

**PINOLE CITY COUNCIL
MINUTES
FEBRUARY 2, 2016**

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

The Regular Pinole City Council 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'S REPORT & STATEMENT OF CONFLICT

A. COUNCIL MEMBERS PRESENT

Mayor Roy Swearingen
Mayor Pro Tem Debbie Long
Council Member Tim Banuelos arrived at 6:05 p.m.
Council Member Peter Murray
Council Member Maureen Toms

B. STAFF PRESENT

Michelle Fitzer, City Manager
Hector De La Rosa, Assistant City Manager
Stephanie Downs, Assistant City Attorney
Andrea Miller, Finance Director
Neil Gang, Police Chief
Fire Chief, Rob Piper
Al Petrie, Interim Development Services Director
Patricia Athenour, City Clerk

City Clerk Athenour announced the Agenda was posted on January 28, 2016 at 4:00 P.M. All legally required notice was provided. The Council responded to the City's Clerk question, stating there were no conflicts with any items on the agenda.

City Clerk Athenour entered the following items into the record.

- Item 5B-1- PowerPoint Exhibits - Contra Costa College Update

She reported receipt of a check from Lucky Store SHARE program delivered from Bob Kopp for the PCTV fund.

3. CONVENE TO A CLOSED SESSION

At 6:06 p.m., Mayor Swearingen convened to a Noticed Closed Session to discuss the following items:

- A. **CONFERENCE WITH REAL PROPERTY NEGOTIATOR**
 Gov. Code §54956.8
 Property Locations: 600 Tennent Avenue / APN: 401-142-010
 612 Tennent Ave. / APN: 401-142-011
 City Negotiator: Michelle Fitzer, City Manager & Hector De La Rosa, Assistant
 City Manager
 Negotiating Parties: Dale Moore and Jim Riley (separate interests)
 Under Negotiation: Price & Terms

- B. **PUBLIC EMPLOYEE PERFORMANCE EVALUATION**
 Pursuant to GC §54957
 City Clerk

- C. **CONFERENCE WITH LEGAL COUNSEL—EXISTING LITIGATION**
 Gov. Code §54956.9(d)(1)
 United Professional Firefighters Local 1230 v. City of Pinole
 Case No. SF-CE-00864M

4. RECONVENE IN OPEN REGULAR BUSINESS ITEMS

At 7:02 p.m., Mayor Swearingen reconvened in Open Session and announced the following from closed Session: none

5. RECOGNITIONS / PRESENTATIONS / COMMUNITY EVENTS

- A. Proclamations
- B. Presentations / Recognitions / Community Events

- 1. Contra Costa College Update by Interim President Mojdeh Mehdizadeh

Interim President Mojdeh Mehdizadeh addressed Council regarding information on Contra Costa College and entered the presentation material into the record. Contra Costa College has served the communities since 1949 and recently completed their Strategic Plan 2020. Census and demographics information was presented. The current census is 10,119, sixty one percent of the students are 24 years of age or younger, and the majority are Latino, and are more female students. President Mehdizadeh discussed focus on strengthening community relationships and partnerships. Campus highlights include campus tours, outreach activities, concurrent enrollment (high school and college) Gateway to College Program, financial aid, sixty-two degree and forty-five certification programs, 200 committed employees and new learning spaces. New facilities constructed with Measure A funds will be opening in Fall 2016. She promoted their new restaurant, Aqua Terra, also opening in Fall 2016. Funding from Measure E will be used to construct a new science facility and health center, and modernize the gym annex, gym, locker room and other physical education facilities. President Mehdizadeh was available for questions.

Mayor Pro Tem Long asked about the ability to bring college courses to the high school.

Council Member Toms highlighted several excellent partnerships with Contra Costa College, including the use of pool facilities for high school water polo and swim programs, and the local Special Olympics use track facilities.

Council Member Murray asked about the array of evening classes. Mehdizadeh said the enrollment is much lower in the evenings and they are looking at ways to bring back creative dance and programs on a non-credit basis as there is a lot of interest among the 35+ age group.

Council Member Murray offered the use of the PCTV scroll.

Bob Kopp, Pinole citizen, said he attended the Culinary School and filmed the class. He complimented Chef Nadar and the lunch menu.

President Mojdeh Mehdizadeh highlighted the Food and Wine Event on April 24th, the Cupid Dinner Event on February 11th and provided contact information for the Culinary Department 510-235-7800.

6. CITIZENS TO BE HEARD (Public Comments)

The following citizens addressed the Council:

Bob Kopp, Pinole citizen, informed the Council that the BBQ Rib Cook Off will be in September on a date when the Senior Center is available.

David Ruport, Pinole citizen, addressed Council regarding the general procedural issues on the Verizon appeal, and indicated he was waiting for the letter from City Attorney Reyes.

Mayor Swearingen said the letter would be issued before the end of the week.

Mr. Ruport urged citizens to read the Telecommunications section of the code and also the Verizon Settlement agreement, which he cited in his December 22, 2015 letter

Victor Berumen, Pinole citizen, thanked Council Member Long for appealing the CVS Project. He said his property would be directly affected and the appeal would allow residents to better understand the project.

Irma Ruport, Pinole citizen, announced that the Verizon Appeal hearing would be held on February 9th at 7 PM and urged community attendance. She said the project should be brought to the public earlier, not at the 11th hour. A suggestion included hiring a part-time City attorney to review contracts and Ms. Ruport noted it was an election year and citizens wish to elect those who share their beliefs and ideals.

Vince Wells, Pinole citizen, addressed Council on unresolved, lingering issues:

1. Each engine company in Battalion 7 has a paramedic on the engine and explained in Pinole when a captain serves as a paramedic, they are not compensated for that degree.
2. The PERB Charge remains a huge issue and he hoped to work and negotiate with the Council, rather than wait for Board decision.

Mayor Swearingen responded that the City would like to meet, as well. .

7. CONSENT CALENDAR

Item 7G was removed from the Consent Calendar.

ACTION: Motion by Council Members Banuelos / Murray, the Council Approved the Consent Calendar With the Exception of Items A and G.

Vote: Passed: 5-0
Ayes: Banuelos, Long, Murray, Swearingen, Toms
Noes: None
Abstain: None
Absent: None

- A. Minutes of the Meeting of January 19, 2016 **Held over to February 16, 2016**
- B. Receive the January 16 – 29, 2016 List of Warrants and the January 29, 2016 Payroll in the Amount of **\$344,409.75 (Revised figure)**
- C. Second Reading and Adoption of Ordinance 2016-02, Establishing an Ordinance Amending Title 8, the Health and Safety Section, to Prohibit Medical Marijuana Cultivation and Delivery; and Title 5, the Licensing Section, to Prohibit Medical Marijuana Cultivation and Delivery **[Council Report No. 2016-12; Action: Waive 2nd Reading and Adopt Ordinance Per Staff Recommendation (Reyes/Casher)]**
- D. Adopted **Resolution 2016-07**, Approved Issuance of the Encroachment Permit To the West Contra Costa Unified School District For Frontage Improvements Pinole Valley High School, And Authorize the City Manager to Execute The Improvement Plans and Encroachment Permit **[Council Report No. 2016-13; Action: Adopt Resolution Per Staff Recommendation (Petrie)]**
- E. Adopted **Resolution 2016-08**, Approved Extension of Three General Service Agreements For Vehicle Services And Maintenance With Michael Stead Hilltop Ford Lincoln Mercury, Square Deal Garage, and Pinole Goodyear Tires And Authorize the City Manager to Execute Agreement Amendment **[Council Report No. 2016-14; Action: Adopt Resolution Per Staff Recommendation (Ariza)]**
- F. Adopted **Resolution 2016-09**, Approved Amounts for Employee Service Awards **[Council Report No. 2016-15; Action: Adopt Resolution Per Staff Recommendation (De La Rosa)]**
- G. Approve An Umbrella Facility Use Agreement With The West Contra Costa School District (WCCUSD) For Use of City Facilities An Educational Facilities **[Council Report No. 2016-16; Action: Adopt Resolution Per Staff Recommendation (De La Rosa)]** REMOVED FOR DISCUSSION

Mayor Pro Tem Long referred to Item 14 on Page 7 related to fingerprinting and background checks. She also referred to the section on field maintenance and said if it was not in our policy, it should be added.

Mr. De La Rosa responded that there are not background checks for use of facilities by city or school representatives. Mr. De La Rosa said there was language in the City agreement regarding Rainy Day Use.

ACTION: Motion by Council Members Murray / Toms, the Council Adopted Resolution 2016-10, Approved An Umbrella Facility Use Agreement With The West Contra Costa School District (WCCUSD) For Use Of City Facilities And Educational Facilities

Vote: **Passed:** **5-0**
 Ayes: **Banuelos, Long, Murray, Swearingen, Toms**
 Noes: **None**
 Abstain: **None**
 Absent: **None**

8. PUBLIC HEARINGS

9. OLD BUSINESS

- A. Approve An Amendment To The Lease Agreement with Thomas Properties LLC Regarding the Gateway Project [**Council Report No. 2016-17; Action: Adopt Resolution Per Staff Recommendation (Downs / De La Rosa)**]

Hector De La Rosa, Assistant City Manager, presented Staff Report 2016-17 into the record. Background information was provided and he reported that the developer was moving forward on the conditions of the Lease agreement and obtaining signed agreements from all the taxing agencies, but were still waiting on the School District, the County and the Mosquito and Vector Control District, which are to be forth coming next week. The TKG Memorandum of Lease will be recorded this week and the developer needed to obtain title insurance. The last condition required the City to issue the Certificate of Occupancy for Sprouts to insure it would be built, before the sale would occur. The developer is asking to amend the condition due to the financing and wish to change it to allow purchase of the property prior to construction of the Sprouts Building. Thomas Properties has a signed lease agreement with Sprouts to support the need to construct the facility and Mr. De La Rosa verified seeing the lease agreement. It contains a condition that Thomas must provide a building to Sprouts by July 30, 2016.

Council Member Murray asked the City Attorney for a legal position.

Assistant City Attorney Downs said originally there were concerns with the developer getting entitlements and leaving the property fallow. At this point, coming off several years of a recession, banks have become more cautious of a lease position and have indicated it will be more expensive for the developer to construct with a leasehold rather than fee title. Downs said she does not believe fears that the property would remain fallow are still an issue.

Ms. Fitzer added that Sprouts was specifically named in four locations in the Development Agreement.

Steve Thomas, Thomas Properties, addressed Council and stated they are ready to start construction as soon as permits are issued. February 15th is their planned start date with completion by August 1, 2016. He spoke to their commitment to this project, which will be great for the community.

Mayor Pro Tem Long commended him for local outreach in the newspaper.

Mayor Swearingen asked if the secondary building would be built concurrently with Sprouts. Mr. Thomas confirmed that was the plan.

ACTION: Motion by Council Members Toms / Banuelos, the Council Adopted Resolution 2016-11, Approved An Amendment To The Lease Agreement with Thomas Properties LLC Regarding the Gateway Project

Vote: **Passed:** **5-0**
Ayes: **Banuelos, Long, Murray, Swearingen, Toms**
Noes: **None**
Abstain: **None**
Absent: **None**

10. NEW BUSINESS

11. REPORTS & COMMUNICATIONS

A. Mayor Report

1. No Announcement or Report.

B. Mayoral & Council Appointments

1. Select A Subcommittee To Conduct Planning Commission Interviews And Select Date For Interviews [**Council Report No. 2016-18; Action: Receive Report – Council Discretion (Athenour)**]

Mayor Pro Tem Long suggested Council Member Toms serve and Council Member Banuelos said he was also interested. There was consensus.

The date suggested by staff was accepted and interviews would be schedule don February 10, 2016 at 6 PM.

C. City Council Committee Reports & Communications

Council Member Banuelos reported on the WestCAT Lynx 10-Year Anniversary event which was held at the Bank of Pinole building on January 21, 2016.

Mayor Pro Tem Long reported that it was likely within the year West Cat would procure a grant for a double-decker bus, and possibly two. She said it is a very well run agency.

Mayor Swearingen reported that the Pinole Garden Club had advised him that the mural behind the bus stop at San Pablo Avenue and Quinan was in need of repair and that the bus stop was also very dirty and littered.

Mayor Pro Tem Long reported that she attended the January 25, 2016 Planning Commission Conditional Use Permit Hearing (CUP) for the cellular facility considered on the proposed CVS site on Appian. The Commission approved the CUP for the cellular facility and assigned a subcommittee to work on the design. She reported that she may need to appeal the CUP on the basis of the design only, as the 10-day appeal period as there would be no future option or no opportunity for an appeal following February 4th and the design would not be resolved by that time.

Council Member Toms said the design should come before the Planning Commission to be ratified and could be appealed at that time. Mayor Pro Tem Long said that was not the information she received from staff. If she can receive clarification in writing, she would not appeal by February 4th providing there would be an opportunity at the time of Planning Commission ratification. Mayor Pro Tem Long also stated that the City Attorney advised that both of her CVS appeals (project design and cell tower design) could be heard under one hearing.

Mayor Pro Tem Swearingen expressed concerned of the possible loss of the new store in Pinole, as well as the appeal process. He questioned whether an appeal by one Council member, should include the entire City Council as the appellant. He did not see language in the Code that states that and requested a legal opinion from the City Attorney.

Council Member Toms sad she thought it would be an appeal by an individual.

Mayor Pro Tem Long said she confirmed with the attorney, the appeal was limited to the points of her appeal only.

Council Member Toms reported that the ABAG General Assembly would be held on April 7 or April 14 at the Oakland Museum. Mayor Pro Tem Swearingen announced that he would not be in attendance as the Mayors' Conference Alternate. Council Member Banuelos confirmed he could attend as the City representative.

Council Member Murray reported that he would be attending a West Contra Costa Integrated Management Authority meeting next week. At the last meeting the board discussed restructuring the Joint Powers Authority (JPA), which will be a four to six month process and may have an impact on the region. Discussions will include topics such as what the JPA provides as a body and exiting the JPA. He also reported that the City of Richmond requested a pilot program for Richmond High School and found out that we do not partner with the WCCUSD but can ask them to do their share of recycling. No one from the District knew what the program entails and whether it counts toward our recycling numbers.

D. Council Requests For Future Agenda Items

1. Joint meeting with the Planning Commission / City Council (Long)
2. Consider reducing the appeal fee (Long)

Council Member Toms said that some other cities have a lower fee, but also charge the actual costs to the developer.

3. Full discussion on the sale of the Pinole Assisted Living Center (Long)
4. Requested a progress report on the Code Enforcement matter on Galbraith & Pinole Vallley Road (Long)

Mayor Pro Tem Long reported that the Pinole and Martinez Animal Shelters were not accepting voluntary animal surrenders for a month, and will also offer \$29 adoptions.

E. City Manager Report / Department Staff

1. Rule 20A Update [**Verbal Report Action: Receive Report (Fitzer)**]

Michelle Fitzer, City Manager presented an update on the possibility of a Rule 20A Project companion project with Pinole Valley High School. In checking with PG&E regarding the viability, staff heard just today that it is viable for a companion project, should the Council be interested in pursuing.

There was Council consensus to agendize as soon as possible. Ms. Fitzer responded that the February 16 was a full agenda but if not possible to add, she would find another date.

Hector De La Rosa reported on the 30-year State Revolving Loan for the Wastewater Plant Upgrade project. He was notified that the State now requested a resolution with the specific dollar amount of the loan requested. The estimate is \$26,262,000 and the borrowing capacity is \$27.9 M borrowing capacity. Mr. De La Rosa said we would be moving forward with no deviations from the prior Council direction.

City Manager Fitzer said this was an administrative amendment, but wanted to make sure Council was aware.

F. City Attorney Report

There was no report.

12. ADJOURNMENT to the Special City Council Meeting

At 8:35 p.m., Mayor Swearingen adjourned the Regular Meeting of February 9, 2016, In Remembrance of Amber Swartz and Tony Tonti.

Submitted by:

Patricia Athenour, MMC
City Clerk

Approved by City Council: February 16, 2016