

**JOINT PINOLE CITY COUNCIL &
REDEVELOPMENT AGENCY
MINUTES
MARCH 1, 2011**

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 in the Pinole Council Chambers, 2131 Pear Street, Pinole, California. Mayor Swearingen called the meeting to order at 5:30 PM and led the Pledge of Allegiance.

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

A. COUNCIL PRESENT

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

B. STAFF PRESENT

Belinda Espinosa, City Manager / Executive Director
Michelle Fitzer, Assistant to the City Manager
Inga Lintvedt, Assistant City Attorney
Richard Loomis, Finance Director
Dean Allison, Public Works Director
Amy Wooldridge, Recreation Director
Winston Rhodes, Planning Manager
Paul Clancy, Police Chief
Mary Drazba, Economic Development Manager

City Clerk Patricia Athenour announced that the Agenda was posted on February 25, 2011 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.

She noted to close the meeting to the Special Meeting of March 8 at 6 PM will be televised and broadcast.

City Clerk Athenour said that Legal Council would update the Agency Board regarding the need to add an urgency item that arose subsequent to the posting of the agenda. The matter involved potential litigation – one matter, with the City and would be added as item 3F. Adding the item requires a 2/3's approval.

ACTION: Motion By Council Members Banuelos/Long, The City Council Added Items 3F To The Agenda As An Urgency Item, Which Arose Subsequent To The Posting Of The Agenda.

Vote: Passed: 5-0

She advised the Council that she had received a resignation letter from Community Services S Commissioner Dorothy Wakefield, leaving a vacancy on that commission. Since recruitment was conducted less than two months ago, she asked the Council for direction regarding whether they wished to select from the existing applicants in that recruitment or re-advertise.

There was Council concurrence to ask the Interview Subcommittee (Green and Swearingen) to make a recommendation at the March 15 meeting.

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

At 5:40 PM, Mayor Swearingen convened the Closed Session to discuss the following:

City Council

- A. CONFERENCE WITH LABOR NEGOTIATOR - Pursuant to GC §54597.6
City Labor Negotiator: Belinda Espinosa, City Manager &
Michelle Fitzer, Asst to the City Manager
Employee Organizations: Local 1, AFSCME, Fire Local 1230, PPEA, Unrepresented,
& Management Group
- B. CONFERENCE WITH LEGAL COUNSEL-- EXISTING LITIGATION /LIABILITY
CLAIMS (Government Code Section 54956.9(a) and 54956.95)
Claim of Rockland Taylor v. City of Pinole, Claim No. GL 009659
Claim of Tamara Cundy v. City of Pinole, Claim No. GL 009659
- 3F. CONFERENCE WITH LEGAL COUNSEL--POTENTIAL LITIGATION -
Government Code Section 54956.9(b)(1)
Legal Counsel: Redevelopment Agency Counsel Stephanie Downs
Number of Cases: One Matter

Pinole Redevelopment Agency Board of Directors

- C. CONFERENCE WITH REAL PROPERTY NEGOTIATOR - GC §54956.8
Property Location: 651 Pinole Shores Drive (APN: 402-220-021-8)
Agency Negotiator: Mary Drazba, Economic Development Manager
Negotiating Parties: None at this Time
Under Negotiation: Price and Terms
- D. CONFERENCE WITH LEGAL COUNSEL--POTENTIAL LITIGATION -
Government Code Section 54956.9(b)(1)
Legal Counsel: Redevelopment Agency Counsel Stephanie Downs/Ben Reyes
Number of Cases: One Matter
- E. CONFERENCE WITH REAL PROPERTY NEGOTIATOR - GC §54956.8
Property Location: 2700–2830 Pinole Valley Rd., Pinole Valley Shopping Center
Agency Negotiator: Belinda Espinosa, Executive Director
Negotiating Parties: None at this Time
Under Negotiation: Price and Terms

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

At 7:14 p.m., Mayor Swearingen reconvened the meeting in Open Session. He announced the following actions from Closed Session: Item 3F- the Council took action to direct Legal Counsel to intervene in a litigation matter involving sales tax revenue. There were no further actions from Closed Session.

5. RECOGNITIONS / PRESENTATIONS

A. Proclamations

1. Proclaim March – Women’s History Month

Upon presentation of the proclamation by Mayor Swearingen, Sean Duckworth accepted on behalf of the Contra Cost County Commission for Women, and announced an educational forum directed to women on bullying that will be offered at DVC on May 21, 2011.

2. Honoring Police Chief Paul Clancy

Mayor Swearingen read and presented a proclamation to retiring Police Chief Paul Clancy, who would officially retire and separate with the City on April 1, 2011.

Chief Clancy said it was a bittersweet moment, thanking Council for supporting the Police Department and thanking the City Manager Espinosa for making this job very easy through her support and communication. He praised the community and thanked the Police Department who performed as a professional team, dedicated to making this a safe community to live within.

The entire Council thanked Chief Clancy individually for his service and dedication to Pinole.

B. Presentations

6. CITIZENS TO BE HEARD (Public Comments)

The following citizens addressed the City Council / Agency Board:

Jeff Rubin, Community Services Commissioner announced Pinole Community Service Day on June 4th, where the Commission hoped to match two hundred volunteers with jobs from the Senior Center, the Youth Center, the Pinole Chamber, Public Works, and EBRPD. He referred the public to the website for more information. He said they were looking for volunteers, jobs and sponsors

Marcia Kalapus, Pinole Historical Society, reported on a new exhibit placed at the Pinole Library, honoring Pinole women selected for Women's History Month. She said she was honored to be among the other women from Pinole in the exhibit and hope they will set the example for all future women to be involved in their community. Kalapus also reported that the last membership meeting was very successful.

Irma Rupert, Pinole citizen, reported that she attended the Finance Subcommittee meeting and asked if it could be posted on the website and mentioned in the Administrative Report. She discussed the topic from the meeting regarding sharing services with other cities, and asked if Pinole could be held liable for actions, should they file bankruptcy.

Nick Ronchetto, Vice President IAFF Local 1230, presented Council Member Long with a photograph memorializing her participation in the Fire Ops Training course. He explained it was a rigorous, day long exercise. .

Ken Deceve, firefighter and her handler at the exercise, also commented on her performance.

7. CONSENT CALENDAR

Council Member Green removed Item 7E.

Action: Motion by Council / Board Members Murray/Banuelos, the Council / Agency Board Approved Consent Calendar with the Exception of Item 7E.

Vote: Passed 5-0.

Joint Agency Board / City Council

- A. Approved the Minutes of the February 15, 2011 Meeting
- B. Received the January 29, 2011 to February 24, 2011 List of Warrants and Receive the February 18, 2011 Payroll in the Amount of \$405,298.95.

City Council

- C. Approved the 4th Amendment to the West Contra Costa Integrated Waste Management Authority Joint Exercise Powers Agreement (amending Section 7.4 Officers) **Council Report No. 2011-24; Action: Approve By Minute Order Per Staff Recommendation (Athenour)]**
- D. Adopted **Council Resolution 2011-13** Authorize The Placement Of Liens For Delinquent Unpaid Waste Collection Charges Considered Between September and December 2010 [**Council Report No. 2011-25; Action: Per Staff Recommendation (Athenour)]**
- E. Approve Annual Storm Water Utility Assessments For Drainage Maintenance And The National Pollutant Discharge Elimination System (NPDES) Program [**Council Report No. 2011-26; Action: Adopt Resolution Per Staff Recommendation (Allison] REMOVED FOR DISCUSSION**

Council Member Green asked staff how the funds were used.

Dean Allison, Public Works Director entered the Council Report 2011-26 into the record. He said this program monitors water quality in the storm drains and water flows into the bay, as required by the State. He explained the city's membership in the Contra Costa County Clean Water Program. Eighty-five percent of the monies generate are used for mandated for storm water quality activities; not General Fund activities.

In response to a question by Council Member Green, Mr. Allison said the debris is weighed when removed from the drains, the same as the debris from street sweeping. The City also retains a firm to test bay water to track whether the quality degrades over time. He discussed the future need to capture trash before it goes into the creek and the bay. Allison noted that there was a survey afoot by the County group to increase fees.

City Manager Espinosa addressed the Clean Water Act survey sampling to get a funding measure increase on the ballot. The Public Managers group was putting a stop to it, due to competing ballot measures and said it had not yet been discussed at the West County Mayors or the County Mayors Conference.

Council Member Green asked if there was a way to reduce the fees. He said the same measures were used before yet it was not as costly. Green said there were too many fees in Pinole.

Mr. Allison responded that the City could not reduce the fee without being out of compliance with the Clean Water Act and subject to a fine of \$10,000 per day. All the cities would like to keep the assessment as it is, and are not defining what must be done, rather they were being told.

ACTION: Motion By Council Members Long/Murray, Council Adopted Resolution 2011-14 Approve Annual Storm Water Utility Assessments For Drainage Maintenance And The National Pollutant Discharge Elimination System (NPDES) Program

Vote: Passed 4-1 (Green dissenting)

8. PUBLIC HEARINGS

City Council

- A. Conduct a Public Hearing to Consider Introduction of an Ordinance Amending Pinole Municipal Code Chapter 8.32 – Massage Services and Adoption of A Resolution Amending the Master Fee Schedule Related to Said Fees **[Council Report No. 2011-28; Action: Introduce Ordinance By Title & Waive First Reading and Adopt Resolution Per Staff Recommendation (Lintvedt)]**

Inga Lintvedt, Assistant City Attorney entered Council Report 2011-28 and presentation slides into the record. She addressed the background component of the massage ordinance, first adopted in 2004. Recent legislation, SB 731 added a provision to the Business and Professions Code and created a statewide organization to issue voluntary certificates for practitioners. The draft ordinance presented was modeled after San Rafael's ordinance. If a practitioner has a State license, the City cannot require a local permit. The ordinance provides for more stringent health and safety regulations, including the City's right to inspect the premises, and establishes a clear administrative process. She discussed Pinole's history of citations and revocations and the police, planning, and code enforcement department's enforcement procedures. The draft resolution reaffirms the same permit fees, (\$675/680) and the \$575 appeal fee.

At 8:15 p.m., Mayor Swearingen opened the Public Hearing. No speakers addressed Council and the hearing was declared closed, and the matter brought before Council for questions and consideration.

Council Member Green clarified that the \$680 fee is charged to an establishment who is not State certified. Ms. Lintvedt responded affirmatively.

Council Member Banuelos asked if a use permit would ever be required. Assistant City Attorney Lintvedt said a use permit would be required in some zoning districts. She said staff would review the Use Table in Chapter 17 to insure consistency between massage and other personal services.

Council Member raised the following:

1. Asked for clarification on "visible waiting areas". She asked if the waiting room was not visible from the street, whether a massage establishment would be prohibited.

2. How background investigations would be handled on an LLC, as it related to an investigation for each real person and a fee for each individual investigation to insure cost recovery and comprehensive review.
3. Language requiring minors working in establishments to have a verifiable work permit.

Mayor Pro Tem Murray asked if the establishments were required to have windows.

Mayor Swearingen asked whether all twenty-two massage establishments in Pinole meet these visibility requirements, and if not, whether they would be grandfathered.

Ms. Lintvedt said the code does not require that a business have windows, only that if they do, they must be visible. She said there is nothing to “grandfathered” as all businesses comply.

Action: Motion by Council Members Green/Murray, the Council Introduced Ordinance 2011-02 By Title, Amending Pinole Municipal Code Chapter 8.32 – Massage Services and Adopted Resolution 2011- 15, Amending the Master Fee Schedule Related to Said Fees

Vote: Passed: 5-0.

9. OLD BUSINESS

City Council / Agency Board

- A. Amend the Existing Contract With Mann Urrutia & Nelson To Perform the FY 2010-11 Audit Service In an Amount Not To Exceed \$39,025 and Approve the Formation of an Oversight Committee To Perform the Discretionary Audit of the Measure S Funds [Council Report No. 2011-29Jt. Action: Adopt Resolution per Staff Recommendation (Loomis)]

Richard Loomis, Finance Director entered Joint Council / Agency Report No. 2011-29 into the record, and requested authorization to extend the term of the audit services agreement with Mann, Urrutia, and Nelson for one additional year, based on direction provided by Council on February 15, 2011. Staff forwarded a contract for \$39,025, which reflected a five percent reduction in fees (in addition to prior year reductions). The Measure S review was bid as an optional service to allow Council to consider the staff proposal to form an oversight committee comprised of the City Treasurer and one to two members of the community. Loomis planned to bring back a formal plan in the next six months, along with a proposal to retain a new audit firm for FY 2012-13. Use of a citizen oversight committee to review Measure S funds would save \$4,000. He explained that all Measure S tax collections are in a restricted fund and the review would involve reviewing the salary and expenditure ledger detail for consistency with adoption of the tax measure and performing a comparison to revenues and expenditures, as adopted in the budget.

Council discussion followed. Council Member Long supported staff’s recommendation.

Council Member Banuelos cautioned to factor in the staff time necessary to work with the committee.

Mayor Pro Tem Murray asked for clarification on the Agency portion of the audit, with the possible elimination of redevelopment agencies.

Mr. Loomis said it was addressed in the Governor's recommendation and the county auditor would take over the review and will reimburse from the proceeds of future increment. He said there were not many compliance issues, it would be simpler than it was in the past; only liquidation of existing debts.

Council Member Green said that he would like to see citizens, rather than elected officials on the oversight board.

Mr. Loomis said the composition of the committee would be the discretion of the Council.

Action: Motion by Council Members Green/Long, the City Council Adopted Resolution 2011- 16, Amending the Existing Contract With Mann Urrutia & Nelson To Perform the FY 2010-11 Audit Service In an Amount Not To Exceed \$39,025; and

By Minute Order, Approved the Formation of an Oversight Committee To Perform the Discretionary Audit of the Measure S Funds.

Vote: Passed: 5-0.

10. NEW BUSINESS

Joint Redevelopment Agency / City Council

- A. Receive the FY 2010-11 Mid Year Financial Report [Agency / Council Report No. 2011-30 Jt. Action: Receive Report and Adopt Resolution Per Staff Recommendation (Loomis)]

Richard Loomis, Finance Director, presented Joint Agency / Council Report No. 2011-30 and the slide presentation in to the record. The summary overview included the impact of the recession on Pinole businesses and on City finances, and update on the City General Fund budget and cash financing requirements for FY 2011-12. Staff recommended adoption of a resolution approving mid-year adjustments to the FY 2010-11 budgets.

Mr. Loomis discussed the rise in unemployment, the reduction in sales tax revenues and the significant reduction in the value of residential resale of single family homes, which average \$275,000. He addressed the \$732,000 state takeaway (SERIF), and a six month deferral of gas tax (\$121,685). He reported that there would be no deferrals in future fiscal years due to passage of Prop 22. He reported that revenue at risk included the contract with the WCCUSD for the school resource officers. He said that Interim Chief Hardester was researching and would report out the following day.

Loomis provided a budget status report as of January 31, 2011, stating that expenditures were running ahead of estimates by \$170, 327. There is hope to rebalance as the staffing reductions from December 2010 are implemented. Savings from staff reductions are \$315,980.

The slide presentation documents addressed the cumulative budget adjustments over last three years totaling \$4,429,482 and the amount of the redevelopment funding at risk is \$3.9 million. A pie chart showed budget reductions by department. He said the City would experience cash flow problems until tax payments are received in April, requiring internal borrowing again next year to meet payment obligations.

Next Steps include:

1. A decision by the State on redevelopment agencies between March 4 and 11.
2. City special budget meeting scheduled on March 8th
3. Possible creation of a housing authority on April 5, 2011

Loomis said the concern that the PALC lawsuit funds can be swept into a housing authority other than the City, could occur if the City does not form an authority.

Council questions followed.

Council / Board Member Murray said that the PALC funds were awarded in a lawsuit for a damaged construction project and were set aside to correct defects; he did not see how those funds would be susceptible to State taking.

Ms. Espinosa said that the attorney also does not think they can be seized, but that the City was trying to protect all assets. Mr. Loomis said it would depend on whether the control of the ground lease stays with the City; the entity that controls the ground lease, controls the funds.

Ms. Espinosa said her position differed from Finance Director Loomis regarding the PALC fund. She said his concern was that PALC was built with housing bond funds.

Council Member Green said that in light of this report, there should be discussion regarding how additional cuts would be made.

Ms. Espinosa said she was looking at that and discussed the staffing cost allocations with Agency funds, and that she needed to be ready to find \$2.3 million by July 1.

Council Member Long referred to Slide 12 and recommended streamlining and reducing internal support services rather than reducing services to the public. She said that Recreation and General Government / Administration should be looked at closely. She requested clarification on Attachment C.

Mr. Loomis responded that it was a Budget Report covering January - June 2010, and does not take into consideration the potential retirements that may occur before May 19, 2011. Staff reported at this time, four employees have filed for retirement.

Ms. Espinosa said the March 8th budget meeting would address most of the topics raised by Council, with the exception of the analysis to contracting Planning and Building, Information Services, and Fire Services, as there is no recommendation at this time.

Mayor Swearingen said there are rumors that the school district may be cutting their resource officer so that is another position need to be covered or removed from the list.

Action: Motion by Board / Council Members Murray/Banuelos , the Agency Board / City Council Received the Report and Adopted Joint Resolution 2011-17 & 07-2011, Approving Changes in Estimated Revenues and Appropriations for General Fund Expenditures, Capital Projects Funds and Debt Service Funds, based on the December 2010 Financial Recovery Plan.

Vote: Passed 5-0.

City Council

- B. Receive the Police Department 2010 Annual Report [**Council Report No. 2011-31**
Action: Receive Report (Hardester)]

Paul Hardester, Police Commander entered Council Report 2011-31 and the slide presentation exhibits into the record. The report summarized the following department programs and calendar year comparisons on crime statistics: K9 Program, Community Preservation and Safety Unit, Part 1 Crimes, Miscellaneous Crimes, Arrests, DUIs, Driver's License and Accidents, and Citations & Calls for Service. The overall summary showed that crimes were down in Pinole.

Calls for service were down thirteen percent, Part 1 crimes were down in 2010, from 927 to 827, although stolen vehicles rose. Miscellaneous crimes were down 16.47% and total arrests down nine percent. The reduction is not due to lack of productivity, but is attributed partially to code enforcement, strong investigations, and proactive enforcement are reducing the need for arrests.

He reported that the Community Preservation and Safety Unit lost a staff person who ran the crime free housing program, and the department was trying to fill the gap by using another part-time employee.

Council comments followed and Interim Chief Hardester responded to questions.

Mayor Pro Tem Murray said that Community Preservation had done an amazing job. He asked Hardester to list some of the juvenile felonies. He noted that stolen property and marijuana arrests were up and asked if there was a correlation, and whether it involved gangs. Murray also asked if there was a connection between house break-ins in Antioch and similar incidents in Pinole.

Interim Chief Hardester listed several incidents involving a student threatening a teacher, students making threats to other students, recovery of firearms on campus, narcotics violations, and assault with serious bodily injury. Regarding the increase in stolen property and narcotics, Hardester said they were crimes of opportunity, a bad economy, and drug/narcotic uses attribute to stolen property. The Chief said he would research the Antioch incidents.

Council Member Green asked the percentage of convictions received, and asked whether the DA's Office worked with Pinole on the small convictions.

Chief Hardester said there are no statistics on the percentage of convictions, and the Police Department had a solid relationship with the DA. Chief Clancy met with the new DA recently and he recommended being more detailed and to describe the elements of the crime in greater detail.

Council Member Long encouraged apartments to retain the covenant that keeps parolees out of the units. She reported a burglary ring hitting residences and helping themselves to items in front yards. Council Member Long commented that the discussion of the PVH cameras should be on the school board agenda soon. She asked if he thought the cameras would assist in finding weapons on the campus. Staff responded that they would definitely help and were addressed in the security assessment in 2009. Chief Hardester said he met with school officials with a camera vendor and provided estimates to the District.

Mayor Swearingen asked if there appeared to be a targeted area for stolen cars. Hardester indicated there was not. Mayor Swearingen referred to Neighborhood Watch as a critical tool in crime investigations and encouraged citizens to be observant and also to install motion detectors.

Council Member Banuelos commented to the noticeable benefits to the neighborhoods around the school attributable to the SROs. He raised a question about the number of calls to the police regarding closed campus rules, and Hardester said they do not receive many, but they proactively approach youths found off campus.

Consensus of council to accept the report.

11. REPORTS & COMMUNICATIONS

A. Mayor / Chair Report

1. Announcements
 - a. West County Mayors meeting. Report on seismic upgrades and expansion plans at Contra Costa College and two high school students who will graduate from high school and Contra Costa College at the same time.
 - b. WCCTAC. His request for a reduction of the local agency dues would be discussed at the next meeting. .
2. Mayors Conference Items

B. Mayoral / Council Appointments

1. Appoint a Subcommittee to Conduct Planning Commission Interviews
[Verbal Report; Action: Appoint Subcommittee (Athenour)]

City Clerk Athenour reported that three Planning Commission terms would expire on April 30 and that she would post the recruitment later in the week. She asked the Council to appoint a subcommittee to conduct interviews. Mayor Swearingen appointed Council Members Banuelos and Long.

Council Member Green suggested four year terms. Long said they had four year terms in the past and a prior Council that it should be two years.

Council Member Murray favored four year terms for continuity.

The Council directed staff to agendize this for discussion on March 15.

Jeff Rubin, Community Services Commissioner, addressed Council to advise him of the vacancy on the commission due to Ms. Wakefield's resignation this past week.

Council Member Green said the City Clerk advised the Council earlier this evening, and an appointment would be made at the March 15 meeting from the applicant list established in January.

C. City Council / Agency Board Committee Reports

Mayor Pro Tem Murray reported on the EBRPD Bay Front Trail JPA meeting. He reported there was enough funding for the engineering phase to be completed and the JPA group discussed the upcoming EIR. Mayor Pro Tem Murray reported that they want to consider the design aesthetics of the flyover and the trail as it goes along the bay to the treatment plant; He said there were several alternatives; one was very sterile, and another that resembled a decorative railroad bridge. .

Council Member Long reported on Waste Water JPA meeting. The new Hercules members attended and there was good dialogue. Once we reach a point that we are of a like minds and she believes they can approach this in an entirely different relationship. Hercules is now stating that they have not made a decision on West County vs. Pinole/Hercules plant. Council Member Long pointed out that they had, and anything after July 1 that causes damages or extra costs, would require compensation to Pinole. She said she was cautiously optimistic for movement in a positive direction. She also reported on a meeting with WCCUSD Board Member Ramsey regarding the security cameras and he will be asking his board to agendize the matter.

Council member Green reported that he attended the Elks Club Dinner with Council Member Long, Mayor Swearingen and City Manager Espinosa.

Council Member Banuelos reported that all the subcommittee chair positions have been filled on the WCCUSD Bond Oversight Committee.

D. Council Requests For Future Agenda Items

1. Resolution of support for the Security Cameras – March 15 (Long)

A brief discussion followed regarding the necessity of the cameras.

2. Report regarding rental vs, purchasing barricades (City manager to provide a report – not an agenda item)

E. City Manager / Executive Director Report / Department Staff

F. City Attorney Report

City Manager Espinosa and Assistant City Attorney Lintvedt had no reports.

12. ADJOURNMENT

At 10:38 p.m., Mayor Swearingen adjourned the Regular Meeting of March 1, 2011 to the Special Redevelopment Agency/City Council Meeting of March 8, 2011 and in memory of the fallen US Armed Service members and Pinole citizens Amber Swartz, Owen “Keith” Yeager, Michael Jon Nicoli, Ray A. Schultz, and Marie Cote.

Submitted by:

Patricia Athenour, MMC
City Clerk

APPROVED BY CITY COUNCIL / AGENCY BOARD:

City Council & Redevelopment Agency
Minutes – March 1, 2011
Page 11

