

**PINOLE CITY COUNCIL &
REDEVELOPMENT AGENCY
MINUTES
JUNE 21, 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 6:00 PM and Council Member Long led the Pledge of Allegiance.

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

A. COUNCIL PRESENT

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

B. STAFF PRESENT

Belinda Espinosa, City Manager / Executive Director
Michelle Fitzer, Assistant City Manager
Benjamin T. Reyes, City Attorney
Richard Loomis, Finance Director
John Hardester, Police Chief
Dean Allison, Public Works Director
Amy Wooldridge, Recreation Director
Patricia Athenour, City Clerk

City Clerk Patricia Athenour announced that the Agenda was posted on Friday, June 17, 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.

City Clerk Athenour reported that an exhibit for Item 8A was provided at the dais and copies at the rear of the chamber. She also referred the Council to Consent Item 7E, stating that staff advised her they were not in receipt of the executed Grant Deed, so at the council's pleasure, the item would be held over to the July 5 Consent Agenda, following the execution of the document.

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

At 6:04 p.m., Mayor Swearingen convened the noticed Closed Session.

City Council

- A. CONFERENCED WITH REAL PROPERTY NEGOTIATOR - GC §54956.8
Property Location: Pinole Vista Shopping Center, 1200-1400 Fitzgerald Drive
2700–2830 Pinole Valley Rd., Pinole Valley Shopping Center
Agency Negotiator: Michelle Fitzer, Assistant City Manager

Steve Robertson, Shelter Bay Retail Group
Negotiating Parties: TKG Pinole Valley, LLC & TKG Pinole Vista, LLC
Under Negotiation: Price & Terms

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

At 7:05 p.m., Mayor Swearingen reconvened the meeting in Open Session. He announced there were no reportable actions from Closed Session.

5. RECOGNITIONS / PRESENTATIONS

A. Proclamations

B. Presentations

1. Flag Day Essay Awards by the Pinole Valley Historical Society

Jeff Rubin, Pinole Historical Society presented the awards of the 3rd Annual Pinole History Essay Contest to the following students:

ST. JOSEPH SCHOOL

Madison Laxamana, 2nd grade

Nicholas Fay, 3rd grade

Mary Perez, 4th grade

Cynthia Savage, 5th grade

Chloe Dichoso, 6th grade

Madalyn Pahati, 7th grade

Haley Torretta, 8th grade

GRAND PRIZE: Nicholas Fay, Chloe Dichoso, Haley Torretta

SHANNON ELEMENTARY SCHOOL

Alexis Gerk, 1st grade

Isaac Castaneda, 1st grade

Evelyn Romo, 2nd grade

Matteo Castaneda, 2nd grade

Leda Pho-Thai, 3rd grade

America Munoz, 3rd grade

Brian Silva, 4th grade

Esmeralda Topete, 5th grade

Jorge Garcia, 5th grade

Kyle Chew-Minor, 6th grade

GRAND PRIZE: America Munoz and Jorge Garcia

COLLINS ELEMENTARY SCHOOL

Jordan Goularte, 3rd grade

Zachary Holloway, 3rd grade

Saloni Goswami, 5th grade

Jessica Nhan, 5th grade

Ferin Graham, 6th grade

Aryanna Davis, 6th grade

Renee Ellis

GRAND PRIZE: Zachary Holloway and Aryanna Davis

The following students from the Collins Special Ed class made artwork of the school bell that was at the old Pinole-Hercules School #2.

Lajanee Manuel

Kimberly Moa

Felicity Tuason

Hazel Baron

Sierra Jackson

Keiry Banda

Jaliah Allen

Justin Keomanee

Korinn Phillips

Emily Lonis

Jordan Washington

Mayor Swearingen introduced the newly appointed Police Chief Hardester.

6. CITIZENS TO BE HEARD (Public Comments)

The following citizens addressed the Council / Agency Board:

Ian Richards, Pinole Library, shared a brief announcement regarding upcoming summer events, readings and music at the Pinole Library.

Jeff Rubin, Pinole Historical Society, reported on a video produced by three students, entitled "We Will Always Have Pinole Valley High School" which will air on Pinole TV next week.

Irma Rupert, Pinole citizen, invited the community to Meet Our Neighbors and the Police Department staff on June 30th at the Pinole Senior Center. She said questions should be directed to Al Chavarria, Pinole Police Department.

7. CONSENT CALENDAR

Item 7E was and held over at the request of staff for consideration on July 5, 2011.

ACTION: Motion By Council Members Long/Banuelos, the City Council / Agency Board Approved the Consent Calendar, With The Exception Of Item 7E.

Vote: Passed: 5-0.

Joint Agency Board / City Council

- A. Approved the Minutes of the May 23, May 31 and June 7, 2011 Meetings
- B. Received the May 14-27, May 28-June 10 and the June 11-17, 2011 Lists of Warrants and Received the June 10, 2011 Payroll in the Amount of \$496,509.70.

City Council

- C. Adopted **Resolution 2011-35**, Authorized The Police Chief To Execute A Grant Contract With The State Of California For Grant Assistance Program Funding Administered Through The Department Of Alcoholic Beverage Control [**Council Report No. 2011-64; Action: Adopt Resolution Per Staff Recommendation (Hardester)**]
- D. Adopted **Resolution 2011-36**, Authorized The City Manager To Execute A Professional Services Contract In The Amount Of \$40,000 With Endsight For Network Maintenance And Emergency Services To Be Funded From The Information Systems Budget [**Council Report No. 2011-65; Action: Adopt Resolution Per Staff Recommendation(Janke)**]
- E. Accept the Grant of Dedication for Public Right of Way on Fitzgerald Drive [**Council Report No. 2011-66; Action: Adopt Resolution Per Staff Recommendation (Allison)**] HELD OVER TO JULY 5, 2011

8. PUBLIC HEARINGS

- A. Conduct a Public Hearing to Consider Adoption of the City Of Pinole and the Pinole Redevelopment Agency Operational and Debt Service Budgets For Fiscal Year 2011/12, And Approve the Appropriation Limits [Action: Open Public Hearing & Continue the Public Hearing (Espinosa / Loomis)]

Belinda Espinosa, City Manager, announced the upcoming three budget meetings to be held on June 23, 27 and 28. Ms. Espinosa presented an overview of the budget. She reported that the budget was balanced, with the inclusion of Cable TV Option 2, Fire department with fifteen fire suppression staff, and a \$54,372 Recreation subsidy. The total appropriation is \$27,001,785. She highlighted expenditure reductions which totaled almost five million dollars.

Richard Loomis, Finance Director, addressed the expenditure reductions in greater detail, and showed the percentage decrease by department.

Ms. Espinosa said the three main issues are Fire, Recreation and Cable TV budgets. The recommendation to fund Cable Option 2 contained a cost of \$238,097, with \$57,000 funded from Redevelopment. She discussed the adjustments to the Recreation budget and how the additional \$84,923 was found to fund these additions through reductions to other staff positions.

Mr. Loomis reported on the legislative impacts to either eliminate or reform redevelopment. If moved forward, it would cause local agencies to either drop out or continue with Redevelopment programs in a reformed manner. The decision does not have to be made to October 1, 2011. If Redevelopment is eliminated, Pinole would receive \$600-\$700,000 annually over seven years (following Year 1) and Option 2, the "Pay to Play" option, restricted funds would yield Pinole \$5.7 Million over seven years. He reported there was a greater amount generated with staying with Redevelopment, but it would be restricted revenue. He said the Council could adopt the budget without having to make a decision regarding staying in or out of Redevelopment at this time.

At 7:55 p.m., Mayor Swearingen opened and closed the public hearing with no speakers addressing the Council. He entertained questions from Council.

Council Member Long confirmed that should Redevelopment be eliminated, it would equate to \$1.6 million less revenue over six years, and asked the potential that legal challenges could prevail. She asked whether the elimination of Redevelopment could compromise Pinole's ability to sell and reinvest those funds back into the City. She asked if we could use the Housing Set-aside monies to pay the first year if Pinole decided to stay in Redevelopment.

City Attorney Reyes said there would be legal challenges by the CRA if the "kill bill" was approved by Governor Brown. In the event it is successful, the actions previously taken by the City may have been premature. Reyes said it could compromise Pinole's ability to sell and retain the funds by the City, but that the validation actions we took were not challenged and would serve to protect our actions. He said that ABX-26 indicates that all property transfers from the Agency to the City after January 1 is unauthorized, and everything is uncertain at this time.

Mr. Loomis said that the housing fund could be used for payment in the first year only. .

Council Member Banuelos requested a quick definition of restricted and unrestricted dollars. Mr. Loomis explained Redevelopment funds were restricted to projects and infrastructure in the

Project area; unrestricted funds come from other sources outside the Project area, and can be used for municipal activities and operations.

Council Member Banuelos also asked, with regard to ABX-26, if the properties were sold now, could all those sales be determined to be invalid. Mr. Reyes responded that if the State prevailed and it was declared to be illegal, the money and property would have to be paid to the State. The mechanics and the details are unclear and the bill has not been approved or details worked out yet, and likely trailer / clean up bills would need to follow.

Mayor Pro Tem Murray questioned which option was the best. If the money could be used to maintain the existing housing stock he said he would be more supportive of housing funds.

Mr. Loomis said the Council would be facing the same decision when the Agency sunsets in seven years; this is just making it sooner.

Council Member Green said that he does not believe that the Cable TV could accomplish the tasks desired by Council, and believes that the PEG funds and franchise fees should be allocated to the Cable TV program, as they were in FY 2002-03. He said he believed staffing was overweight in IT, non-sworn Police, and a few other areas and the funds should be direct back to Cable.

Mayor Swearingen showed a direct correlation to the amount of PEG fees received, \$242,000 and a Cable expenditure budget of \$238,000. He asked whether the Redevelopment funding would be available in 2012, and Mr. Loomis confirmed it would be.

Mayor Swearingen commented that retiree and health debt has increased \$750,000 in four years, as an example of an increase that is uncontrollable and must be readjusted annually: He said regarding Redevelopment, the end is coming and Pinole should be headed in the direction of getting out of the land business.

Mayor Pro Tem Murray discussed the limited options Pinole had to get new business and development in the future and the elimination of Redevelopment would be a disadvantage in the future.

Council Member Long said the question was whether to wean off Redevelopment all at once or a phased approach, and that the cost of doing business might outweigh the benefits.

Council Member Green commented on the Recreation Enterprise budget and was said he was unsure the goals were achievable and that the fundraising could be accomplished.

Mayor Swearingen closed the hearing and announced that the discussion and the Public Hearing would continue on June 23, 2011.

9. OLD BUSINESS

There was no Old Business.

10. NEW BUSINESS

- A. Consider and Discuss a November 2011 Ballot Measure to Extend the Sunset Date of the Current Utility Users Tax [**Action: Receive Verbal Report and Provide Direction (Espinosa/Fitzer)**]

Assistant City Manager Fitzer introduced Ms. Lew, an election consultant, to discuss placing the Utility Users Tax extension on the November 8, 2011 ballot. She said that Ms. Lew had worked with the City previously on other ballot measures and advised that Pinole could place it on the ballot this year, only if the Council declared a fiscal emergency.

Mr. Reyes referred to a legal memo provided to the Council at the dais this evening, regarding declaration of a fiscal emergency, stating such enacting required a 4/5's vote of approval by Council.

Kathryn Lew, President and CEO of Lew Group, addressed Council regarding looking at the full spectrum of election dates available and the possibilities of declaring a fiscal emergency to move a ballot measure otherwise only allowable in a regular municipal election. She said other cities with less extensive circumstances have successfully declared a fiscal emergency for this purpose. Regarding scheduling, Ms. Lew said that the first Friday in August was the last day to forward a resolution to the County to call an election. The City Attorney said the last day to consider the question would be at the July 19th meeting.

Irma Ruport, Pinole citizen, said she believed the ballot measure would fail. This would be an opportunity to get information out to the public regarding the Utility Users Tax, and that an election cost was inappropriate at this time.

Tom Cutino, Pinole citizen, said the last attempt failed, and he was one of the supporters. He suggested drafting it differently, explain the need to continue the tax, and reduce the term of the tax. He also suggested implementing an exemption for seniors.

Shelia Grist, Pinole citizen, asked when the current term of the existing tax, and the term proposed for the new tax.

Mayor Swearingen said the current term expired in December 2012 and the proposed term for a proposed measure was not determined.

Mr. Reyes noted there was an exemption procedure in the current tax.

Council Member Green said the City had yet to prove they can get a balanced budget approved, and does not know what all the costs would be. The election cost is not an accurate total cost. He supported Mr. Cutino's suggestion for an exemption and said it should be offered to anyone who wants an exemption. He said that the Council had not had a discussion about weaning off the Utility Tax, which he believed should be specifically designated, not a general tax. Green said he did not think there was an emergency, and said he had more to say on the subject, but would yield now so his colleagues could speak.

Mayor Pro Tem Murray said the Utility Tax was put in place under dire constraints, and the situation was worse now. If the tax is lost, reductions would have to occur in public safety. He said he did not want to be tied into a presidential ballot in 2012 and wished to follow up and discuss this further. He said the Utility Tax would always be necessary.

Council Member Green said he was misled and voted for Measure S only because it was stated to him it was a specific tax for Police and Fire only.

Ms. Espinosa responded that it was all directed to Public Safety in 2011-12, and that Public Works had received a small part.

Council Member Banuelos asked for clarification on declaring a fiscal emergency. He also stated it was hard for him to see where the funds would come from without the UUT. He supported the idea of an exemption and thinks the \$25,000 cost for an election would not be wasted and favored proceeding.

Council Member Long said the Utility Tax was essential and that is the reason she did not support it on the ballot this year, believing a message was sent last year. While she said that the City spends its money wisely, she believed there were more cuts to be made. Before calling an election, it was necessary to bring our labor organizations on board to support and to form a community group. She said she did not believe we had a fiscal emergency since we have one more year in which to call an election. She said she does support it in 2012 and would vote for it then.

Council asked the cost of a consultant to conduct a survey and market the measure.

Ms. Lew said it would be \$18,000-22,000. To market or conduct a survey of several hundred constituents to identify their perspectives on a wide range of issues, including a Utility Tax.

Mayor Swearingen said absent of the tax, we would be talking about reductions in Police and Fire, and eliminating Public Works, except the Wastewater Treatment Plant. He said we built and funded a fire station in 2001 for ten years with reserve funds, explaining that is where the money went and the tax will not bring the fire station back. He said he was unsure whether to forward a question in November.

Discussion ensued. Council Member Long opposed placing it on the ballot this year. Mayor Pro Tem Murray and Council Member Banuelos supported this November, but Banuelos expressed concern regarding the time frame.

Council Member Green said the tax should state specific percentages should be directed to specific department/programs. He said he wished to see the City fund station 74 again in the future. He said that he could possibly support it at some time in the future, with a shorter term, as a special tax, not a general tax.

In response to a Council question, City Attorney Reyes advised Council that staff would need to bring back a resolution calling the election and drafting a ballot question on July 19th

The Mayor asked that a discussion be agendized on July 5th with a staff report for Council consideration. Mayor Pro Tem Murray asked for a probability rating of holding it in 2011 vs. 2012.

Ms. Lew stated, in closing, that it was preferable not to have an undivided house.

In conclusion it was determined in order to conduct a ballot measure in 2011, a fiscal emergency must be declared, requiring a 4/5s vote and there were two council members who voiced that they would not support calling a fiscal emergency. No formal action was taken.

11. REPORTS & COMMUNICATIONS

- A. Mayor / Chair Report
 - 1. Announcements

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

Council Member Banuelos reported he would be attending the CBOC meeting on June 22 as well as the Pinole Hercules Water Pollution Control Plant JPA meeting.

Mayor Pro Tem Murray updated Council on West Contra Costa Integrated Waste Management activities; status report on single use plastic bag ordinance, goal setting and strategic planning for recycling for commercial and commercial organics, and recycling and composting programs.

Council Members Long and Green had no reports.

- D. Council Requests For Future Agenda Items
- E. City Manager / Executive Director Report / Department Staff
 - 1. Confirm August Meeting Schedule [**Council Report No. 2011-67; Action: Approve Staff Recommendation by Minute Order (Athenour)**]

City Clerk Athenour requested that the Council reaffirm the August 2nd meeting which was cancelled last year in anticipation of the conflict with the National Night Out Police Department BBQ, which had subsequently been cancelled, and asked the Council whether they wished to substitute cancellation on the August 16, 2011 meeting.

Irma Ruport, Pinole citizen, addressed Council requesting cancellation of the August 2, 2011 meeting, as was approved ast year. She said that several Neighborhood Watch groups were hosting events that evening and she hoped the Council would attend.

Chief Hardester said that there were no City sponsored National Night Out function but the individual neighborhood meetings would host parties.

ACTION: There was Council Consensus to Reaffirm the Cancellation of August 2, 2011 Regular Meeting.

- F. City Attorney Report

12. ADJOURNMENT

At 10:08 p.m., Mayor Swearingen adjourned the Regular Meeting of June 21, 2011 to the Special Redevelopment Agency/City Council Meeting of June 23, 2011 and in memory of the fallen US Armed Service members and Pinole citizens Amber Swartz, Dorothy Alford, John V. Kane and Mattie G. Miller.

Submitted by:

Patricia Athenour, MMC
City Clerk

Approved By City Council / Agency Board:
 Special City Council & Redevelopment Agency
 Minutes – June 21, 2011
 Page 8