

**JOINT PINOLE CITY COUNCIL &
REDEVELOPMENT AGENCY
MINUTES
FEBRUARY 2, 2010**

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

The Regular Pinole City Council / Redevelopment Agency Board of Directors meeting was held at the Pinole Council Chambers located at 2131 Pear Street, Pinole, California. Mayor Long called the meeting to order at 5:34 PM and Boy Scout Troop 81 led the Pledge of Allegiance.

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

A. COUNCIL MEMBERS PRESENT

Virginia Fujita, Council Member
Tim Banuelos, Council Member
Peter Murray, Council Member
Roy V. Swearingen, Mayor Pro Tem
Debbie Long, Mayor

B. STAFF PRESENT

Belinda Espinosa, City Manager / Executive Director
Benjamin Reyes, City Attorney
Michelle Fitzer, Human Resources Director/Asst to the City Manager
Dean Allison, Public Works Director
Pete Janke, Deputy Police Chief
Mary Drazba, Economic Development Manager
Francine Kuykendall, Senior Project Manager
Leslie Carbahal, Redevelopment Analyst

Assistant City Manager Michelle Fitzer announced that the agenda was posted on Friday, January 29, 2010 at 10:00 A.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.

3. CONVENE TO A CLOSED SESSION – CITY COUNCIL AND AGENCY BOARD

At 5:38 PM, Mayor Long convened the Council in a Noticed Closed Session to discuss the following topics:

City Council

- A. CONFERENCE WITH LABOR NEGOTIATOR – Pursuant to GC §54597.6
City Labor Negotiator: Michelle Fitzer and Bruce Heid, IEDA
Employee Organizations: LOCAL ONE, AFSCME, PPEA & FIRE LOCAL 1230
- B. PUBLIC EMPLOYEE PERFORMANCE EVALUATION – Pursuant to GC §54597
Public Employee Performance Evaluation: City Manager

- C. CONFERENCE WITH LEGAL COUNSEL-- ANTICIPATED LITIGATION--
Pursuant to GC Section 54956.9(b) - "One Matter"
Legal Counsel: City Attorney Benjamin Reyes

Redevelopment Agency Board of Directors

- D. CONFERENCE WITH REAL PROPERTY NEGOTIATOR - GC §54956.8
Property Location: Pinole Vista Shopping Center 1350 Fitzgerald
Agency Negotiator: Mary Drazba, Economic Development Manager
Negotiating Parties: None at this time
Under Negotiation: Price and Terms

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

At 7:12 PM, Mayor Long reconvened the meeting in open session. She announced there were no reportable actions from Closed Session.

5. RECOGNITIONS / PRESENTATIONS

- A. Proclamations
- B. Presentations
 - 1. Pinole Library Valentine Campaign

Heidi Dolamore, Pinole Librarian presented and requested funding for the library when the City was considering their next budget. She read statements from local library users into the record.

The following speakers addressed the City Council:

Kathy Magann, Friends of Pinole Library, spoke in support of funding the library.

Christine Low, Friends of Pinole Library, spoke in support of funding the library.

The following students addressed Council to declare their support for library services in the community.

**Elaine Startevant
Lauren Kong
Austin Long
Wing Tung So
Winston Long
Kamal Almutarreb
Andrew Woo**

Anne Prescott, Pinole citizen, spoke in support of additional library hours.

The Council individually responded to Ms. Dolamore's request for funding and also to the library users and supporters.

Council Member Murray said he understood their concerns, and that the City was reliant on the County to provide library services. At this time, the City cannot afford to provide essential city services, and the community would have to consider whether they wanted to impose a tax for library services, the swim center, Senior Center & Youth Center activities. It must come from the community.

Council Member Fujita echoed Murray's comments, and said it was the County's decision to reduce the library hours. She confirmed that no community members have come forward with a ballot measure for a parcel fee for recreation and community programs, as discussed last year. There are no City General Funds to pay for all of these activities, and she hoped to be able to support the library in the future, when the economy turns around.

Council Member Swearingen referenced the reduced hours at City Hall due to budget cuts and the difficult financial condition. He said the Pinole Seals were fundraising to keep the pool open, but that did not look promising at this time. With the State budget, it appears the situation will worsen. He said he looked to the students, the youth who are the future, for solutions. He stated that the City could not take an anymore financial drain.

Council Member Banuelos commended the high school students who spoke and also spoke about his personal experiences with library services. He explained that many funds are being juggled to spread the furthest, and while he understood their dilemma, he said the City was in the same situation and could not offer a solution.

Mayor Long said while the City would like to support the library, it did not have the financial capability. She encouraged the audience to stay to hear the Audit Report to understand the impacts to people's jobs. She spoke to the City's long history of library support, and recited the Redevelopment Agency contributions totaling \$539,206 from 1995 to present. She hoped one day that the City could offer financial support again. At this time the City could support in non-monetary methods and offered suggestions regarding selling the building then leasing it back and using the funds to keep the library open; renting out part of the library for meetings; additional fundraisers; apply for Community Group Funding and partner with the school libraries.

Librarian Dolamore responded, stating they work closely with the school libraries, but understood the District could be closing their libraries. She said she could not address specific budget questions, and referenced a future presentation by Librarian Anne Cain. Ms. Dolamore said that Pinole was the only city in the County that was not providing assistance for library services; and most were providing facilities maintenance. Ms. Dolamore commented that every city has money; it was just a matter of setting priorities.

Mayor Long indicated that Pinole did not have the income base, and simply does not have funds.

6. CITIZENS TO BE HEARD (Public Comments)

The following citizens addressed the City Council and Agency Board of Directors:

Irma Rupert, Pinole citizen, addressed Council asking why the Affordable Housing Monitoring Compliance Report wasn't available or on the website. She discussed the low compliance rate of thirty-five percent, and said actions should be taken to remedy the situation. Ms. Rupert provided her qualifications and volunteered her services to assist in putting the program together this year. Ms. Rupert provided a packet to Council.

Mayor Long reported that EDHAC had discussed the compliance report and a full report would be available in April 2010, and that it was not as bleak as the initial report indicated. She promised Ms. Rupert that she would be notified of the meeting.

Cindy Trego, Pinole citizen, addressed Council regarding an AT&T undergrounding project in Pinole. She said that they have torn into private property and there were asphalt patching in the

middle of sidewalks and driveways. Completion was anticipated in one month, but the project has been left unfinished. She said she was not made aware of the project and would appreciate if a public works staff member would come out and assess the job at Del Monte and Live Oak Lane.

Mayor Long offered Public Works assistance to review and also contact AT&T to contact the residents. Public Works Director Allison concurred from the rear of the Chamber.

Council Member Swearingen referred to the same situation in a different area of town and said they have done poor work in Pinole.

Mayor Long requested an update from Mr. Allison in the next few weeks.

Council Member Murray indicated that maybe a stop work order should be issued.

Jeff Rubin, Community Services Commissioner, informed Council of Pinole Community Day on Saturday, April 17th at 9 – Noon in Fernandez Park. The event would showcase non-profits and services available in the City, and also highlight ways citizens can volunteer their time in the community.

7. CONSENT CALENDAR

ACTIONS: Motion by Board / Council Members Fujita/Swearingen, the City Council / Agency Board of Directors Approved the Consent Calendar, With the Exception of Item 7D, 7F & 7G.

Vote: Passed 5-0.

Redevelopment Agency Items

- A. Receive the Quarterly Loan Delinquency Report, for quarter ending December 31, 2009 [**Agency Report No. 2010-06; Action: Receive Report (Lucken)**]
- B. Adopted **Agency Resolution 03-2010**, Approving Jenny Craig As A Proposed Tenant At 2830-B Pinole Valley Road In The Pinole Valley Shopping Center [**Agency Report No. 2010-07; Action: Adopt Resolution (Drazba)**]
- C. Adopted **Agency Resolution 04-2010**, Authorizing The Executive Director To Execute A Contract Amendment With The Conley Consulting Group For Economic Advisory Assistance Relating To The Pinole Valley Shopping Center In An Amount Not To Exceed \$50,000 [**Agency Report No. 2010-08; Action: Adopt Resolution (Drazba)**]
- D. Authorize Executive Director To Write Off A First Time Homebuyer's Loan In The Amount Of \$15,000 On A Property Located At 2920 Estates Avenue, #5 [**Agency Report No. 2010-09; Action: Adopt Resolution (Carbahal) REMOVED FOR DISCUSSION**]

Mayor Long inquired why the Agency was forgiving the loan, based on the foreclosure.

Leslie Carbahal, Redevelopment Analyst, first responded on the overall success and profit derived from the program. Based on the fact that this was \$15,000, and the potential that

attorney fees could extend beyond that amount, staff moved forward a recommendation to forgive the loan.

Council discussion followed. Mayor Long said the borrower could have other assets and was not in favor of writing off the loan, and suggested using collection agencies, with no forgiveness without extenuating circumstances. Mayor Pro Tem Swearingen echoed the Mayor's comments. He said future projects have to ensure better risk. Council Member Fujita also felt it would be precedent setting, and Council Member Banuelos agreed with the other council members.

Council Member Murray took a different position stating that of seven loans, five had been repaid. He also referenced the current economic condition and foreclosures that once were uncommon, are not unusual today. Before criticizing the program, Council Member Murray suggested looking at the 85% success rate. Staff has recommended that we should forgive the loan rather than chase after the loss with minimal chance of recovery. He said he understood it was not financially prudent.

Mayor Long stayed with her position and said if it were bankruptcy, she would view it differently, but foreclosure alone was not a reason to forgive. She asked if the Board wanted more information before considering this further.

Mayor Pro Swearingen said he had voiced his concerns earlier and wanted to move forward with taking action this evening.

ACTION: Motion by Board Member Swearingen/Murray, The Agency Board Considered Adopting a Resolution To Authorize Executive Director To Write Off A First Time Homebuyer's Loan In the Amount Of \$15,000 On A Property Located At 2920 Estates Avenue, #5.

Mayor Long called for a roll call vote:

AYES: Swearingen, Murray
NOES: Banuelos, Fujita, Long

Motion Failed; 2-3.

Mayor Long requested additional information to be provided before considering this item again. City Manager Espinosa indicated that some private financial information couldn't be disclosed publicly.

Mary Drazba, Economic Development Manager, indicated that the individual has been attempting to renegotiate the loan for two years; the home has been foreclosed, and there is no deed of trust on the property as security.

Joint Agency Board / City Council Items

- E. Receive the Treasurer's First Quarter Report [**Joint Agency / Council Report No. 2010-07Jt; Action: Receive Report (Lee)**]

- F. Adopt Resolution Affirming the Intent of the City and Agency to Develop Housing for Moderate or Lower Income at 600 Tennent Avenue [**Joint Agency / Council Report 2010-08Jt Action: Adopt Resolution (Kuykendall)**] **REMOVED FOR DISCUSSION**

Vice Chair Swearingen asked whether the property could be sold and the funds used for affordable housing.

Francine Kuykendall, Senior Project Manager said that was possible; adoption of the resolution leaves the status quo for five additional years during which time other decisions could be made.

Board Member Banuelos asked if there were any projects planned.

Executive Director Espinosa responded prior to this Council, idea was to acquire properties and put a larger project with residential and commercial mix.

Board Member Murray said he understood Vice Chair Swearingen's position but this action provides another five years. He confirmed Ms. Espinosa's statement regarding an attempt to aggregate parcels to obtain a larger more viable development on the underutilized property.

ACTION: Motion by Board / Council Members Swearingen/Murray. The Agency Board / City Council Adopted Agency Resolution 05-2010 and Council Resolution 2010-04, Affirmed the Intent To Develop Housing for Low and Moderate Income at 600 Tennent Avenue.

Vote: Motion Passed 5-0.

City Council Items

- G. Approve the Minutes of the January 12, 2010 Joint General Plan Workshop Meeting and the January 19, 2010 Regular Council / Agency Board meeting
REMOVED FOR CORRECTION

Council Member Swearingen & Mayor Long read corrections into the minutes for adoption.

ACTIONS: Motion By Council Member Fujita / Banuelos, The City Council / Agency Board Approved The Minutes Of January 12 And January 19 As Amended. Vote: Passed 5-0.

- H. Received the January 16-22 and January 23-29, 2010 Lists of Warrants and Received the January 22, 2010 Payroll in the Amount of \$441,612.

With concurrence of the Council, Mayor Long reordered the Agenda and moved Item 10A forward.

10. NEW BUSINESS

Joint Agency Board/City Council

- A. Presentation of the City 2008/09 Audited Statements for the City and the Pinole Redevelopment Agency and Consider a Contract Amendment For Audit Services With Mann, Urrutia, & Nelson CPA [**Joint Agency/Council Report No. 2010-10Jt; Action: Receive Reports and Adopt Joint Resolution Per Staff Recommendation (Loomis)**]

Richard Loomis, Finance Director, presented Joint Agency/Council Report No. 2010-10 into the record. The Finance Subcommittee met in January and reviewed the draft documents. The scope of work was summarized as follows:

1. Mandatory annual review
2. Preparation of the financial statement for the Pinole Redevelopment Agency
3. Review Continuing Disclosures
4. Measure S Receipts and Disbursements Review

The City maintained an unqualified opinion in the audit management letter, and there were no material weaknesses discovered. A few enhancements for internal control were provided; and staff concurs and will implement this year. There were no material misstatements.

Mr. Loomis provided an overview of the City's financial condition and working capital, cash availability, and analysis of liabilities to net assets. Working capital has declined. Even though the City and Agency have equity and assets totaling sixty-four million dollars, they are not available for expenditure by the City. The operating fund balance is fifty-one million dollars. The State's recommendation for working capital is 150 days on hand, and Loomis reported the City was down to ninety-five days of available cash. There are fifty-three million in tax allocation bonds, and pension obligation bonds total six million dollars. Other post-employment accrued liability is in excess of twenty million dollars. This year's recognition is two million dollars.

Loomis also reported on the Sewer Enterprise fund, as outlined in the report.

In closing, Loomis said that the fund balance has gone from a 3 million surplus to a 3 million dollar deficit next year. These are forecasts and do not take in to account any corrective actions that may take place following the March 16 mid-year budget report.

Auditor Michelle Nelson spoke to the management letter comments. She said that the audit information was good and very reliable. She referenced the contingency note in the financial statements which include the State's attempt to take Agency funds totaling six million dollars in 2009/10 and \$350,000 in 2010/11.

There were no public speakers to address the Council / Agency Board.

Mayor Pro Tem Swearingen said the real problems in Pinole were financial. He recited the reductions enacted over the past year to conserve funds such as limited hours at the Planning and Engineering departments and Friday closure, and staffing reductions through layoff and attrition. When the economy turns around and the state stops its raid on municipal funds, it may take two to three years for the city to feel the recovery. He solicited for any good ideas from the community members.

Council Member Murray said he appreciated all the efforts of the staff, and recognized everyone was working harder than ever. He commented that the community may have to fund the amenities and programs beyond the basic services, such as some communities pay more for better schools and library services. He said the State isn't going to help the local government and the situation will not be easy.

Mayor Long thanked staff for the clear, concise presentation and at the Finance Sub-committee meeting as well. She reiterated that the City's cash flow was often dependent on short term advances from the Agency funds, so extreme care must be given to spending due to the sales and property tax revenue declines. She advised the Council that they would be receiving the mid-year budget presentation in March to see whether further adjustments are warranted at that time.

Mr. Loomis confirmed the mid-year budget report on March 16th and suggested there may be some savings implemented in the fourth quarter as well as next fiscal year. The other item before Council this evening was to determine whether to extend the service of the auditors another year. Loomis said Mann, Urrutia, & Nelson reduced their fees six percent last year and are offering an additional two percent reduction for an extension of their contract for FY 2010-2011, which would be their fifth year as the City's auditor.

Mayor Long asked Loomis for a recommendation regarding retaining the same firm, before making a change.

Mr. Loomis said the initial agreement was for three years. The prior audit firm was retained for seven consecutive years. He said there was no definitive answer; there were concerns regarding changing too frequently causing additional time/costs to familiarize new firms with finances and procedures.

Auditor Michelle Nelson said the federal government was changing teams, not firms, every five years. Her proposal was that she would rotate out and a new partner would rotate in.

ACTIONS: Motion By Board / Council Members Fujita/Swearingen, the City Council / Agency Board of Directors Received the CAFR & Agency Financial Report; and

The Council Adopted Council Resolution 2010-05, Approving Amendment of Agreement for Audit Services With Mann, Urrutia, Nelson CPAs.

Vote: Passed: 5-0.

8. PUBLIC HEARINGS

There were no Public Hearings.

9. OLD BUSINESS

Redevelopment Agency

- A. Authorize the Executive Director to Execute a Contract with Woldemar & Associates for Professional Services for 2300 San Pablo Avenue In An Amount Not To Exceed \$23,800 [Agency Report 2010-10; Action: Adopt Agency Resolution Per Staff Recommendation (Kuykendall)]

Francine Kuykendall, Senior Project Manager presented Agency Report 2010-10 with a slide show presentation.

Michael Woldemar, project architect, discussed the "vanilla shell" tenant improvement option as outlined in the proposal, attached to the staff report.

Bill Davini, Colliers International, spoke about the marketing efforts to date. He said there had not been a lot of interest or activity and these improvements would make marketing a little easier, but he commented on the change in the direction previously provided, to focus on a restaurant user. There had been were some retail/small gift shop users interested (in the past). Davini discussed the potential restaurant users he had worked with and described the rent situation in the downtown markets which have been hit the hardest with a forty percent reduction. He said they would be pressed to get \$1.25/\$1.50 per square foot now.

Ms. Kuykendall asked the Board for confirmation to open the space to both retail and restaurant users.

Agency Board Member questions and discussion ensued.

Board Member Swearingen raised questions regarding the nature of the improvements and whether they included duct work. He questioned the cost to publicly bid the project.

Mr. Woldemar explained the repairs due to sewer leak and said funds were also budgeted for mechanical/electrical engineering to distribute air on a more equal basis. Woldemar provided a range from \$4500 to \$5800.

Board Member Fujita asked if the design work due to the new code changes had been incorporated, and if the work could be postponed and done at a later time. Mr. Woldemar confirmed the changes were incorporated and said during the last discussion was toward a restaurant use, and now the plan would be just to make the space habitable.

Chair Long asked why the bid was only reduced \$2,000.

Woldemar said the restaurant plan utilized the original First Street Café drawings and eliminated some of the improvements; that can no longer be done and only some segments of the original plan can be used. The plumbing plan must be redone, involving many hours of design.

Chair Long asked the number of hours attributable to the new codes and Woldemar responded there was no way to break out that information.

The following speakers addressed the Agency Board:

Mike Stott, Bear Claw, downtown business owner, expressed shock at the City's financial condition. He did not support spending any more funds on this project. There was a viable business there, which lost fifty percent of their business when they moved. He supported moving away from a restaurant use. He asked why the Garden of Gems couldn't relocate there. He said the money would be better spent on a skate park or a swim center. Board Member Fujita said she supported opening the space up to other uses as well as a restaurant. She agreed we should not spend any more money fixing it up, until there is a tenant to pay rent.

Vice Chair Swearingen said this was money that must be spent to get any tenant and these drawings would be required, and he was supportive as long as they fit any use. His concern is that the Agency was leasing the building and not receiving any rent.

Board Member Banuelos disagreed with Mr. Stout about the Garden of Gems relocating to the site. He said there had been a lot of potential tenants look at it and walk away. He supports providing a clean space to market.

Board Member Murray explained that the Agency Board originally got involved to stifle certain uses. His concern was to secure a compatible tenant and would not support just anyone who steps forward. He said that he understood that the Garden of Gems elected to move from that site and was not forced. If she wanted to return to the space, she could have approached the Agency. He supports constructing the vanilla shell. He said the Board cannot spend Agency money on General Fund issues.

Board Member Fujita confirmed that the costs to improve the site to a “vanilla shell” would be approximately \$300,000.

Ms. Kuykendall confirmed that was correct. She also said she had a meeting with a potential tenant later this week.

Chair Long asked if it was a direct referral from a community member.

Ms. Espinosa said that was correct.

Chair Long said she did not support the improvements to the space without a tenant. Earlier in the evening there were discussions about needing to use the Agency funds for cash flow; and she had a problem with the current financial crisis and depletion of cash. Over \$200,000 had been spent on rent and to consider spending \$300,000 more with no tenant was not prudent. She would not have a problem making an investment with a potential tenant, but not without. She respected the position of other members who want to spend it to attract a tenant.

Board Member Murray said failing to spend Agency funds because we are in difficult times defeats the intention of the Agency. He agreed the Board must limit the amount of money we borrow from RDA, because it has to be paid back.

Board Member Fujita agreed with that Agency money was there to boost the economy and revitalize, but understanding that right now even Agency funds are dwindling due to State takeaways. If a project was not time sensitive, she supported putting it on the back burner until a tenant was secured.

Chair Long said individuals should be the responsible parties, not corporations. If this project was approved, she asked the Board to consider holding off on the bidding process until they had time to discuss the local hiring policy. At the West County Mayor’s breakfast, there was discussion regarding encouraging local hiring. In light of what happened with the Heritage Park project, Chair Long said that Pinole tax dollars should be spent in our community.

Vice Chair Swearingen asked if the Board was approving the construction drawings.

Ms. Kuykendall responded that the action would only approve the professional services contract, preparation of the construction drawings and bid management. Upon completion of the bids, the project would be brought to Council to authorize awarding the contract.

Discussion ensued regarding local hiring practices. Chair Long was supportive and Board Member Banuelos said the problem is that most local businesses are not prepared to work on public projects.

Board Member Murray suggested discussing at a workshop session.

Chair Long asked the Board to consider continuation of this item until there was an opportunity to review the bidding process and local hiring policy.

Board Member Murray requested to call the question and suggested a separate discussion on the local hiring issue.

ACTIONS: Motion by Board Members Murray/Banuelos, the Agency Board of Directors Opposed Adoption of an Agency Resolution 06-2010 To Authorize The Executive Director

To Execute A Contract with Woldemar & Associates for Professional Services for 2300 San Pablo Avenue In An Amount Not To Exceed \$23,800.

Vote: Passed: 3-2 (Long, Fujita opposed).

Mayor Long sought clarification from the Agency Board whether the action was to approve the contract for both construction drawings and contract management for the public bid process. Upon receipt that it was the motion for both, she encouraged the Board to hold a study session regarding local hiring prior to development of the bid documents on this project.

- B. Presentation Of The East Bluff Apartments 2010 Budget And Status Report Regarding The Transfer Of The Managing General Partner From Citizens Housing Corporation To Eden Housing **[Agency Report No. 2010-11; Action: Adopt Resolution Accepting the Budget & Receive Status Report (Kuykendall)]**

Ms. Kuykendall presented Agency Report 2010-11 into the record.

Board Member Banuelos asked the status of the public safety services fee, previously discussed.

Ms. Kuykendall explained that the fee was only due when a surplus existed. One of the outstanding issues was to accept the calculation method for the public safety fee.

Board Member Murray stated concern that the Agency was approving the transfer of the managing general partner from CHC to Eden, and wanted language to protect the Agency's position.

Ms. Kuykendall clarified that the action before the Board was to approve the budget, and receive a status report on the transfer of the managing general partner to Eden Housing.

Board Member Murray said he wanted the management group to continue to work with the Police Department to make this property an asset, and not a problem.

Ms. Kuykendall said the Agency would negotiate in good faith, and that the Agency would not approve the transfer without terms in the agreement. Staff anticipates drafting amendments to the existing agreements. Ms. Kuykendall reminded the Agency Board that the item before the Board was the budget; the management transfer would be considered later.

Chair Long said good faith was not a legal term, and suggested the approval should be on the basis of "this for that."

Noreen Byrow, Jan Peters, and Terese McNamee, Eden Housing Corporation, responded to questions raised by Chair Long regarding the budget, the balance sheet, damage deposits, tenant service fees, fire alarm fees, and security fees. Chair Long asked for clarification on the housing mix and whether it was different than originally intended.

Ms. Espinosa explained that it was different than originally approved, but still met the guidelines, and referred to Attachment A.

Ms. McNamee said the fire alarm fee had historically averaged \$2,500 annually, but the annual inspection may not have been included in the budget.

Ms. Peters said the management had worked with the Police Department on community safety and security services were eliminated in 2009, and the management had been working directly with the police department. The citizens thought the safety issues were addressed, so the service was eliminated.

The following speaker addressed the Agency Board:

Irma Ruport, Pinole citizen, addressed the Board and provided an information packet to Council. She wanted to ensure there would not be a repeat of the issues with CHC; such as their refusal to provide police records. She said the documents should have “teeth”, and referred to the lack of execution of the Security Plan in December 2008. She proposed that the owners/managers come to the table in good faith and sign these agreements.

ACTIONS: Motion by Board Members Fujita/Swearingen, the Agency Board of Directors Adopted Agency Resolution 07-2009, Accepting the East Bluff Apartments 2010 Operating Budget and Received Status Report on the Transfer.

Vote: Passed: 5-0

ACTION: Motion by Council Members Fujita/Banuelos, The Council Extended the Meeting to the End of the Agenda. Vote: Passed 5-0.

Joint Agency Board / City Council

- C Pinole Creek Demonstration Project: Authorize the City Manager / Executive Director To Advertise For Construction Bids & Direct Staff to Contact the State To Discuss The Timing of the Grant Reimbursements and The Potential For Extending the Grant Deadline [**Joint Agency/Council Report No. 2010-09Jt; Action: Adopt Joint Resolution (Allison)**]

Dean Allison, Public Works Director, presented Joint Agency / Council Report 2010-09 into the record, with a slide show presentation. He was available for questions from the Council / Agency Board and requested authorization to advertise for construction bids and to contact the State to discuss of the grants and the possibility to extend the grant deadline.

Council Member Murray commented that the State has approved a grant allocation, but now cannot release payments, leaving the City in a quandary now wanting to start a project for which payment may not be forthcoming. He asked the cost associated with putting the bid package out and asked staff if we had the ability to do this.

Ms. Espinosa said she believed that if we don't advertise the project for bid, we would be in default of the grant requirements. She said it was a very difficult decision.

Council Member Fujita asked if the bid could be let, subject to the State's commitment.

Mr. Allison concurred with the City Manager, that the City must be able to demonstrate that we are doing everything possible to make this project happen and we expect nothing less of them.

Mayor Pro Tem Swearingen said he thought we would have a legal case if the State were to pull the funds, or be unable to secure the bond money.

Mr. Allison concurred; a grant is an agreement. He explained that the City can't get any responses from the State in writing and that the hard decision would occur in April.

City Manager Espinosa suggested advertising the bid package, which would allow approximately sixty days to meet with the State, anticipating that the Governor would be developing a revised budget in May.

Discussion regarding bidding ensued. Mayor Pro Tem Swearingen questioned advertising for bids when it was possible that the project would not move forward.

Mayor Long said the first objective is to meet with the State to extend the deadline, and then to discuss timely repayment. If that was not achievable, then the City must reconsider if they money previously received must be repaid, and consider a long repayment period, such as a ten year period. She requested a legal opinion on the repayment issue, if that comes to fruition. She supported spending \$2,000 to advertise and to seek a possible extension, but did not support spending \$2.6 million. She said to indicate in the bid that the award was contingent upon receiving grant funding from the State.

ACTIONS: Motion By Board / Council Members Murray/Fujita, The City Council / Agency Board Of Directors, By Minute Order, Authorized the City Manager / Executive Director To Advertise For Construction Bids & Direct Staff to Contact the State To Discuss The Timing of the Grant Reimbursements and The Potential For Extending the Grant Deadline

Vote: Passed: 5-0.

10. NEW BUSINESS (moved forward on the agenda)

11. REPORTS & COMMUNICATIONS

A. Mayor / Chair Report

1. Announcements

- a. February 4, 2010 Pinole Police Explorer presentation. Mayor Long and Mayor Pro Tem Swearingen have a conflict (CCC Mayors Conference; Council Members Murray, Banuelos and Fujita will try to attend.
- b. Reported on the Pinole- Hercules Water Pollution Control Plant JPA meeting, where Hercules has assured the membership that they would advise Pinole in February whether the planned to move forward with West County or stay with Pinole. She indicated that the Council would not tolerate any further delays.
- c. Reported on the January West Contra Costa Mayors/Supervisors meeting. Received an excellent presentation on local hiring from the City of Richmond, and on an education program, Richmond Builds to train younger generation in the construction industry. There was a report from Contra Costa College on the high school program that would be expanded to 350 students.
- d. Attended a meeting at Collins school. Topics included a bond measure on the November ballot. Questions were raised regarding Pinole Valley High. Dr. Harter said such a commitment would have to come from the Board. She indicated Pinole would likely not support a

bond measure without this commitment for a Pinole Valley high school project.

- B. Mayoral / Council Appointments
- C. City Council/Agency Board Committee Reports

Council Member reported on the WCCUSD Bond Oversight Committee meeting. He reported that there was discussion that the school district bond would pass and that the Pinole Valley High renovation project would move forward.

Mayor Pro Tem Swearingen provided a WCCTAC meeting update. He said that I-80 eastbound at Rodeo was closing and Pinole Valley Road would be used as a detour. He requested a presentation by Cal Trans at a future meeting to discuss their report card.

There was Council consensus for a Cal Trans presentation at an upcoming meeting.

Council Member Murray provided a Workforce Development Board update regarding ARRA funding to implement the highly successful work program. He also reported that the PALC Board discussed that the building repairs should begin this spring when the rainy season ends.

- D. Council Requests for Future Agenda Items
 1. Request for progress report/update on negotiations with contractors on the Appian Way and Simas paving rehabilitation projects (Fujita)
 2. Fund balance report on the Community Group Funding set aside from Coastal Cleanup project for the last couple of years (Murray).

- E. City Manager / Executive Director Report / Department Staff

City Manager Espinosa reported that she, Michelle Fitzer, and Interim Fire Chief Maiero would be attending the LAFCO meeting tomorrow, and would provide a report at the next meeting.

- F. City Attorney Report

City Attorney Reyes reported working with the Public Works Director on the pavement failures on the Appian Way and Simas Avenue paving rehabilitation projects. He anticipated a course of action with the next update.

12. ADJOURNMENT

At 11:47 p.m., Mayor Long adjourned the February 2, 2010 meeting to the Regular February 16, 2010 Joint Council/agency Board meeting, and in memory of the fallen US Armed Service members and Pinole citizens Amber Swartz, Monty Lee Ellis, Marilyn Janice Young Crowther, Rosaline A. Luna, Dorothy Anne Wooster, Karen Kosich Shepherd, and Joshua Ellison.

Submitted by:

Patricia Athenour
City Clerk

APPROVED BY AGENCY BOARD / CITY COUNCIL: