

**JOINT PINOLE CITY COUNCIL &
REDEVELOPMENT AGENCY
MINUTES
DECEMBER 20, 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

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

B. STAFF PRESENT

Michelle Fitzer, Assistant City Manager
Benjamin Reyes, 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 December 16, 2011 at 10:00 a.m. All legally required notice was provided. She asked the Council whether there were any conflicts with any items on the agenda. None were reported.

3. CONVENE TO A CLOSED SESSION – CITY COUNCIL /AGENCY BOARD (6-7 PM)

At 6:05, p.m., Mayor Swearingen convened a Noticed Closed Session to discuss the following:

Pinole Redevelopment Agency Board of Directors

- A. **CONFERENCED WITH LEGAL COUNSEL
ANTICIPATED LITIGATION – Gov. Code §54956.9(b)(1) - One Matter**

RECONVENE IN OPEN SESSION TO ANNOUNCE RESULTS OF CLOSED SESSION

At 7:15, p.m., Mayor Swearingen reconvened the meeting in open session. He announced there were no reportable actions from Closed Session.

4. COUNCIL REORGANIZATION

- A. Comments by Outgoing Mayor Swearingen

Mayor Swearingen delivered a report including the Council accomplishments during the past year, during one of the most difficult periods in history of local officials. He discussed the Council's goal to secure against financial instability and discussed the reductions in the workforce and recognized the remaining employees for their hard work to get the job done. He said if redevelopment is dissolved, the City must change the way it does business to include only essential functions. He discussed the City's dependency of the Redevelopment Agency, and the possibility of its dissolution and the effect on the community. The Agency supports salaries of public works and administrative staff new businesses that opened during 2011, sales tax had hopefully hit bottom, showing a modest increase over last year, residential property values have leveled out, Part 1 crimes have dropped, the Federal SAFER grant was funding a full-time battalion chief and the City was continuing to look for monies to fund City services, while working with neighboring cities and the County to stabilize revenues. He highlighted the 2011 Pinole community events and accomplishments, culminating with the approval of the City's interest in the two shopping centers. He described his year as Mayor as fulfilling due his working relationships with his Council colleagues and staff. He introduced and thanked his wife, Rose, his only unpaid staff volunteer, and stated that these are serious times with serious issues, and the dedicated staff and Council will work diligently to move Pinole through the issues in 2012.

B. Presentations & Comments to Mayor Swearingen from the Council

Mayor Pro Tem Murray opened with praises and thanks to Mayor Swearingen for his past year as Mayor, where he held Council and the City together through difficult economic conditions. He presented a ceremonial award to Mayor Swearingen and flowers to Rose Swearingen, thanking them both for their dedication and service to the City.

Satender Malhi, representing Senator De Saulnier, thanked Mayor Swearingen and congratulated Mayor Murray. Mr. Malhi noted that Senator De Saulnier, after representing Pinole for several years, would no longer represent Pinole in the next election cycle due to redistricting changes, but would continue to be an advocate for West County.

The Council individually expressed their comments to Mayor Swearingen. Council Member Long said she was proud to serve with him, noting his dedication to meeting each and every obligation, sometimes at a sacrifice to his family. Council Member Banuelos echoed her comments and noted his dedication and skills as a leader and a mentor. Council Member Green thanked him for his help during the past year, and recognized his excellent listening skills and Mayor Pro Tem Murray thanked him for his service, which exceeded all expectations as a leader of this community,

Leonard Taylor, Richmond citizen, addressed the Council and discussed Mayor Swearingen guiding Pinole through difficult times, and he was also a supporter of keeping the Swim Center open and said he was also looking forward to the new Pinole Valley High campus in 2017.

Assistant City Manager Fitzer, on behalf of the City, thanked the Mayor for his service.

C. Reorganization of the City Council & Redevelopment Agency Board of Directors Selection & Appointment of Mayor & Mayor Pro Tem in Accordance with Resolution 2010-87 [Council Report 2011-141; Action: Council Discretion to Nominate and Adopt Resolution of Appointment (Athenour)]

Mayor Swearingen entertained a nomination for Mayor.

ACTION: Motion by Council Members Long/ Green, the City Council appointed Peter Murray as Mayor.

Vote: Passed 5-0.

ACTION: Motion by Council Members Swearingen/Murray, the City Council appointed Debbie Long as Mayor Pro Tem.

Vote: Passed 5-0.

D. Oath of Office Administered by City Clerk

Patricia Athenour, City Clerk administered the oath of office to Mayor Murray and Mayor Pro Tem Long.

E. Comments from the Newly Seated Mayor

Mayor Murray was seated as Mayor and addressed the Council and the community. He assured the community that this Council was up for the challenges, have diverse opinions, but were respectful to their differences. He thanked staff for keeping the Council on the right track, and doing their best and exceeding expectations to get the job done with the dwindling resources. The goal ahead is to keep Pinole a place where we want to live. The economic issues are ones that the Council must continue to address. He said he would be asking our legislators to take our interests to the State. Having heard from De Saulnier's staff this evening, we need his help to focus on the economy, jobs and education. Mayor Murray introduced his family and dedicated the next year to his family and said he would represent the community at the highest level possible.

At 7:50 p.m., Mayor Murray adjourned the meeting for a brief reception. At 8:13 p.m., Mayor Murray reconvened the Regular meeting.

5. RECOGNITIONS / PRESENTATIONS

A. Proclamations

B. Presentations

There were no presentations or recognitions.

6. CITIZENS TO BE HEARD (Public Comments)

The following citizens addressed the City Council / Agency Board:

Leonard Taylor, extended holiday tidings and encouraged citizens to attend church on Christmas and expressed concern about safety on New Year's Eve and keep Pinole safe without gunfire or fireworks. He said that Pinole needed a Shot Spotter to assist with locating random gunfire.

Marcia Kalapus, Pinole Historical Society (PHS), addressed Council regarding a suggestion to use some of the sales proceeds from the two shopping centers for development of a museum in the Faria House, and asked the Council to open dialogue on the matter and include the t Pinole Historical Society board in that discussion, as they are knowledgeable on the residence's history and had retained the consultant to review the building. She advised that she would be the

contact and was anxious to work with the City to accomplish something sustainable that will benefit the community.

7. CONSENT CALENDAR

Council Member Long said she had the following questions on several checks on the Warrant List and rather than remove it for discussion would forward her questions to staff for a written memo.

1. An explanation on the “ins and outs.”
2. Check #066333, dated 12/211 in the amount of \$46,400 to the Pinole Youth Foundation
3. Check #066342, dated 12/2/11 in the amount of \$3,618.50 regarding asset forfeiture and an additional one regarding asset forfeiture.
- 4.

ACTION: Motion by Swearingen/Banuelos, the Council approved the Consent Calendar as presented.

Vote: Passed 5-0.

Redevelopment Agency Board

- A. Received the Loan Delinquency Report, dated December 5, 2011 [**Agency Report No. 2011-39; Action: Receive Report (Drazba)**]

Joint Agency Board / City Council

- B. Approved the Minutes of the December 6, 2011 Meeting
- C. Received the November 26 – December 16, 2011 Lists of Warrants and Received the November 30, 2011 and December 9, 2011 Payroll in the Amount of \$391,000.94

City Council

Continued from November 15, 2011

- D. Adopted **Resolution 2011-92**, Accepted the Improvements and Direct Staff to Record A Notice of Completion for the Roadway Repair Program FY 2011-12 – MCK [**Council Report No. 2011-142; Action: Adopt Resolution Per Staff Recommendation (Castro)**]
- E. Adopted **Resolution 2011-93**, Accepted the Improvements and Direct Staff to Record A Notice of Completion for the Heritage Park Vapor Barrier System – Pimentel Construction [**Council Report No. 2011-143; Action: Adopt Resolution Per Staff Recommendation (Castro)**]
- F. Adopted **Resolution 2011-94**, Authorize the City Manager to Enter into a Contract In the Amount Not to Exceed \$ 75,000 with CBX for Maintenance of the City’s Surveillance Cameras In Three City Locations [**Council Report No. 2011-145; Action: Adopt Resolution Per Staff Recommendation (Hardester)**]

Mayor Murray moved Item 10A forward on the agenda.

Redevelopment Agency Board

- A. Receive the Redevelopment Agency Annual Report for FY 2010/11 [**Agency Report 2011-40; Action: Receive Report (Fitzer/Kuykendall)**]

This item was moved forward on the Agenda. **Francine Kuykendall**, was present to summarize Agency Report 2011-40 into the record and, but due to timing conflicts for Finance Director Loomis, the Council opted to dispense with a verbal report and asked staff to provide responses to their questions. She noted that an updated Attachment A, (replacement of page 84) was provided to the Council at the dais.

Council Member Green asked if the non-compliance numbers had changed.

Ms. Kuykendall responded that the report reflected information current on the prior Wednesday and the revised document contained updated information (numbers) as of today. The Pinole Senior Village documents, provided today indicate seventy-four percent compliance rate, and she stated that the property managers made a commitment to continuing working with the City for compliance. Fernandez Corner had one unit that was not compliant, but now was in full compliance.

Finance Director Loomis responded to questions raised by **Council Member Swearingen** about the percentages on page 37. He stated as part of the continuing disclosures on the outstanding bonds, there was a list of the principal property tax payers and the top ten must be listed and those total 23.8% of all assessed value within the area. He explained tax distributions within the project area.

Economic Development Manager Mary Drazba explained the blight report and the relationship to the goals and objectives identified in the Implementation Plan. Each year every program must meet at least one of the criteria to qualify as blight removal/reduction.

Council Member Banuelos referred to Page 14 and asked for further explanation about the three million dollar loans and whether they were forgiven.

Mr. Loomis addressed the question, which was contained in the independent audit. He said there are often instances when loans are made to business with provisions for forgiveness; provided for housing and/or business retention and discussed the \$140,000 note (loan) made by the Agency to Bay Cities LLC for tenant improvements as the type falling into that category. A substantial loan that was forgiven was for the re-tenanting of Occuuse, which was written off when the property was transferred back to the City and was subsequently resold. A third example of a forgivable loan was East Bluff.

Mayor Pro Tem Long asked about if the reference on the housing at Pinole Assisted Living was mostly due the management changes, and Ms. Kuykendall confirmed that was correct and that Westmont had made a commitment to learn the process.

Mayor Pro Tem Long stated confusion why the operator needs further education, as this is not a situation unique to Pinole and asked Ms. Kuykendall to notify the board if any issues arise. Ms. Kuykendall said although they are experienced with assisted living facilities but not familiar with affordable housing requirements and noted she would keep the board apprised.

Vice Chair raised questions about the potential affect on 811 San Pablo Avenue and 612 Tennent without approved development plans in place and questioned the repayment of any to the Housing Fund. Ms. Kuykendall referred the question to legal counsel.

Agency Counsel Stephanie Downs said if the City wished to retain the property, the City would be obligated to repay the original amount that was taken out of the Housing Fund. If the City elected to sell the property, it could be sold and the entire proceeds would be returned to the housing fund.

Vice Chair Long said she found this report difficult to read, likely due to the State mandates, but will try to have her questions make sense. She requested clarification on the "Allowance for Doubtful Notes" asking if there was a difference between those being forgiven and doubtful. Mr. Loomis responded that generally there were no differences; allowance for the doubtful was based on the covenants.

Vice Chair Long referred to Page 25 regarding the Pinole Valley Shopping Center to confirm whether there was a change on the note. Mr. Loomis responded that she was correct; the note had not been updated; it was fully amortized, with principal included. Also responding to questions on the current bond rates, Mr. Loomis said they were likely about the same. When the bonds were issued in 2004, it was possible to buy bond insurance and now it would be difficult for us to purchase bond insurance and refund anything below a AAA rating. Once the CRA lawsuit is resolved much of the uncertainty in the bond market would go away. Mr. Loomis discussed possible refinancing in the future, and discussed whether an early pay off was feasible due to cash flow problems, stating that it would make sense for our agency to examine some of our mortgages, such as the Collins property to see if an early payoff was allowable.

No speakers addressed the Agency Board on this matter.

ACTION: Motion by Board Members Swearingen / Long, the Agency Board Moved Acceptance of the FY 2010-11 Annual Report.

Vice Chair Long said that the City is mandated to this type of reporting in this required fashion, and it was not as desirable as the incremental reports, legible to the layman and asked that they still are provided that information.

Vote: Passed 5-0.

8. PUBLIC HEARINGS

There were no Public Hearings.

9. OLD BUSINESS

Continued Items from November 15, 2011

- A. Second Reading & Adoption of **Ordinance 2011-04** Authorizing the City to Make Certain Remittances to the County Auditor Controller in Accordance With Health and Safety Code Section 34194 and to Take All Other Actions Required in Order to Continue Redevelopment Activities in the City of Pinole **[Action: RECOMMENDATION FOR CONTINUANCE TO JANUARY 17, 2011(Downs)]**

ACTION: Motion by Council Members Swearingen/Banuelos, the Council Continued Adoption on Ordinance 2011-44 to January 17, 2011.

Vote: Passed 5-0.

- B. Conduct a Public Hearing to Consider Adoption of the Pinole Redevelopment Agency Operational and Debt Service Budgets For Fiscal Year 2011/12, [Action: RECOMMENDATION FOR CONTINUANCE TO JANUARY 17, 2012 (Loomis)]

ACTION: Motion by Council Members Swearingen/Long, The Council Continued the Public Hearing to January 17, 2011.

Vote: Passed 5-0.

Joint Agency Board / City Council – Public Hearing - Continued From November 15, 2011

- C. Approve the Remittance Agreement Between the Pinole Redevelopment Agency and the City of Pinole Regarding AB 27 and Associated Actions Thereto [Action: RECOMMENDATION FOR CONTINUANCE TO JANUARY 17, 2012 (Downs)]

ACTION: Motion by Board / Council Members Swearingen/Banuelos, The Council Continued the Public Hearing to Approve the RDA Remittance Agreement to January 17, 2011.

Vote: Passed 5-0.

City Council

- D. Report on the Final Design of the West Pinole Valley Park Soccer Field Improvements [Council Report No. 2011-146; Action: Receive Report & Provide Direction (Allison/Wooldridge)]

Dean Allison, Public Works Director, presented Council Report 2011-146 into the record. The approved CIP includes improvements to the soccer field closest to the Station 74. Allison explained that the players think the park could be improved with better drainage, pavement improvements and fencing. He explained the renovation plan included the field reconstruction, a new parking lot, and a six-foot high perimeter fence, as outlined in the exhibit materials. The project budget was \$372,500; \$39,230 had been spent on design thus far. The WCC Soccer League is contributing \$35,000 and Measure WW funds \$337,500. Staff anticipated awarding contracts in February / March 2012, and requested direction/feedback from Council.

Amy Wooldridge, Recreation Director added that this field was decades old and water waste is a huge issue due to the drainage and irrigation. A 12-foot fence would now be added on either side of the goals, as well as a player's area with benches on the street side of the field.

Mayor Pro Tem Long asked whether the \$4,000 excess could be assigned to the Swim Center match. Public Works Director Allison confirmed that any savings could be moved to another project. Mayor Pro Tem Long also reminded staff of the required local outreach to the local contractors.

Council Member Banuelos raised questions about the parking lot, the failed portion of the creek, and whether the construction manager would be outsourced. Mr. Allison responded that they are staying away from the failed creek which will take several years to correct. He confirmed all the pine trees would be removed and the parking area would be reconfigured slightly, with new trees added. Regarding construction management, Allison said primarily in-house staff, would be used, and an outside firm for the more technical issues. Allison also responded to a directive that they would be watching the payroll and reporting.

Council Member Swearingen noted appreciation that the Public Works Department was staying on top of the creek slide problem and suggested perhaps a retaining wall was a solution.

Council Member Green raised the following questions and offered examples of repairs that would allow field play within 24 hours after renovation:

1. Why a six-foot fence
2. Explanation regarding field drainage

Ms. Wooldridge said the fence was to prevent balls from going into the street and creek; the current fence was four feet and the field is a lower grade than the street.

Mr. Allison explained that it would be gravity drainage, tapering from the center to an inlet at the edge of the field, and piped to the street. Regarding the other repairs, Mr. Allison said they were a great fix, but too expensive for the project budget.

Mayor Murray raised questions about the funding source (restricted and dedicated). Mr. Allison explained the WW bonds, passed several years ago. The EBRPD district distributes funds to the cities, and Pinole's distribution was \$888,000 to be used for capital projects that have a life of 25 years or more.

The Council received update and directed City Manager to advertise for bids.

ACTION: Motion by Council Members Banuelos / Green, the City Council directed the City Manager to advertise for bids.

Vote: Passed 5-0.

10. NEW BUSINESS

Redevelopment Agency Board

- B. Receive the Redevelopment Agency Annual Report for FY 2010/11 [**Agency Report 2011-40; Action: Receive Report (Fitzer/Kuykendall)**]

This item was discussed earlier on the agenda.

City Council

- B. Approve 2012 Council Delegate Assignments [**Council Report No. 2011-147; Action: Council Discretion to Approve Appointments (Athenour)**]

City Clerk Patricia Athenour presented Council Report 2011-147 into the record. She asked the Council to review and make any changes to their assignments, at their discretion. She said that the appointment of Banuelos and Long to the Adhoc committee to oversee Pinole Valley High School traffic issues would be ratified as part of their action this evening. Mayor Murray

opened the discussion among the members to determine whether there was interest in changing any of the Council assignments.

The changes were recorded by the City Clerk to prepare a final document, 2012 Council Assignments, for distribution to the Council regional boards and commissions.

1. *Remove Item 3 and 20, West Contra Costa Council of Industries & Community Group Funding Grant Subcommittee*
2. *Amended Items 4, 5, and 10 to reflect Mayor / Mayor Pro Tem assignees*
3. *Add the Adhoc Committee to Review Pinole Valley High Traffic Plans & Issues*

ACTION: By consensus, the City Council approved the 2012 Councilmanic Assignments as noted into the record.

Mayor Murray directed the City Manager to send a letter to the WCCUSD district regarding scheduling a meeting regarding the traffic issues. Council Member Banuelos said the meeting should be in February.

Mayor Pro Tem Long asked staff to research whether there should be two PALC board members from the Pinole Redevelopment Agency Board. Legal Counsel Downs said she would check the bylaws with City Attorney Reyes.

11. REPORTS & COMMUNICATIONS

- A. Mayor / Chair Report
 1. Announcements
 - a. The WCCIWMA hosting special workshop to familiarize new members with the contract documents on January 11, 2012. Council Members and City Managers are also invited.
- B. Mayoral / Council Appointments
 1. TAPS Committee Composition and Recruitment [**Council Report No. 2011-148; Action: Receive Report & Provide Direction to Staff (Athenour)**]

City Clerk Athenour presented Council Report 2011-148 into the record.

Marcia Kalapus, Pinole citizen & TAPS member, explained it was a very thoughtful and involved committee and concurred with staff's recommendation that five members are sufficient and said that generally there is never attendance by the entire seven. She said that their largest issue currently was the Pinole Valley High traffic plan. She said the five members would continue to do a good job.

ACTION: By consensus, Council directed staff to forward a resolution for ratification on January amending the TAPS composition to a five-member board, and approved reappointment of the three incumbent members: Marcia Kalapus, Madeline Crandall and Joe Ojeda for a two-year term, based on receipt of their applications.

C. City Council / Agency Board Committee Reports

Council Member Banuelos updated the Council on the Youth Commission /Foundation fundraisers, including a share of the sale proceeds at Chipotle and the Youth Commission

Talent Show which would be held in March, with a date to be released soon. He also reported on the WCCUSD Facilities Subcommittee meeting last week, which was held over subject to the City workshop meeting scheduled on January 31 workshop to receive citizen community comments.

Council Member Swearingen provided a West County Mayors report, which included presentations from the Ed Fund, where they requested cities to coordinate with them on out of school time programs to improve after school and summer programs and a presentation to extend BART in some manner, east from Richmond/El Cerrito to Crockett. Attempts will be made to include Solano County in this plan which is in the infant stages, and stated that he was excited that WCCTAC could possibly be the lead agency.

Mayor Pro Tem Long reported on a toy drive for Children's Hospital in Oakland.

Mayor Murray asked staff to check to make sure that the Fire Department programs and reports were getting uploaded on the scroll and hoped that the newspaper would do a holiday article.

Council Member Green reported on West Cat meeting and also noted that the Pinole Fire Department was collecting gifts/toys for children.

C. Council Requests For Future Agenda Items

1. Discussion regarding the potential uses for the Faria House as a museum (Banuelos)

Mayor Pro Tem Long asked the City Clerk to provide a list of all items that are waiting to be agendized and considered by Council.

D. City Manager / Executive Director Report / Department Staff

Assistant City Manager Fitzer reported that City Hall would be closed from December 23, 2011 to January 3, 2012.

F. City Attorney Report

There was no report.

12. ADJOURNMENT

At 10 p.m., Mayor Murray adjourned the Regular meeting to the Regular to the Regular Redevelopment Agency/City Council Meeting of January 17, 2012 and in memory of the fallen US Armed Service members and Pinole citizens Amber Swartz, Ruth Jones-Carroll, Betty Pierce, Michael Samuel O'Connor, Bill James Shurtz, Martha Byron (Escamilla), Girard A. Gill Sr., Beverly Estabrook and Lilton "Lee" Puckett.

Submitted by:

Patricia Athenour, MMC

APPROVED BY AGENCY BOARD / CITY COUNCIL: