Pinole Vista Shopping Center, Located on 1400-1500 Fitzgerald Drive, Pinole
- B. Pursuant To Government Code Government Code §54597.6, The Pinole City Council Will Meet To Confer With Labor Negotiator, Michelle Fitzer Regarding Labor Negotiations With Local One, AFSCME, PPEA and Fire Local 1230

The record reflected Council Member Horton arrived at 6:34 p.m. into the Closed Session.

4. RECONVENE IN OPEN SESSION TO ANNOUNCE RESULTS OF CLOSED SESSION

At 7:10 p.m., Mayor Fujita reconvened the meeting in open session. She announced there were no reportable actions from Closed Session, and that the Council would reconvene in Closed Session again at the end of the meeting to continue discussion on Item 3B.

5. RECOGNITIONS

- A. Remembrance. Amber Swartz is still missing. Anyone with information is urged to contact the Pinole Police Department, (510) 724-8950.

Mayor Fujita announced that following the Police news conference yesterday, the case was officially closed. She asked for concurrence from Council to add Amber’s name to the Council adjournment. There was Council consensus.

- B. Proclamations
- C. Presentations

6. CITIZENS TO BE HEARD (Public Comments – Agency Board and City Council)

The following citizens addressed the Agency Board / City Council:

Cindy Trego, Pinole citizen, reminded Pinole Shores residents and all residents about leashing dogs, following an attack by a dog at large in the Pinole Shores neighborhood. She thanked City Manager Espinosa, Public Works Director Dean Allison, and City Planner Winston Rhodes for working with her to provide information on the PraxAir project.

Jim Tillman, Pinole citizen, addressed Council regarding when the minutes for May 26 Special Meeting regarding setting a public hearing to raise the wastewater fees would be available. Mr. Tillman presented a newspaper clipping to the Council regarding sewer rate assessments. He questioned Craig Lawson's statements regarding multi-family and single family rate comparisons at the May 19, 2009 Council meeting. Mr. Tillman presented additional questions regarding the part of the rate increase attributable to wages, benefits and collection system. He asked about the percentage of infiltration in Pinole, and about the Agency's role.

City Manager Espinosa responded that the City was holding a public meeting on Thursday, July 9, 2009 at the Senior Center to address questions regarding the proposed rate increase. She encouraged him to attend to receive responses to his questions.

Marcia Kalapus, Pinole citizen, spoke in opposition to a proposed increase in the speed limit on downtown streets, and supported keeping it at 25 mph. She reported that she attended a Rodeo-Hercules Fire Department meeting regarding PAC tests and asked Chief Parrott whether our firefighters tested and qualified to do wild fire fighting, and asked whether there was a liability to the City.

Jeff Rubin, Pinole Historical Society member, reported that the first copy of Images of Pinole should be available at the Concert in the Park at the PHS booth. The remainder of the books will be shipped on July 22nd and he invited the community to a book signing party on August 5 from 6-8 pm in Alex Clark Room.

7. CONSENT CALENDAR

Council Member Swearingen removed Items 7D, 7E, 7H and 7K from the Calendar.

Item 7F - Council Member Swearingen asked how the percentage of the grant funds was derived.

Chief Clancy said the federal grant designation was based on crime rate and populations in each jurisdiction.

Mayor Fujita asked why some cities were not recipients. Chief Clancy responded that likely their crime rates did not reach the threshold.

Item 7C - Mayor Pro Tem Long asked if Pacific Coast Farmers Market could provide a booth for the City, as they do for the Pinole Chamber.

Ms. Wooldridge said it could be accomplished outside of the contract.

Item 7H – Mayor Fujita raised a question regarding why the resolution had a different amount from the staff report.

Public Works Director Allison said that staff used the bidding process to establish a unit price. The \$126,000 figure contains some contingency.

Mayor Pro Tem Long said it appeared the City is contracting for \$126,000 when Carone bid \$105,000.

City Manager Espinosa suggested removing it from the Consent Calendar for further discussion.

ACTIONS: Motion by Board / Council Members Swearingen/Long, the City Council / Agency Board of Directors Approved the Consent Calendar, With the Exception of Items D, E, H, and K.

Vote: Passed 4-0.

- A. Approved the Minutes of the June 10, June 16, and June 30, 2009 Meetings
- B. Received the List of Warrants: June 13 – June 19, June 20 – 26 and June 27- June 30, 2009 and July 1 (FY 2009/10) 2009, and Receive the June 26, 2009 Payroll in the Amount of \$491,864.56.
- C. Adopted **Agency Resolution 43-2009**, Authorized The Executive Director To Enter Into A Two-Year Contract With Pacific Coast Farmers Market Association To Continue Operating A Year-Round Pinole Farmers' Market Funded By The Redevelopment Agency Market And Promotions Fund [**Agency Report No. 2009-46; Action: Adopt Agency Resolution (Wooldridge)**]
- D. Adopt Joint Agency Resolution Council Resolution, Authorize The City Manager To Execute A Contract With CSG For On-Call Construction Inspection Services In An Amount Not To Exceed \$ 35,000 [**Council/Agency Report No. 2009-107; Action: Adopt Agency Resolution Per Staff Recommendation (Wadsworth)**] **REMOVED FOR DISCUSSION**
- E. Adopted **Council Resolution 2009-62**, Approved ABAG Application for a PDA (Priority Development Area) for the Appian Way Specific Plan Area. [**Council Report No. 2009-95; Action: Adopt Council Resolution Per Staff Recommendation (Hersch)**] **REMOVED FOR DISCUSSION**
- F. Adopted **Council Resolution 2009-63**, Authorized the City Manager To Execute An MOU With Other Contra Costa County Cities and the County Sheriff's Office For Distribution Of Regular Byrne-JAG Grant Award Funds [**Council Report No. 2009-96; Action: Adopt Council Resolution Per Staff Recommendation (Clancy)**]
- G. Waived Second Reading and Adopted **Ordinance 2009-06**, Amended Pinole Municipal Code Chapter 17.35 "Design Review & Sign Permits" [**Council Report No. 2009-97; Action: Waive Second Reading and Adopt Ordinance (Hersch)**]
- H. Adopted **Council Resolution 2009-64**, Awarded A Three-Year Contract For Citywide Street Rehabilitation Project To Bruce Carone In The Amount of \$126,000 (\$42,000 Annually) Funded From The CIP [**Council Report No. 2009-98; Action: Adopt Council Resolution Per Staff Recommendation (Allison)**] **REMOVED FOR DISCUSSION**
- I. Adopted **Council Resolution 2009-65**, Authorized Expenditures Of Up To \$142,990 For The City Of Pinole Share Of A Joint Wastewater Project With The City Of Hercules To Relocate A Portion Of The Land Outfall [**Council Report No. 2009-99; Action: Adopt Council Resolution Per Staff Recommendation (Allison)**]

- J. Adopted **Joint Agency Resolution 45-2009 /Council Resolution 2009-66**, Revised The EDHAC Meeting Requirement To One Meeting Per Month and Repealed And Replaced Joint Council Resolution 2007-38 / Agency Resolution 14-2007 [**Agency / Council Report No. 2009-100; Adopt Resolution Per Staff Recommendation (Drazba)**]
- K. Adopted **Council Resolution 2009-67**, Authorized to City Manager to Execute an Interagency Agreement With Contra Costa County For Forensic Services From July 1, 2009 to June 30, 2011 [**Council Report No. 2009-101; Adopt Resolution Per Staff Recommendation (Clancy)**] **REMOVED FOR DISCUSSION**
- L. Adopted **Council Resolution 2009-68**, Declared Surplus Information Systems Equipment For Disposal To A Private Program That Will Supply Equipment To Pinole Residents Unable to Afford to Purchase Computer Hardware [**Council Report No. 2009-102; Action: Approve Council Resolution (Janke)**]
- M. Adopted **Joint Agency Resolution 46-2009 /Council Resolution 2009-69**, Authorized The City Attorney/Redevelopment Agency General Counsel To Cooperate With The League Of California Cities, The California Redevelopment Association, Other Cities And Counties In Litigation Challenging The Constitutionality Of Any Seizure By State Government Of The City's Street Maintenance And Redevelopment Funds [**Agency /Council Report No. 2009-103; Adopt Resolution Per Staff Recommendation (Fitzer)**]

Items Removed From the Consent Calendar

- 7D. Authorize The City Manager To Execute A Contract With CSG For On-Call Construction Inspection Services In An Amount Not To Exceed \$ 35,000 [**Council/Agency Report No. 2009-107; Action: Adopt Agency Resolution Per Staff Recommendation (Wadsworth)**] **REMOVED FOR DISCUSSION**

Council Member Swearingen questioned whether this was a "not to exceed" contract, and expressed concern that the consultant could charge out the full \$35,000.

Public Works Director Allison said staff would carefully monitor the work and that timesheets were required to document hours. Council Member Swearingen was satisfied with the response.

Mayor Fujita asked if staff could provide the inspections, or if some of the projects could be delayed.

Public Works Director Allison said backup/contingency inspection services were necessary when our one inspector was not available to provide the services during the busy summer months. \$35,000 was likely the upper limits of what would be necessary.

City Manager Espinosa said if the Council desired, the projects could be reprioritized, but she supported Mr. Allison's recommendation. She explained that these are small projects, spread all over the city, and the one inspector could not sometimes inspect several jobs at a time.

These projects could also all happen at the same time, if packaged together when bid to secure a better price.

Dean said two of the projects are federal stimulus and we would lose the money. Simas Avenue resurfacing is the only project that could be deferred, but it would be more expensive next year.

ACTION: Motion by Members Swearingen/Horton, The Agency Board / City Council Adopted Joint Agency Resolution 44-2009/ Council Resolution 2009-61, Authorize The City Manager To Execute A Contract With CSG For On-Call Construction Inspection Services In An Amount Not To Exceed \$ 35,000

Vote: Passed; 4-0

- E. Approve ABAG Application for a PDA (Priority Development Area) for the Appian Way Specific Plan Area. [Council Report No. 2009-95; Action: Adopt Council Resolution Per Staff Recommendation (Hersch)] **REMOVED FOR DISCUSSION**

Council Member Swearingen asked if there were funds available.

Associate Planner Hersch said ABAG had grant funds, and the resolution would accompany an application to ABAG for consideration.

ACTION: Motion by Long/Swearingen, The Council Adopted Council Resolution 2009-62, Approved ABAG Application for a PDA (Priority Development Area) for the Appian Way Specific Plan Area

Vote: Passed: 4-0.

- H. Adopt A Council Resolution to Award A Three-Year Contract For Citywide Street Rehabilitation Project To Bruce Carone In The Amount of \$126,000 (\$42,000 Annually) Funded From The CIP [Council Report No. 2009-98; Action: Adopt Council Resolution Per Staff Recommendation (Allison)] **REMOVED FOR DISCUSSION**

Belinda Espinosa, City Manager, responded to questions raised earlier. She said that she supported staff's recommendation, locking in the unit price for a 3-year period even if there was funding for only one year. The contract was to provide immediate repair for pot holes. The action was 42,000 annually over a three-year period.

Mayor Pro Tem Long said the language needed to be corrected to show that the contract was locked in at \$105,260.

ACTION: Motion by Council Member Horton / Swearingen, The City Council Adopted Council Resolution 2009-64, Awarded A Three-Year Contract For Citywide Street Rehabilitation Project To Bruce Carone, As Amended to Reflect A Total Amount of \$105,260(\$42,000Annually).

Vote: Passed 4-0.

- 7K. Adopted **Council Resolution 2009-67**, Authorized to City Manager to Execute an Interagency Agreement With Contra Costa County For Forensic Services From July 1, 2009 to June 30, 2011 [**Council Report No. 2009-101; Adopt Resolution Per Staff Recommendation (Clancy)**] **REMOVED FOR DISCUSSION**

Council Member Swearingen asked how the budgeted amount was derived.

Chief Clancy explained it was developed from an estimate, based on the fee for the services offered by the County.

ACTION: Motion by Council Member Swearingen/Long, The City Council Adopted Council Resolution 2009-67, Authorized to City Manager to Execute an Interagency Agreement With Contra Costa County For Forensic Services From July 1, 2009 to June 30, 2011

Vote: Passed 4-0.

8. REGULAR BUSINESS

- A. Approve Pinole Valley Park As the Permanent Skate Park Location [**Agency Report No. 2009-49; Action: Adopt Agency Resolution Per Staff Recommendation (Wooldridge)**]

Amy Wooldridge, Recreation Manager introduced Agency Report 2009-49 into the record. The report included a timeline of the events leading to this action, which included preliminary site review, studies, and community meetings to address neighborhood questions and concerns. Most neighbors attending the meeting favored the location; one was in strong opposition. Steps to address expressed concerns included the following:

- Creating landscaping to offset concrete
- Ensure no additional lighting added
- Security cameras and fencing
- Adequate signage
- Add fence height and/or netting to baseball field 3rd base line
- Work to secure permanent sponsorship

Ms. Wooldridge addressed the positive aspects of this site, being the farthest from neighbors, an integral part of a heavily used park, a safe and visible site as deemed by the Police and a size adequate for Pinole's population. Skate Park policies, procedures and liability were outlined. The City must adopt an ordinance requiring helmets, elbow and knee pads and not knowingly or negligently allow dangerous conditions in the park and will be covered under specific qualified immunity from personal injuries sustained by skateboarders over 12 years of age.

Council was briefed on the project financials. \$300,000 was allocated in 2009/10 Capital Improvement Plan/budget. Any additional funding must come from a combination of community fundraising and or reprioritization of currently approved CIP projects. The annual maintenance costs would be funded from the general fund, estimated at \$9,000 annually, and staff was hopeful for sponsorships to offset the General Fund costs.

The next steps include:

1. Final RDA Board authorization to proceed with project as outlined.
2. Presentation to Planning Commission
3. Obtain detailed engineered drawings
4. Receive RDA authorization of bids for design-build
5. Adopt ordinance to cover liability

Staff recommended approval and was available for questions.

Agency Board discussion followed.

Council Member Swearingen suggested additional trail lighting to deter loitering and keep area visible.

Ms. Wooldridge said that the park is closed at dusk and City Attorney Lintvedt addressed immunity from liability.

Mayor Pro Tem Long asked if this project could be funded with Measure WW funds. She questioned the size of the budget, and remembered several months back, a cost of \$125,000 was proposed by a skateboard proponent. She was concerned with spending \$300,000 and asked if it included the cameras, fencing and landscaping. Mayor Pro Tem Long suggested speaking to the designer who built the Richmond skate park to find a more modest cost.

Ms. Wooldridge responded that the Skate Park was not on the WW Project List forwarded by the Community Service Commission for Council consideration later on the agenda. She confirmed that \$300,000 would fund the entire project, and agree the budget was preliminary and could bring a more detail-specific budget at a later date.

Mayor Fujita was concerned with the annual maintenance fee, and said she could not justify the maintenance of a skate park while closing the pool.

The following citizens addressed the Agency Board.

Sean Duckworth, Pinole citizen, said he was concerned with the financial aspect, and did not support moving forward at this time. He recommended reprioritizing the funds for other projects, and revisit at a later date when there are funds.

Thelma McPherson, Pinole citizen, Garden Club member, echoed Duckworth's statement and spoke in opposition to the skate park. The trees were her main concern. The park is beautiful and the beauty would be compromised by the skate park, and she feared a visibility problem for police from the street. She said the money could be better used on some other facility.

ACTIONS: Motion by Board Members Horton /Long, the Agency Board of Directors Approved Delaying the Project Until a Sponsor Could Be Secured For Annual Maintenance and When Constructed To Be Funded With Project WW Funds.

Discussion followed.

Council Member Horton said the timing is off for this project, and it flies in the face of the swim center closure and staff reductions. She said it was hard to justify, especially when there are no proponents here, and that they should be securing corporate sponsorship. She recommended putting it aside, and also preferred not to use Agency funds, and to fund with Measure WW funds.

Mayor Pro Tem Long agreed the timing was off in this economy. The Council will soon be prioritizing the CIP and believed there may be better uses for the money. She supported the location, if this was a temporary delay, but not sure, if it were a long period of time whether the location would still be right.

Council Member Horton favored approval now and allow the community to come forward with the maintenance costs.

Ms. Wooldridge recommended approving the location, and even it were years before construction, a future Council could authorize a different location.

Council Member Swearingen said a great deal of staff time and money was spent putting the project together and many people were here before and heard Council approve the park in concept. He was concerned Council was not staying with their position. He was unclear regarding the funds available in WW and asked about obtaining finite numbers on the project cost.

Ms. Wooldridge responded that Measure WW funds totaled \$887,260, with no matching requirement, and could fully fund the skate park. Regarding project cost, staff needed more time for civil engineering to determine the cost to ready the site. The resolution before Council was only to confirm the location.

Council Member Swearingen suggested removing the 6th "Whereas."

There was a motion currently on the table and the Mayor called the vote.

Vote: Passed 3-1 (Swearingen opposed)

ACTION: Motion by Board Members Long/ Swearingen, The Agency Board Adopted Agency Resolution 47-2009, With the Removal of the 6th Whereas, Approving Pinole Valley Park as Final Location For the Skate Park.

Vote: Passed 3-1 (Horton opposed)

- B. Conduct a Public Hearing and Adopt A Joint Council /Agency Resolution To Approve a Purchase and Sale Agreement Between the Pinole Redevelopment Agency With Kathy Lin Family or Assignees Within the Lin Family For The Property Located at 1361 Fitzgerald Drive For A Purchase Price of \$1.1 Million [Joint Agency / Council Report No. 2009-104; Action: Adopt Agency and Council Resolutions Per Staff Recommendation (Drazba)]

Mary Drazba, Economic Development Director, presented Agency/Council Report 2009-104 into the record. Staff recommended approval of the resolutions approving the sale of the Outback Restaurant Property (Land) for \$1.1 Million Dollars. The property was offered for \$975,000. The Agency received twenty-six offers on the property in two weeks. A best and final round was implemented and the top fourteen offers were invited to participate. The best offers were brought before the Agency Board in Closed Session on June 16. The Agency Board agreed to accept the \$1.1 million offer from the Lin Family. Net income to the agency would be \$694,597 (after expenses). Proper notice was provided; the purchase and sale agreement and the 33433 summary report was available to the public for the past two weeks. Ms. Drazba was available for questions.

Mayor Pro Tem Long raised a question regarding earmarking the funds, and not touch it until the Agency can determine how to use it.

Ms. Drazba said the Implementation Plan would be considered by the Agency Board on August 4, to allocate Redevelopment funds and projects for the next five years.

Mayor Pro Tem Long said this money was different, and she wants to see it earmarked for an investment to generate income.

City Manager Espinosa assured the Council it would be done.

At 8:45 p.m., Mayor Fujita opened the Joint Public Hearing. The following speakers addressed the Agency Board/City Council.

Sean Duckworth, Pinole citizen, EDHAC member, said he enthusiastically supported the sale and supported Mayor Pro Tem Long's recommendation to earmark the money.

At 8:48 p.m., Mayor Fujita closed the Public Hearing.

ACTIONS: Motion by Council Members Swearingen / Long, the City Council Adopted Council Resolution 2009-70, Authorizing The Execution of the Purchase And Sale Agreement For 1361 Fitzgerald Drive Between the Agency and Kathy Lin.

Vote: Passed: 4-0

ACTIONS: Motion by Agency Board Members Swearingen / Long, the Agency Board of Directors Approved Agency Resolution 48-2009 Authorizing The Execution of the Purchase And Sale Agreement For 1361 Fitzgerald Drive Between the Agency and Kathy Lin, Approved A Reuse Report required by Health & Safety Code 33433; and Authorized The Sale of the Property.

Vote: Passed 4-0

Board Member Swearingen echoed Mayor Pro Tem Long's concern regarding setting the funds aside.

Vice Chair Long said that a million dollars should be set aside in the Agency funds before authorizing use of the money for marketing and CIP projects.

There was Council / Agency Board consensus to direct staff to hold the funds from this sale aside.

- C. Authorize the Community Services Commission's Recommendation of the Park and Facility Projects To Be Funded By the East Bay Regional Parks District Measure WW, And Authorize Application For Local Grant Funds Under Measure WW [**Council Report No. 2009-105; Action: Adopt Council Resolution Per Staff Recommendation (Wooldridge)**]

Amy Wooldridge, Recreation Manager introduced Agency Report 2009-49 into the record, providing background information on the community survey and the process required to apply for the Measure WW funds. The request before the Council was to approve the list of recreational projects recommended by the Community Services Commission, and also to authorize staff to apply for the grant funds for capital projects under Measure WW. Grants are available annually and funds available until 2018. One hundred sixty five on-line responses and 28 paper copy responses were received. Ms. Wooldridge discussed each project listed in the survey, and the level of support received, ranging from projects with strong community support, to those with limited, mixed results and little support. Staff then forwarded the Community Service Commission's recommendation list, stated below:

Pinole Valley Tennis Court Renovation
Senior Fitness Trail
Renovation of the Pinole Valley Park West Soccer Field
Community Playhouse Renovations (Light & Sound Equipment, Stage Drapes, Paint & Interior Updates)
Installation of Bocce Ball Courts

The total costs were estimated at \$790,000 with a ten percent contingency. Funds available were \$877,216. Ms. Wooldridge advised Council that the Public Works Department forwarded one additional project – paving the parking lot at Pinole Valley Park. She said that the West County Youth Soccer League was interested in funding part of the field renovation, which would free up \$50,000 from WW funds to redirect to the parking lot. The next steps included incorporation of these projects into the CIP and the RDA Implementation Plan. Each project would be brought back to the Council for design and final approval. Ms. Wooldridge was available for questions.

Council Member Horton asked for further clarification on the paving recommendation.

Mayor Pro Tem Long asked questions about the survey and where/how community outreach was made. She said she heard there were responses from outside the City. She commented that the wear on the fields were entirely different between adult and youth soccer and asked whether it was reflected in the pricing for the Leagues. She also recommended limiting use to youth.

Ms. Wooldridge said outreach went to the entire community, however one cannot tell where the results came from. Most paper copies were received from the Senior Center. She also said that use of the fields cannot be restricted to youth for casual youth, but the City could restrict for league use.

Mayor Pro Tem Long requested an opinion from the City Attorney.

Assistant City Attorney Lintvedt said she would research and respond back to the Council.

Mayor Pro Tem Long asked for clarification regarding how the funds would be released, how long the allocation could be spread, and whether the projects must be completed in a year. Ms. Wooldridge clarified that completion was not required within a year.

Council Member Swearingen asked the length of the Senior Fitness Trail. Staff explained that the project involved installing "stations" on an existing trail.

Mayor Fujita asked the level of support for the Pinole Hercules Bike Trail, whether the basketball courts at Fernandez Park could be installed by City staff, and if the Council could defer some of the other projects if they wanted to fund the Skate Park with WW Funds.

Ms. Wooldridge said the bike trail received mixed response, the basketball court could be installed by City Staff and that it was the Council's pleasure if they wished to fund the park with WW funds. She also explained that Measure WW was not for projects under \$10,000.

The following citizens addressed the Council:

Laurelle Martin, Community Services Commission member, asked Council to support the Commission's recommendation. She explained that new courts (tennis) are not a practical objective, and the commission supported working with the amenities we have, and renovate and refurbishing was the preference of the survey also. The list as presented was well balanced.

Jeff Rubin, Pinole citizen, Community Services Commission member, questioned why Council instituted a commission if they elected to pass a resolution that negates the Commission's work. The Commission solicited responses in a survey and Council passed a resolution earlier in the meeting that removed one-third of the funds from projects that met the broad segments of the community.

Mayor Pro Tem Long said that she did not intend the entire \$300,000 in WW Funds for the Skate Park and she was looking at the amount of money allocated for bocce ball.

Mayor Fujita asked if the Council could adjust the funding for each of the projects. Staff responded affirmatively, but cautioned not to lower too much, or they would not have sufficient funds to complete the projects.

ACTION: Motion by Council Member Horton to move staff recommendation. Motion failed for lack of a second.

Council Member Swearingen commented that the Council moved to fund the skate park from WW funds and if this list were approved as recommended, there were no funds for the skate park, and it will be excluded from any funding for the next nine years.

Mayor Pro Tem Long did not support \$300,000 for the skate park, but supported an allocation of \$100,000 to \$150,000 from Measure WW for the Skate Park. She said she appreciated the Commission's work, and believed that some of the projects can be completed by staff. Long supported substitution of the bocce courts for the skate park. She said that she thought all the projects could be completed in two to three years and if there was not enough to cover the skate

park, the Council could budget the remainder of the funds from the Redevelopment Agency, as originally intended.

City Manager Espinosa said projects such as the soccer park renovation must be worked around weather and league use, and the Measure WW application period begins in February 2010.

Council Member Swearingen suggested approving the list without numbers.

Ms. Wooldridge said drawings would be required to determine the cost on the soccer field. Public Works Allison said he did not think final design plans were necessary now, and could obtain a good estimate for under \$10,000. Public Works Director Allison recommended including the paving project at Pinole Valley Park, which required minimal engineering. The lot is in poor shape, and Agency funds were not available as it is outside the project area.

Staff explained that although the skate park was outside the Redevelopment Project Area, Agency funds were available as the project qualified as blight removal.

ACTIONS: Motion by Council Members Long/Horton, the City Council Adopted Council Resolution 2009-71, Approved the Project List for EBRPD Measure WW Funds, As recommended by the Community Services Commission, with the following amendments:

1. **Add the Skate Park (with the Bocce Ball Courts)**
2. **Add the Parking Lot Paving At Pinole Valley Park Soccer Field**
3. **Remove the budget costs from the resolution.**

FURTHER ACTION: Motion by Council Member Long/Swearingen, the Council Adopted Resolution 2009-72, Authorizing Application For Local Grant Funds Under EBRPD Measure WW.

Council Member Horton asked Lintvedt what would be the logical conclusion if WW funds were expended, and there were insufficient funds for the Skate Park. Assistant City Attorney Lintvedt said Agency funds could be used by bringing forward a resolution to approve Agency funds to fill the gap.

Vote: Passed 4-0

- D. Review Preliminary Comments To Be Submitted to the Contra Costa County Conservation and Development Department Regarding the PraxAir Pipeline Draft Environmental Impact Report [**Council Report No. 2009-106; Action: Minute Order To Authorize Mayor To Execute Letter (Allison/Rhodes)**]

Council Member Horton recused herself from the discussion. She said she received a contribution from PraxAir, although City Attorney Reyes said that she could lawfully discuss and vote, she elected not to do so and left the Chamber and the remainder of the meeting. The voting record reflected her absence from this point forward.

Dean Allison, Public Works Director, and **Winston Rhodes**, Planning Manager, presented Council Report 2009-106 into the record. The recommendation was to authorize the Mayor to execute a comment letter on the PraxAir Draft EIR. They reported that the County granted a

15-day extension to July 28th and showed a willingness to modify the document. Therefore, recirculation of the document may not be necessary, and suggested that the letter submitted in the packet should be revised.

Mr. Allison summarized the three project steps, which included the EIR certification, receipt of a City use permit and a franchise agreement to grant use of the public right-of-way. No construction would begin until the three steps are completed. He discussed the reasons PraxAir was not proposing to use an existing pipeline. The EIR document cited the benefit of a new pipeline: easier maintenance and less opportunity for third party damage with a new line in a protected railroad ROW.

Winston Rhodes, Planning Manager, discussed the impact categories and mitigations:

Aesthetics – screening near John Street

Biological resources – tree mitigation and wetland enhancement

Geology, soils, and seismicity – automatic pipeline shut down in the event of an earthquake; City review of pipeline safety report, and more detailed review at Pinole Creek

Hazards and hazardous materials – utilize automatic shut off valve, additional information on pipeline integrity, City approval of constructing a safety plan, notification of incidental leaks, additional analysis of community warning system, testing, handling, & disposal of excavated soils

Land use and planning – construction coordination with Pinole Creek Demonstration project

Noise and vibration – add additional sensitive receptors, horizontal, directional drilling must meet city construction hours, and additional analysis required on construction noise and vibration

Transportation & circulation – evaluate damage to roads

Project alternatives – more detailed analysis of a range of reasonable alternatives

Council commended staff for an excellent job. Mr. Rhodes responded to questions regarding recirculation.

Mayor Pro Tem Long asked who would be responsible for methods of mitigation for tree removal and bonding the landscaping, and who would finance the hazardous materials plan. Staff said that the Planning Commission would review the proposed tree mitigation and Prax Air was responsible for the hazardous materials plan.

Mayor Pro Tem Long asked that City staff be included in the training. She also supported additional analysis of the community warning system, requesting a typical warning system for refineries.

Public Works Director Allison said that Prax Air may be required to install a temporary road and replacement of John Street. The Council discussed the noise issues and Mr. Allison said that the drilling would be confined to that area and would construct baffling at the source.

The following speakers addressed the City Council:

Cindy Trego, Pinole citizen, agreed letter was well written, but she expressed concern that there was nothing addressing her concerns; impacts to the Pinole Shores community including the trail path, traffic through Pinole Shores Park, and noise from drilling. She recommended that Prax Air fund an emergency preparedness (CERT Program). She raised issues regarding how they proposed to access the park at night and the lifespan of the pipeline. She asked

whether Council could address additional items after the initial comment letter. She asked how the court order to shut down the hydrogen project could affect this project; what is PraxAir's involvement, and what are the legal ramifications, if any?

Jackie Hunt, PraxAir representative, addressed Council. She discussed the two required scoping sessions, one of which the County agreed to hold in Pinole on July 8th to take comments on the EIR. She said additional public forum meetings were held in Pinole to provide additional outreach. Ms. Hunt said PraxAir was willing to hold more meetings, if requested by Council.

City Manager Espinosa said the meeting tomorrow would be technical in nature, and would not afford an opportunity for a lot of questions. She asked Prax Air to provide responses to the citizen's questions and to dialogue with the community.

Mayor Pro Tem Long asked if it were possible for the County to bring extra copies of the EIR to the meeting. Ms. Hunt said she would check with Ruben Martinez.

ACTIONS: Motion by Council Members Swearingen/ Long, The City Council Extended the Meeting to Complete the Agenda.

Vote: Passed 3-0.

Council questions and comments continued. Council Member Swearingen asked if the temporary use of Pinole Shores Drive was addressed in the EIR.

Ms. Hunt said it was and contained an explanation using Pinole Shores Drive as an access road, but did not include vehicle weights. She also addressed citizen questions as follows: PraxAir planned to use the EBRPD trail and been told the trail would hold the weight of their vehicles and said if damaged occurred in either place, they would handle the repair. To address noise mitigation, PraxAir proposed to use sound walls along the BNSF Railroad right-of-way. Prax Air would be training first responders in Pinole, not community members on their emergency preparedness plan.

Gary Temple, Prax Air Project Manager, responded to citizen inquiries. He discussed the company's public awareness program, requires notification to property owners within specific area. He said that carbon steel, coated with fusion bonded epoxy was a component used on the pipeline, resulting in no internal corrosion, and that it would last indefinitely. He addressed questions regarding the valves, located in strategic locations, away from public.

Mayor Pro Tem Long brought the discussion back to vehicle weight and potential damage to the streets. She said an analysis of a loaded truck was necessary. She also asked if they could perform a sound analysis in excess of 100 decibels, and make it part of the report. She also wanted to be assured that the County staff reviewing the application does not have a stake in it.

Closing the discussion, City Manager Espinosa asked the Council if they supported staff bringing the letter back with revisions at a future meeting, now that the EIR period had been extended.

The Council concurred and no action was taken. The item was continued to a future meeting in August.

9. OTHER POLICY ITEMS

There were no policy items.

10. ROUTINE REPORTS & COMMUNICATIONS

- A. Mayor / Chair Report
 - 1. Announcements

Mayor Fujita reported on the July Mayors' Conference meeting. Congressman Jerry McNerney addressed the conference and discussed aspects of the current economic condition. He said money was coming in for infrastructure and technology opportunities. He discussed social security, and stated politically there was no way to let it come to an end.

She also reported on the West County Supervisors' and Mayors' Meeting on June 25th.

Council Member Swearingen updated Council on the WCCTAC meeting. He said there were not many issues affecting Pinole. There was definitely a push from WCCTAC to get the I-80 Hot Lanes exempted. He reported that he also attended the East Bay Division of the League of California Cities meeting. He said that Amber Swartz should continue to be noted on the Council agenda. It was noted that earlier in the meeting there was Council consensus to mention Amber at the close of each regular Council / Redevelopment Agency Board meeting.

Mayor Pro Tem Long reported on a scam in the Linda Heights area where people were trying to gain entrance into homes.

- B. City Council / Agency Board Committee Reports
 - 1. East Bluff Apartments Safety Plan Update [**Verbal Report – Action: Motion to Continue to August 4, 2009**]

Irma Ruport, Pinole citizen, suggested that all the affected parties should attend future meetings, not just Citizens Housing Corporation. She said that the deed identifies an additional owner.

There was Council consensus to continue the item to August 4, 2009

- C. Council Requests For Future Agenda Items

There were no requests.

- D. City Manager / Executive Director Report

Ms. Espinosa had no report.

- E. City Attorney Report

Assistant City Attorney Lintvedt had no report.

At 11:28 p.m., Mayor Fujita reconvened to the notice Closed Session. At 12:32 p.m., Mayor Fujita reconvened the meeting in open session. She announced there were no reportable actions from Closed Session.

12. ADJOURNMENT

At 12:33 p.m., Mayor Fujita adjourned the Regular Meeting to the Regular Redevelopment Agency/City Council Meeting of July 21, 2009 and in memory of the fallen US Armed Service members and Pinole citizens Amber Swartz, Gary Arthur Rogers, Sr., Marjorie Lois Ensign Mattingly, Janie Mary Lindell, Audrey Maryann Stinar, Ursula G. Trinks, Teresa Ann Carr, David H. Palfini and Rachel Higley-Hall.

Submitted by:

Patricia Athenour, MMC
City Clerk

APPROVED BY CITY COUNCIL / AGENCY BOARD: