

**PINOLE CITY COUNCIL
PINOLE REDEVELOPMENT AGENCY
MINUTES
SEPTEMBER 6, 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 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 Swearingen, Mayor

B. STAFF PRESENT

Belinda Espinosa, City Manager / Executive Director
Benjamin Reyes, City Attorney
Stephanie Downs, Assistant City Attorney
Richard Loomis, Finance Director
Dean Allison, Public Works Director
John Hardester, Police Chief
Patricia Athenour, City Clerk

City Clerk Patricia Athenour announced that the Agenda was posted on September 1, 2011 4 PM. All legally required notice was provided. She asked the Council whether there were any conflicts with any items on the agenda. None were reported. She entered into the record correspondence received on Item 7E and noted that copies were provided to Council with a copy available to the public.

3. CONVENE TO A CLOSED SESSION – CITY COUNCIL

At 6:03 p.m., Mayor Swearingen convened the Noticed Closed Session.

- A. CONFERENCE WITH LEGAL COUNSEL -
ANTICIPATED LITIGATION - GC §54956.9(b)(1) - One Matter

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

At 7:00 p.m., Mayor Swearingen reconvened the meeting in open session and announced there were no reportable actions at this session. He also announced that the while there were no reportable actions from the closed session on August 30th, the Council directed staff to negotiate on the sale of the Pinole Vista and Pinole Valley shopping centers.

5. RECOGNITIONS / PRESENTATIONS

A. Proclamations

1. Falls Prevention Awareness Week – September 18-24, 2011

Mayor Swearingen read the proclamation and Joanne Leibe, Program Community Outreach Coordinator, accepted the proclamation.

Mayor Swearingen noted the recognition of the ten-year anniversary of September 11, 2011, and urged citizens to always report suspicious circumstances.

B. Presentations

1. August 24, 2011 Police Incident Report – Mayor Swearingen

Mayor Swearingen reported on the Wells Fargo Bank robbery and the exchange of gun fire leaving an officer wounded. He thanked Officers Takacs, Pistello, and Johantgen, and Sergeant Cauwels who were the first officers to arrive on the scene. The Mayor also thanked additional first responders to the scene, including Commander Messier, Sergeant Palmini, Sergeant Avery, Detectives Wallace and Combong, and Officer Wells. He also recognized the Loomis armored guard who defended the bank and also took a bullet. A full recovery is expected for both Officer Takacs and the Loomis guard. Recognition and appreciation was also given by the Mayor to Dispatcher Tracy Borghesani and Support Services Manager Terri Krieger, who both dispatched during the incident. The Mayor also expressed appreciation to Chief Hardester, the department and all those involved in controlling the situation.

Council Member Long noted the professional and calm demeanor of the dispatches and officers involved, when listening to the tape.

Council Member Green asked to move Item 11E forward on the agenda. Ms. Espinosa noted that Ms. Wooldridge was not currently present in the Chamber to present the item.

6. CITIZENS TO BE HEARD (Public Comments)

Leonard Taylor, Pinole citizen, encouraged citizens to fund the Pinole Valley High Friday night football, reported plans to attend Pinole Super Cuts, and noted the upcoming September 11 anniversary.

Ian Richards, Pinole Senior Library Manager, provided announcements and upcoming events at the Pinole Library, including Fall Book Sale.

Marcia Kalapus, Pinole Historical Society announced that funding to televising the first four football games was paid by the Pinole Historical Society. She updated Council regarding upcoming PHS programs. On September 15, a National Park Ranger will discuss Rosie the Riveter and the World War II Home Front National Historical Park in Richmond, and on October 1st at noon, a new walking tour is scheduled with George Vincent followed by a BBQ luncheon at Antler's Restaurant.

Noreen Buller, Pinole resident, requested that the Swim Center be placed on the next agenda. As of September 5th the pool was officially closed with no plans of reopening. The Pinole Seals Swim Club donations helped to keep the pool open this year, but should not be expected to continue each year to keep it open for all residents. Meetings have been held by the Council and have been attended by many residents but the suggestions on methods to keep it open have not reached fruition. A group of residents, Friends of the Pinole Pool, have taken over the task, and believe they will be able to raise sufficient money to keep the pool open. On August

31 a meeting was held and staff announced there was no way to keep the pool open. She asked to place it on the agenda for discussion to keep the pool open.

Ivette Ricco, Pinole Chamber President, provided a brief Chamber update; reporting on the success of Expo 2011, for which she offered thanks to City Council and staff. The Community Corner was completed and she reported working with Council Member Banuelos and the Pinole Artisans to develop an appealing sign structure. A Chamber sponsored E-Cycle event is scheduled for September 10th at the parking lot on Pinole Valley Road, and the Chamber is also working in conjunction with Police Department on a Crime Prevention Seminar on September 28th at the Kaiser Medical Office Building.

Irma Ruport, Pinole citizen, read the Ralph M. Brown Act paragraph on the front of the agenda into the record and expressed her unhappiness that some of the special Council meetings in August were not televised.

Mayor Swearingen asked Ms. Ruport if she wanted to serve on a committee to raise money. Ms. Ruport responded that she certainly will serve on such a committee.

7. CONSENT CALENDAR

Council Member Green removed Item 7C.

ACTION: Motion By Council / Board Members Banuelos/Murray, the City Council/ Agency Board Approved the Consent Calendar Items A, B and D

Vote: Passed: 5-0.

Joint Agency Board / City Council

- A. Approved the Minutes of the August 16 and August 24, 2011 Meetings
- B. Received the August 13 - 26 and August 27 – September 2, 2011 Lists of Warrants and the August 19, 2011 Payroll in the Amount of \$362,562.62 and the September 2, 2011 Payroll in the Amount of \$378,918.29.
- C. Received the 4th Quarter Treasurer's Investment Report [**Joint Council/Agency Report No. 2011-93jt; Action: Receive Report (Loomis)**]

Richard Loomis, Finance Director entered Joint Agency/council report 2011-93 into the record and briefed the Council. Funding for this mandated cost was suspended and reporting to the governing body was also suspended, however in order to provide transparency, the same reporting standard has continued to be followed. The report was prepared by the elected Treasure and Finance Director. The fixed income market has suffered the past several years and historic lows are expected through at least 2013. Loomis summarized the portfolio holdings.

ACTION: Motion By Council / Board Members Murray/Green, the City Council/ Agency Board Received the 4th Quarter Treasurer's Report.

Vote: Passed 5-0.

- D. Approved the GASB-54 Reporting Compliance [**Agency /Council Report No. 2011-94jt; Action: Approve Report by Minute Order (Loomis)**]

Staff announced that ABAG President Mark Green was present and to remove Item 7E.

Council Member Green removed Item 7F, and Council Member Long removed 7G and 7H because there had been no details provided previously on either item.

City Council

- E. Rescinded the July 19, 2011 Minute Order Action to Terminate ABAG Membership in FY 2011/12 & Adopt a Resolution for Submission to ABAG to Terminate Membership in FY 2012/13 [**Council Report No. 2011-95; Action: Adopt Resolution to Discontinue (Council Discretion) (Athenour)**]

Mayor Mark Green, ABAG President, addressed Council to request they reconsider their motion to withdraw from ABAG. He discussed the recent grants Pinole received on the Trash Capture Demonstration Project and \$190,000 for a project in the City of Pinole to improve fish habitat in Pinole Creek. Past grants include a \$15,000 in 2008 to help restore Pinole Creek.

ABAG recently received a \$1,000,000 grant from the State Coastal Conservancy to assist with the management of the San Francisco Bay Area Water Trail. The launch at Pinole Bayfront Park will likely become part of the Water Trail system and would be eligible for grant funds if improvements are needed. Green suggested that at a time when regional influence was becoming even greater, this was not a good time to retreat.

Mayor Swearingen opened the discussion to Council. They each expressed their concerns with ABAG. Council Member Green's main concern was the City's lack of funds and attempt to reduce costs. Knowing now that we are on a payment plan, his concern had been alleviated.

Mayor Pro Tem Murray discussed the RENA numbers and the different standards among communities related to affordable housing. Our growth numbers differ from those defined by ABAG and establishing requirements for affordable housing in Pinole that cannot be realistically met. He asked who made these decisions and why there wasn't an open door to dialogue before they are established. .

ABAG President Green explained that the planning numbers (RENA) come from the State Housing and Community Development Office in Sacramento, and explained that ABAG uses a methodology to develop a strategy to allot the numbers based on zoning, but that does not imply that units must be built. There have been issues regarding the allotments from a multitude of agencies. He agreed there was discrepancy from city to city on the ability to meet the numbers assigned based on inclusionary zoning, whether agencies have redevelopment and a number of factors.

Mayor Pro Tem Murray said that role then should be reversed back to the State with ABAG acting as a liaison. He asked who advocates for cities in Sacramento regarding the serious flaws in the system. He suggested ABAG raise this at their General Assembly for feedback.

President Green said the process should be from the local agency to the State to make legislative changes. He discussed the Bay Area Caucus meeting monthly and suggested taking up this issue there.

Council Member Banuelos agreed that the monies received surpassed our annual membership dues, but expressed concern about ABAG being out of touch with small cities and cited an example of a "Bay Area regionalization" similar to Los Angeles, discussed at an ABAG meeting. He agreed with Mayor Pro Tem Murray's comments and questioned how the raw data was gathered.

Council Member Long expressed her concerns which were savings, efficiencies, and a voice that is heard. She asked whether anyone from this City would be able to participate at the table where the RENA numbers were set, and believed that ABAG should be the advocate, but we are not hearing tonight that ABAG challenges the State's numbers. She said she would like to see ABAG provide a liaison to the member cities, and asked President Green to take back Pinole's message. She asked that ABAG's budget be provided and whether ABAG had instituted salary or benefit reductions.

President Green discussed the ABAG structure, explaining that two County supervisors are on the Executive Board; Gioia and Uilkema, as well as a liaison appointed through the CCC Mayors Conference, and suggested that questions and issues be addressed to those members. He also noted on the RENA numbers, council members can directly address State Housing & Community Development (HCD) process.

Mayor Swearingen said over the years agencies such as ABAG have become immersed in their own program, without knowing what the communities need. He asked about grants forthcoming and noted his dismay when he heard that ABAG, MTC and BCDC were building a new building, but now understood the deal was abolished.

President Green responded to that issue, stating that the BCDC's current location was unsprinklered and without seismic retrofit. As an Executive Board member of both ABAG and MTC, he voted in opposition. ABAG declined to proceed and in the mean time there was also a vote to rescind the original action at MTC.

Mayor Pro Tem Murray asked that the ABAG representative to the Mayors Conference provide a report at each meeting. It was noted that Council Member Julie Pierce from Clayton and Council Member Hudson were Contra Costa representatives on the ABAG Executive Board.

ACTION: Motion By Council Members Murray / Long, the City Council, Rescinded the July 5, 2011 Action to Terminate ABAG Membership Effective in 2011/12.

Mayor Pro Tem Murray spoke to his motion and hope after this dialogue the value of ABAG membership has been validated.

Vote: 5-0.

ACTION BY CONSENSUS: Table the Resolution, and Agendize A Council Discussion Regarding ABAG 2013/14 Membership In May/June 2012 to Provide Feedback On Performance and Accountability During the Year. Resolution held in abeyance.

- F. Authorize The City Manager To Execute A Contract With Shelter Bay Retail Group For Consulting Services Relating To The Pinole Vista Crossings Shopping Center And The Pinole Valley Shopping Center In An Amount Not To Exceed \$54,000 [Council Report No. 2011-96; Action: Adopt Resolution (Drazba)]

Council Member Green noted that his questions were answered this morning by City Manager Espinosa.

Mayor Swearingen questioned whether the contract was necessary if the centers were sold. Mary Drazba, Economic Development Manager, said the current contract expired, and it was necessary to approve a new contract to continue the necessary work, and future work would be based on time and materials.

Council Member Banuelos noted this was the first time Council had heard about this contract. City Manager Espinosa responded to his concerns.

ACTION: Motion by Council Members Green/Murray, the Council Adopted Resolution 2011- 59, Authorized The City Manager To Execute A Contract With Shelter Bay Retail Group For Consulting Services Relating To The Pinole Vista Crossings Shopping Center And The Pinole Valley Shopping Center In An Amount Not To Exceed \$54,000.

Vote: Passed 5-0.

- G. Authorize The City Manager To Execute A Contract With James Parrott For Professional Services as Pinole's Battalion Chief for the Period of October 1, 2011, - December 31, 2012, In An Amount Not To Exceed \$140,000 [**Council Report No. 2011-97; Action: Adopt Resolution (Fitzer/Hanley)**]

Council Member Long requested more detailed information on how this action affects the Fire Department operation, with specific reference to the SAFER grant, how it impacts the rest of the budget, and status on the Fire Department budget to date. She requested to carry the item over to September 20.

Council Member Green questioned whether to schedule in open or closed session, and Mayor Swearingen asked for an opinion from the City Attorney when he returned to the Chamber.

Mayor Pro Tem Murray asked if the contract with Jim Parrott was for the duration of the grant, or for a temporary period to allow time to dialogue with the Fire Local 1230.

City Manager Espinosa said this was a two-year contract, with a 30-day cancellation notice from either side. Parrott was anticipated to return in that capacity for the entire period (of the grant) while staff continued to look for a new model. This was identified as a stop gap to continue to operate the Battalion 7 concept.

City Attorney Reyes returned and responded to the question regarding placement on the next agenda, stating it could be discussed in Closed Session as it was a preferable method to discuss personnel matters in closed session.

Council Member Long asked that the Finance Director respond to her questions on September 20th also with regard to the budget and schedule it on the agenda as appropriate. .

Mayor Swearingen recognized Fire Chief Hanley and asked him to speak to the need for this position at this particular time.

Charles Hanley, Fire Chief addressed the need as "specific and drastic" to provide a battalion chief for ten 24-hour shifts per month. The cost for Con Fire to provide this service was \$2,000 per shift, and this contract was \$880 per shift. He confirmed there were issues with Local 1230 with a member from Rodeo-Hercules providing coverage during a period with contentious labor

issues. He said over \$70,000 of the grant had been expended, while waiting for the variance/hardship waiver.

Council Member Long confirmed the timing of entering this contract is September 30th as Parrott is now covering the shift on an interim basis until October 1.

Chief Hanley said he would be out of state on September 20th and expressed his desire to be present during the discussion and briefly addressed the remainder of the year budget projections and cited that the vacation usage was higher now than anticipated in the remainder of the fiscal year, during the winter months.

ACTION: CONCENSUS TO CONTINUE ITEM 7G TO SEPTEMBER 20, 2011 IN CLOSED SESSION AND OLD BUSINESS.

- H. Authorize The City Manager To Execute A Contract With Grubb & Ellis Company For The Sale Of Parcels 401-211-032 And 401-211-034 Located At The Corner Of Pinole Valley Road And I-80 Commonly Known As The Gateway East Restaurant Pad [**Council Report No. 2011-98; Action: Adopt Resolution (Drazba)**]

Council Member Long removed Item 7H because the contract was in conflict with the Council direction to advertise through the Real Estate Board to outreach to local agencies for brokerage services.

Council Member Green concurred and said he wished to make staff follow the directive.

Ms. Espinosa said this particular broker had a client interested in this property. Grubb & Ellis was retained a year ago, following the RFP process. She suggested entering into a six-month contract to see if an offer is received.

Council discussion followed regarding how to proceed with the contract. Mayor Swearingen suggested ninety days; Council Member Green preferred to follow Council's prior direction. Council Member Murray said if Grubb and Ellis had an interested client, he was not in favor of losing a potential buyer.

Council Member Long said when that direction was given, there was an opportunity to bring it back. She was willing to consider the offer, if it was a backup offer, but suggested that the commission should be reduced to five percent or less.

Council Member Banuelos concurred with Mayor Pro Tem Murray and supported a six-month extension.

Ms. Drazba said the restaurant chain toured last month, however they were constructing in Vacaville and wanted to wait until that store is completed. Broker has an appointment with this firm since the construction is complete in Vacaville and they have a meeting with Kaiser regarding a reciprocal parking agreement so she does feel it is fairly serious but does not believe ninety days is enough time.

Mayor Swearingen asked how much time she recommended and to apply some pressure to the broker.

Discussion followed, with members of the Council expressing concern Council Member Long – this is the first time we have seen this – do not want these last minute reports and Green also

asked who is looking out for the citizens of Pinole. No attempt to negotiate the commissions downward.

Mayor Pro Tem Murray suggested a 120-day extension, and then renegotiate the contract with a lower commission.

Further discussion followed regarding the standard rate of commission and staff was asked to comment. Ms. Drazba said all the original proposals came in at six percent.

Council Member Green expressed his position that staff was not negotiating on behalf of the City for a better rate.

With regarding to no prior discussion of potential offers, Ms. Espinosa said all serious offers are brought to the Council, and stressed that confidentiality is paramount.

Council Member Long said she thought Council had requested "interest updates" before. She said more information regarding a potential client should have been communicated to the Council instead of the report as written, not expressing the urgency.

Council said if there had known there was something big on the horizon they would have approached it differently.

ACTION: Motion by Council Members Murray/Banuelos, The City Council Adopted Resolution 2011- 60, Authorizing The City Manager To Execute A Contract Extension for 120 Days With Grubb & Ellis Company For The Sale Of Parcels 401-211-032 And 401-211-034 Located At The Corner Of Pinole Valley Road And I-80 Commonly Known As The Gateway East Restaurant Pad.

Vote: 3-2; Long and Green dissenting

8. PUBLIC HEARINGS

There were no Public Hearings.

9. OLD BUSINESS

Mayor Swearingen moved Item 11E forward on the agenda.

- 11E. City Manager / Executive Director Report / Department Staff
 1. Swim Center Update [**Council Report 2011- 101; Action: Receive Report (Wooldridge)**]

Amy Wooldridge, Recreation Director, updated Council on the status of the Swim Center and entered Council Report 2011-101 into the record. The Swim Center was closed yesterday, moving to mothball status. Two fund raising options were discussed at an August 4th community meeting:

1. A non-profit agency to take over center.
2. Fundraise the balance of the City's budgetary costs to mothball status, with a schedule from May through Labor Day, retaining the Hilltop YMCA to manage the operation and the City responsible for maintenance.

Ms. Wooldridge said Hilltop YMCA was amenable to this plan and discussed the additional expenses necessary in 2012 and the \$32,000 required to supplant the City's and the Seals contribution. The annual expense to run the Swim Center was \$60,204 in FY 2010/11. They requested that the Youth Foundation be the non-profit as they have a broader basis of support than the Pinole Seals. The Youth Foundation Board is scheduled to review this plan at their meeting the following week.

Ms. Wooldridge outlined the next steps:

1. Council appoint a subcommittee of council members and community to meet with county sups to determine if they can provide funding assistance; and
2. Staff to work with the Steering Committee to move the fundraising plan forward on a fast track; final decision needed by early February 2012.

Staff was available for questions.

Council discussion followed. Council Member Green said that the community "steering committee" is requesting a commitment from the Council to keep the pool open and reverse the previous decision to close it at the end of this season.

Discussion ensued between Council Member Green and Mayor Swearingen about Council support keep the pool open.

Council Member Long explained she understood the committee wants Council 's commitment to keep the pool open if the funds are raised, but if the Committee does not raise the necessary funds identified above, the pool would be closed. She also reported

Debbie said that she had spoken with Gioia to set a meeting when he and Federal Glover about opportunities for funds to come speak to the Council.

Phil said he wanted the council to commit to keep the pool open, even if the funds are not raised.

ACTION: Motion by Council Members Green/Long, The Council Moved To Work As Hard As Possible to Keep The Swim Center Open and Directed Staff To Work With The Steering Committee To Raise Funds For This Purpose.

Mayor Pro Tem Murray said it appeared in his motion that he was looking for "absolutes" and asked if he intended that the pool be kept open regarding (of whether there is sufficient funds).

Council Member Green said the intent of the motion was to keep the pool open; stating that if the Council doesn't state their desire to keep it open, then the community does not feel the Council is supportive to keep it open.

Council Member Long said, similar with the Senior Center funding, during the fundraising it will be determined whether there is enough money to keep it open.

Sheila Grist, Pinole citizen, questioned the fiscal impact of the pool cover. Ms. Wooldridge said they would be funded from the fundraising effort.

Council Member Banuelos asked the amount of money necessary to be raised by February in order to insure moving forward with the opening next season.

Ms. Wooldridge said there must be a significant amount raised, with a very solid plan where the funding would be generated to procure the remainder.

Vote: Passed 5-0.

- 9A. Receive Report on the County Clean Water Program and Proposed County Wide Funding Initiative and Provide Direction To Staff Regarding The Increase the Storm Water Initiative **[Council Report No. 2011-99; Action: Receive Report and Authorize Staff to Vote in Favor of Countywide Initiative To Increase Storm Water Assessment (Allison)]**

Dean Allison, Public Works Director, entered Council Report 2011-99 and exhibit materials into the record, with a follow up presentation to the August 16th Clean Water Program representatives address to Council. Allison discussed the policy issue before the Council; “should the city vote in favor of asking voters to increase clear water assessments from \$35 to \$54 per year”. Mr. Allison said there had been a \$70,000 savings in this fiscal year from utilization of a consultant instead of a dedicated staff for this program. He clarified that this was a Countywide Initiative; however, he said a city may opt out. Staff recommended supporting the increase.

Ms. Espinosa said the city manager group would be discussing opting out at their next meeting on Thursday. The thresholds for an increase are based on watershed and also on the polling survey results with East County at \$12, Central at \$22 and West County at \$19.

Mayor Pro Tem Murray said there was really no opting out; the program is a mandate and the money would have to come from another source.

Irma Rupert, Pinole citizen, questioned why the City cannot do their own program and stated that the County should open their books as Council Member Long requested at the last meeting. Rupert said she had many questions regarding the program, how it was implemented, and thought the rate increase was not necessary.

Mayor Swearingen said that the State set the mandates.

Ms. Rupert said the City Attorney should check and perhaps there is an “opt out.”

Sheila Grist, Pinole citizen, supported inclusion of residential, retail, and commercial, and said there was a sunset in 2025. She said the amount other cities currently pay is unknown. She said, if she heard correctly, Mr. Freitas said Pinole’s share should be \$62 per parcel, but the voters would only tolerate \$19 additional.

Mayor Swearingen said he heard Freitas say whatever was added would come back to Pinole. Mr. Allison said that was his understanding also.

Allison supported the County performing the monitoring, stating they were efficient and the responsibility was correctly assigned.

Council Member Long asked the following questions:

1. Were commercial properties were omitted in error
2. Have we received the money from the ABAG Trash grant

Mr. Allison responded that we have not taken the funding on the ABAG grant, and were still deciding on the location.

Council Member Long pointed out that the measure cost \$1.2 to conduct the election, and believed that the administrative portion was inflated. This is a 54% increase to us and suggested them taking a 54% decrease. She asked that a message be taken back that communities are supportive of paying for necessities and her vote would be in opposition to send that message.

Council Member Banuelos commented that he had a difficult time with this proposed increase and the fact that there is no credit for localized filtering. Council Member Green said he did not support it.

Mayor Pro Tem Murray said the public must vote on this issue; Pinole cannot afford to pay for it on our own, so we cannot afford not to receive the funds the funds. He supported moving it forward.

Mayor Swearingen indicated he would vote to allow the voters to choose.

ACTION: Motion By Council Members Murray/Swearingen, the City Council Received the Report and Authorized Staff to Vote in Favor of the Countywide Initiative to Increase Storm Water Assessment From \$35 to \$54

Vote: Passed.

Ayes: Green, Swearingen

Noes: Green, Banuelos

Abstain: Long

Per City Attorney Reyes, an abstention vote is counted as an affirmative. He said there was a legal opinion on record.

Council Member Long said she wants to see this initiative go before the voters, but her position was to send a message that they need to cut their budget.

ACTION: At 11:00 PM, Council Member Green/Banuelos, The Council Extended the Meeting to Complete the Agenda.

Vote: Passed 5-0.

10. NEW BUSINESS

- A. Authorize the City Manager Award A Construction Contract to MCK Services for the Roadway Repair Program FY 2011-12 in the Amount of \$70,998.60 and Authorize the Director of Development Services to Execute Change Order No. 1, A Deductive Change Order In The Amount Of \$16,998.60, Thereby Reducing The Total Contract Amount To \$54,000 **[Council Report No. 2011-100; Action: Adopt Resolution Per Staff Recommendation (Allison)]**

Dean Allison, Public Works Director, entered Council Report 2011-100 into the record, stating that the bids were higher than the engineers estimate, so staff reduced the amount of work to reduce the cost without allowing the contractor to increase the price. Staff forwarded a

recommendation to award the contract and authorize staff to approve a deductive change order to reduce the contract to the budgeted amount. Allison was available for questions.

Mayor Swearingen expressed concern to insure that the entire job would be completed.

Council Member Banuelos asked how they determined which area to exclude and Allison said it was a field review.

Council Member Long asked why there was no contingency identified and Mr. Allison suggested adding a five percent contingency.

ACTION: Motion By Council Members Murray/Banuelos , the City Council Adopted Resolution 2011- 61, Authorized the City Manager Award A Construction Contract to MCK Services for the Roadway Repair Program FY 2011-12 in the Amount of \$70,998.60 and Authorize the Director of Development Services to Execute Change Order No. 1, A Deductive Change Order In The Amount Of \$16,998.60 and Adding a five percent contingency.

Vote: Passed: 5-0.

- B. Authorization for Recruitment of the Senior Center Coordinator and the Recreation Activity Specialist Positions **[Council Report No. 2011-102; Action: Approve Per Staff Recommendation (Wooldridge)]**

Amy Wooldridge, Recreation Director entered Council Report 2011-102 into the record, stating that the Senior Club was assuming the long term financial responsibility for the two positions. All staffing costs are funded by rental fees and the Senior Club's annual donation of \$80,000. The Club would provide the funding, and the City retains full rights for hiring the City employee. The salary was reduced from \$99,000 to \$71,142 for a 40-hour week. Staff also recommended an internal hire for the Recreation Coordinator and an external hire for the Recreation Activity Specialist. A ten percent pay reduction and hiring at Step A would net an annual savings of \$4700. Ms. Wooldridge was available for questions.

Ruby Cowan, Senior Board member, reported they have the money for a 40-hour per week director and the position was necessary to maintain the Center.

Lorraine Regier, Pinole Foundation, stressed the importance of maintaining staff and said the Club has the funds to support the positions. The Foundation helps the Club and in turn both help the City. She urged the Council to accept their proposal.

Robert Bauer, Pinole Senior Club, said the Center requires a full-time director and a part-time activities director because they are also fund raising obligations also. He requested the Council approve the request.

Ray Sitton, President of the Board of Directors of Senior Club, spoke in support the hiring of the Senior Center Coordinator.

Council commented followed. Council Member Green said the Senior Club will fund the cook, the coordinator and the recreation specialist. He said he would also support the seniors performing the selection.

Ms. Wooldridge said they will be fully funding staff but the hiring would remain with the City Manager and Recreation Director, however the seniors would participate in the oral board.

Mayor Swearingen said that Mr. Torres was an exemplary employee.

ACTION: Motion By Council Members Banuelos/Green, the City Council Authorized An Internal Recruitment for the Senior Center Coordinator and An External Recruitment for the Recreation Activity Specialist.

Vote: Passed: 5-0.

11. REPORTS & COMMUNICATIONS

A. Mayor / Chair Report

1. Announcements
 - a. Mayors' Conference report –District Attorney Mark Petersen spoke addressed the Conference, said he was prosecuting misdemeanors and recommended that daytime curfews ordinances should be adopted and enforced.
 - b. Recreation Department Golf Tournament - September 26, 2011
2. Authorize Mayor to Execute Letter to Bay Area News Group Regarding the East Bay Newspaper Consolidation (**Swearingen**)

Mayor Swearingen sought Council authorization to send a letter to the Bay Area News Group regarding the Council's opposition to the rebranding and consolidation of news from West County with East Bay Alameda County cities.

ACTION: By consensus, the City Council directed the Mayor to execute and send the letter to Bay Area News Group and all other associated news groups.

B. Mayoral / Council Appointments

1. Community Service Commission Appointments

Council Member Banuelos announced he and Council Member Green interviewed four citizens and recommended the reappointment of the two incumbents, Jeff Rubin and Laurelle Martin. He asked the City Clerk to keep the other two citizens names on an interest list.

ACTION: Motion By Council Members Murray/Banuelos, the City Council Reappointed Jeff Rubin and Laurelle Martin to the Community Services Commission for a Two-Year Term, Expiring on June 30, 2013.

Vote: Passed: 5-0.

2. Appointment of Subcommittee to Conduct Youth Commission Interviews

City Clerk Athenour asked Council to appoint two members to conduct the annual Youth Commission interviews. Council Members Banuelos and Green volunteered.

C. City Council / Agency Board Committee Reports

Mayor Pro Tem Murray reported that the annual Coastal Clean-up Event was Saturday, September 17, 2011 from 8 am to Noon at Bay Front Park.

Council Member Long reported on the September 7 WCCUSD meeting where the Board discussed paying off their debt and reallocation of the funds. Mr. Ramsey recommended that the funds could be used to keep two schools open, one being Shannon Elementary, and the needed to insure there was community support. Council Member Long also said that Ramsey said Pinole deserved a Town Hall Meeting with the Board at the campus.

Council Member Banuelos reported of the Citizens Bond Oversight Meeting. He was elected to the Executive Committee for another term, and they are currently working on RFPs for audit services. He reported that he would attend the WCCUSD Board Meeting the following evening and reported that the class structure at Ellerhorst School had been canceled due to student and parent feedback.

D. Council Requests For Future Agenda Items

1. Conduct mid-year performance review of the Fire Chief (Banuelos)
2. Capital Improvement Program review (CIP) (Long)

City Clerk Athenour said it was on the tentatively scheduled on the October 4, 2011 council agenda.

Council discussion ensued on the CIP review by the Finance Subcommittee. Council Member Green said the meeting was open but it should be more highly advertised.

Mayor Swearingen said following that meeting, his opinion was to bring the items to Council for a full review, rather than going through the information twice; the entire Council should receive the information at the same time.

3. Update on the Hercules Municipal Utility District (Long)
4. Update on Tiny Tots Facility (Long)
5. Review of the Employee Policy Manual (Long)
6. Utility Users Tax renewal (Long)
7. Receive Business Licenses in Electronic format and the implementation/enforcement policy (Long)
8. Request to schedule a WCCUSD Subcommittee meeting (Long)

Items 7 and 8 were requested for follow up, not as future agenda items.

E. City Manager / Executive Director Report / Department Staff

1. Swim Center Update

This item was moved forward and addressed earlier on the agenda.

2. Legislative Update AB 646 (Atkins) -- Requires Mandatory Fact Finding Prior To Declaring An Impasse During Labor Negotiations [**Verbal Report; Action: Receive Report & Authorize Mayor To Execute Letter of Opposition (Espinosa)**]

Ben Reyes, City Attorney, presented a Legislative Update on AB 646. This bill authored by Assemblyperson Atkins, San Diego, would, in the event of an impasse, allow employee organizations to demand a fact finding process. Fact finding involves witness testimony and could inordinately delay negotiations and increase costs. The League of CA Cities has taken a position to oppose the bill.

Council Member Long said this issue was discussed by the Mayors Conference Executive and suggested the letter be sent to each city in the Mayors Conference also.

Action: Council consensus to send the letter of opposition.

F. City Attorney Report

City Attorney Reyes had no report.

12. ADJOURNMENT

At 12:12 a.m., Mayor Swearingen adjourned the Joint Regular meeting of the City Council / Agency Board of Directors to the Regular Redevelopment Agency/City Council Meeting of September 20, 2011 and in memory of the fallen US Armed Service members and Pinole citizens Amber Swartz, Eleanor Rose Hanson, Victoriana Susana Baca Paiz, Caroline "Carrie" Lagorio, Barbara (Bobbie) Lee (Rogers) Ring, and the memory of those who lost their lives in September 11, 2001.

Submitted by:

Patricia Athenour, MMC
City Clerk

APPROVED BY CITY COUNCIL / AGENCY BOARD: