

**PINOLE CITY COUNCIL  
MINUTES  
FEBRUARY 3, 2015**

**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 Murray called the Regular Meeting of the City Council to order at 6:00 p.m. and Mayor Pro Tem Swearingen led the Pledge of Allegiance.

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

**A. COUNCIL MEMBERS PRESENT**

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

**B. STAFF PRESENT**

Belinda Espinosa, City Manager  
Hector De La Rosa, Assistant City Manager  
Benjamin T. Reyes, City Attorney  
Richard Loomis, Finance Director  
Dean Allison, Development Services Director  
Neil Gang, Police Chief  
Rob Piper, Fire Chief  
Winston Rhodes, Planning Manager  
Patricia Athenour, City Clerk

City Clerk Athenour announced the agenda was posted on January 29, 2015 at 4:00 P.M. and all legally required notice was provided. Following an inquiry by the City Clerk, the Council reported there were no conflicts with any items on the agenda.

Ms. Athenour also entered the following items into the record, noting they were provided to the Council at the dais and copies were available for the public at the rear of the Chamber:

1. Item 10B – Midyear Financial Report

**3. CONVENE TO A CLOSED SESSION**

At 6:05 p.m., Mayor Murray convened the Notice Closed Session to discuss the following matter:

- A. CONFERENCE WITH REAL PROPERTY NEGOTIATOR**  
Pursuant to Government Code §54956.8  
Property Locations: 1. Gateway West, APN No. 401-410-017

2. Gateway East – Pinole Valley Rd. in front of Kaiser, APN No. 401-211-032
  3. Gateway East – Corner of Pinole Valley Rd & I-80 off ramp, APN No. 401-211-034  
Pinole CA 94564
- City Negotiator: Belinda Espinosa, City Manager and  
Hector De La Rosa, Assistant City Manager
- Negotiating Parties: Thomas Gateway LLC
- Under Negotiation: Price & Terms

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

At 7:05 p.m., Mayor Murray reconvened the meeting in open session. He announced there were reportable actions from the Closed Session.

#### **5. RECOGNITIONS / PRESENTATIONS / COMMUNITY EVENTS**

- A. Proclamations
- B. Presentations / Recognitions

There were no proclamations or presentations.

- C. Community Announcements and/or Events

**Mayor Murray** presented the airing of the Public Service Announcement related to the refuse (garbage) and recycling services offered by Richmond Sanitary garbage which had been running on PCTV. The announcement informed citizens of the upcoming enhancement of community refuse services. New services begin on March 2, 2015.

#### **6. CITIZENS TO BE HEARD (Public Comments)**

The following citizens addressed the Council:

**Bob Kopp**, Pinole citizen, addressed Council to present two items:

- Request to put on another BBQ for the Troops on September 13<sup>th</sup>. He reported speaking with the City Manager and requested Council approval and their willingness to participate at the event.
- Reported that he presented another donation check from Lucky / SaveMart cards to the City Manager.

**Jeff Rubin**, Pinole Historical Society Vice President, announced the upcoming Pinole Historical Society program scheduled on Friday, February 6<sup>th</sup> at 6:30 PM at the Kaiser Medical Office Building. The program topic is *A Flood of Memories*; recounting the floods in Pinole's history and steps taken to protect against future floods.

**Anthony Gutierrez**, Pinole citizen, addressed Council with his recommendation for a single source project manager on the Water Pollution Control Plant upgrade project. He said the Development Services Director was serving as a de facto project manager. The engineering schedule has been delayed by three months, and Mr. Gutierrez suggested weekly meetings of the key players in lieu of bi-weekly meetings as communication was extremely important. He referred to the January 27<sup>th</sup> Hercules Council meeting and the level of distrust that exists between the two co-sponsors, which he said must be resolved.

Mayor Murray said they are working on the relationship that Mr. Gutteriez raised.

## 7. CONSENT CALENDAR

Council Member Long raised a question on Item 7C and Mayor Pro Tem Swearingen raised questions on Item 7C and 7D.

**ACTION: Motion By Council Members Swearingen/Banuelos, The City Council Approved the Consent Calendar Following Discussions on Items C and D.**

<b>Vote:</b>	<b>Passed</b>	<b>5-0.</b>
	<b>Ayes:</b>	<b>Banuelos, Green, Long, Murray, Swearingen</b>
	<b>Noes:</b>	<b>None</b>
	<b>Abstain:</b>	<b>None</b>
	<b>Absent:</b>	<b>None</b>

- A. Approved the Minutes of the Meeting of January 20, 2015
- B. Received the January 17 – 30, 2015 List of Warrants and the January 30, 2015 Payroll in the Amount of \$340,146.07
- C. Received the FY 2014-15 Second Quarter Investment Report, and Adopted **Resolution 2015-01**, Approved the Annual Investment Policy and Adopted **Resolution 2015-02**, Authorized the City Manager to Execute a Financial Custody Agreement with US Bank for City Investment Securities  
**[Council Report No. 2015-04; Action: Receive Report & Adopt Resolutions Per Staff Recommendation (Lee/Johnson)]**

Mayor Pro Tem Swearingen requested an explanation on laddering securities.

**Richard Loomis**, Finance Director, explained laddered maturities, and said instead of using short term notes in the investment pool or money market account. He and Treasurer Lee started direct investing for cash flow purposes and purchase some securities with different durations to enhance the yield. This is a proactive approach as laddering will result in maturing at six month intervals and allow reinvesting.

Council Member Long raised a question on Attachment A regarding Mechanics Bank MM account and asked if the \$10 million is considered our cash flow. She suggested that was too large a deposit to maintain for overnight access, and thought the most to be maintained for liquid access was two to three million dollars based on when obligations come due. Given that, she acknowledged that the City would soon be embarking on the WPCP construction project and it would be necessary in six months to move a portion of the \$10 million into a construction account for short term financing. She also asked if the \$10 million was insured.

Mr. Loomis responded that it was not insured, which is not uncommon because the banks are required to pledge 150% of the amount because they are public funds, and are collateralized under the government code provisions. Loomis said there was no credit risk or exposure for public agency deposits.

- D. Adopted **Resolution 2015-03**, Accepted the Improvements and Direct Staff to Record a Notice of Completion, and Release Retention for the Tennis Court Resurfacing Project / Contractor: First Serve Productions, Inc. **[Council Report No. 2015-05; Action: Adopt Resolution Per Staff Recommendation (Castro)]**

Mayor Pro Tem Swearingen said he has been asked by several people concerned with the skateboarders using the tennis courts and asked whether it could be locked to insure that the courts are used by tennis players and not skate boarders.

Dean Allison, Development Services Director said he would work with Recreation staff regarding a solution. Hector De La Rosa, Assistant City Manager said this issue was raised a few weeks ago and he had spoken with the Police Department regarding enforcement in the area, and was working to find a solution and install a mechanism, while still keeping the park open, as there are not sufficient staffing resources to monitor the courts and check in/out keys.

## **8. PUBLIC HEARINGS**

## **9. OLD BUSINESS**

There were no Public Hearings or Old Business items.

## **10. NEW BUSINESS**

- A. Receive the Results of the Annual Financial Audit for FY 2013/14  
**[Council Report No. 2015-06; Action: Receive Report (Loomis)]**

Richard Loomis, Finance Director, presented Council Report 2015-06 and the Audit exhibit materials provided in the packet into the record. He introduced auditor Katy Williams, Mann, Urrutia & Nelson CPA. He presented the mandatory review contained in the audit scope of work, as outlined in the exhibit materials.

Katy Williams, Mann, Urrutia & Nelson CPA, addressed Council and provided an audit summary report. Following the audit review, the firm provided an unqualified, clean opinion; reported there were no material weaknesses. She recommended implementation of Imprest System for petty cash accounting at the Senior and Youth Centers. Imprest is a system for paying out and replenishing petty cash with receipts documenting the expenditures. The audit contained the following information, required to be disclosed under the Statement of Audit Standards (SAS) No. 114:

- CAFR Footnote 1 on pages 33-41 regarding audit policies
- CAFR Footnote 3F for Notes Receivable Allowance for Doubtful Receivables and Footnote 10 on page 55 of Actuarial Assumptions
- Reported on noted conditions in previous audits regarding the City's cash flow
  - ✓ Deficiencies in cash are improving
  - ✓ Budgetary structural imbalance is resolved
  - ✓ General Fund is generating positive net results of operations
  - ✓ General Reserve Account is being restored

Ms. Williams thanked the City staff for being so well prepared for the audit.

Mr. Loomis provided high level oversight graphics to communicate the financial condition of the city and how it is changing over time. The presentation included a History of Net Position over the past ten years in the governmental and sewer funds. Loomis reported on the City's

improving financial condition and the change in working capital and “days cash on hand” from 2013 to 2014. There was a cash balance in all funds of \$15,745,838; a cash balance in the General Fund of \$1,498,100; a significant improvement from prior years. The Housing Fund (including PALC account which is restricted at this time) had a balance of \$5,241,606, and since the audit, \$600,000 has been added due to the Fernandez Corner settlement payment. The Sewer Enterprise cash is \$6,749,033.

Loomis summarized the equity position and the long term debt as outlined in the exhibit materials net position as a whole is \$51 million dollars and fund balance for all funds is \$15 million and fund balance for the General Fund is (\$3,664). The General Fund balance appears low even though there is \$1.5 million in cash, due to government regulations requiring the City’s loan from the former Redevelopment Agency (\$2.3 Million) to be included in the fund statement as a short term obligation, when in actuality it is over a fourteen year period. Loomis summarized the Long Term Debt:

- ✓ Capital leases at \$600,000;
- ✓ Pension Obligation Bonds at \$4.4 million; and
- ✓ OPEB Liability recognized to date at \$14 million.

Net Results of Operations is that revenues exceeded expenditures in both the governmental and sewer funds.

In closing, Mr. Loomis reported that the audit cost \$44,200, including the separate auditing of Measure S funds and the Successor Agency. This is the first year of a three year contract, and the fee is fixed for the subsequent years.

Council questions followed.

Mayor Pro Tem Swearingen thanked the auditor for the recommendation on the petty cash reconciliation. He asked why the \$2.3 million must show up in the current year. Mr. Loomis said it is declining annually and it is accounted as a short term liability because it was an internal cash transfer.

Council Member Long asked about the unfunded liabilities attributable to the Redevelopment Agency being absorbed by the City, specifically retiree health insurance, and whether it was included on the Recognized Obligation Payment Schedule (ROPS).

Mr. Loomis said he had preliminary discussions with the State and received their guidance on how to report it, and he proposed it be funded over the remaining life of the Agency (until 2022). It still requires review and approval by the State, but best case several million dollars will be funded by the Successor Agency.

Mayor Pro Tem Swearingen asked Mr. Loomis to explain whether it is legal to have an unfunded liability. Mr. Loomis said it was, and that it has been a source of great debate for last five years.

No citizens addressed the Council.

The Council received the 2013/14 CAFR; no action was required.

- B. Receive the FY 2014-15 Second Quarter Financial Update and Approve Mid-Year Budget Adjustments [**Council Report No. 2015-07; Action: Adopt Resolution Per Staff Recommendation (Loomis)**]

**Richard Loomis**, Finance Director, presented Council Report 2015-07 and exhibit materials into the record and outlined the points to be discussed:

- Budget over view'
- Review of local conditions'
- Status of Unemployment - +75 FTE's in new retail businesses.
- Recovery of Single Family Residential property values – median market price up 18.1% in FY 2014/15 (\$372,000)
- Fiscal Challenges
  - ✓ Maintain balanced budget, positive cash flows;
  - ✓ Rebuilding general reserves (recommend balance no less than \$3 million);
  - ✓ Address deferred infrastructure maintenance; and
  - ✓ Restore / enhance service levels for all programs
- Successor Agency Residual Allocations & General Reserve Account Funding allocations are approximately 4.3 Million and 67% was put in the General Reserve Account. Continuing that past practice will yield an estimated general reserve of \$3.2 Million. One time allocation from shopping center caused us to be able to accumulate that General Fund reserve account.
- Sales and Property Tax recovery due to new businesses as well as improvements in existing business sales.
- Turn around in property assessment values
- Sustained Sales Tax Recovery – Mid Year up 8.6% & 3% over budget in current year
- Building Fund Mid-year Performance - net cash flow of \$64,841
- PCTV Budget Performance – small negative cash flow; anticipate meeting target, but small subsidy may be required at year end.
- Recreation Budget Performance – positive net cash flows for first six months- all activities tracking positive, except General Recreation

Recommended Mid-Year Revenue Increases identified in the Staff Report / Attachment A and Exhibit Materials total \$2,615,813. Mid-year expenditures total \$2,432,617.

Property Tax	198,136
Successor Ag Taxes	\$2,252,586
Use Tax	52,166
Use Taxes 2014	146,000
Utility User Tax	(33,275)
<b>Revenue Subtotal</b>	<b>\$2,615,813</b>

Mid-Year Recommended Expenditures including a \$2,390,962 transfer of one-time monies to General Reserve totals \$2,432,617. The revised budget projection for Measure S fund at mid-year is \$4,857,661.

Staff compared the current fund balance with that previously projected which was \$2.3M; with the additional revenue, the revised projection is \$4.8 million, but also noted the unfunded liabilities; the pending litigations (PERB complaint and Verizon Wireless) and the OPEB (Retiree Health Insurance). In closing Mr. Loomis informed the Council that the City's overall financial condition continues to strengthen and improve, and has moved from a survival mode to a rebuilding mode. Over the past six months cash management strategies have been implemented to insure that all payment obligations are met timely. One-time property taxes

allocated through dissolution of Redevelopment have significantly accelerated rebuilding the City's operating reserve account. Loomis highlighted increases in both sales and property tax collections. There was a 12.2% increase in the City's net taxable property values and the sales tax rose 8.6% over the amount collected in the same time period last year. Mr. Loomis was available for questions and recommended adoption of the draft resolution approving the budget adjustments.

Council questions and discussion followed.

Council Member Long asked what time increment the Measure S \$146,200 is apportioned to. Mr. Loomis said one month; June 2015.

Council Member Long asked how Measure J funds were tracking based on gas costs.

Staff responded that information had been received from the League which would be forwarded to the Council. The last Measure J allocation (2012/13) was \$330,000 and there is every indication that will remain the same in 2013/14 and 2014/15. The budget is right on target and actual collections may be \$40,000 over budgeted this year.

Mayor Pro Tem Swearingen asked the meaning of "discretionary mean" on Page 6 Box 11 regarding the rollback of assessment values, whether the mobile radios were an ongoing cost and recommended adding a fund / line item for painting the roof flashing on the Bank of Pinole building.

Mr. Loomis responded that bringing those recoveries back on the tax roll differs from county to county. The County assessors are bringing up assessment values incrementally based on their review of market transactions (Proposition 8 Recapture). Regarding the radios, we are in the three year or a five year lease contract.

City Manager Espinosa said the facility maintenance would be discussed under the Measure S 2014 prioritization on February 7.

Council Member Green commented that the pre-Proposition 13 property owners do not have any tax roll back.

Mayor Murray raised the issue to also address the Senior Center roof at the Workshop Meeting on February 7 for deferred maintenance replacement funding. Regarding the Reserve account, he said the League of CA Cities had once provided a document that stated a prudent reserve in a percentage amount.

Mr. Loomis said for Pinole, that amount would be five to 5.5 million dollars.

Mayor Murray suggested a discussion of the philosophy of putting money in a reserve accounts for separate specific uses. His point generally is to dedicate a certain amount of funds continuously from any increases in our budget until we get to our goal. He asked Mr. Loomis on the Saturday workshop to be prepared to recommend the level of reserves we should attain.

Loomis expanded on that point discussing the expenditure of the prior four million dollar reserves depleted prior to the recession.

The following citizens addressed the Council:

**Anthony Gutierrez**, Pinole citizen, raised the following questions and points

- 1, Is the City now able to sell back electricity to PG&E, with the installation of the solar panels and warm weather.
- 2, Will the City be able to use any of the SAFER grant?
3. Requested clarification on the 19% of the \$13 Million, referenced in the footnote on page 6 as 18 percent; and how the \$2.25 million showed up as expenditure, and the \$250,000 payment made to us.

Development Services Director Allison responded that the City can sell back electricity, but at a very low rate, and would not count on much revenue.

Finance Director Loomis responded that the City did receive a waiver for the SAFER grant, which became effective December 26, 2014 and covers back to January 2014. A reimbursement claim will be submitted for approximately \$175,000 for expenses from January 2014 through February 2015.

Regarding Question 3, Mr. Loomis said before the State decided to dissolve Redevelopment, the City was dealing with the effects of the recession and had exhausted our reserves so the City borrowed from the Agency with the Collateralized Agreement secured by the Swim Center, Tiny Tots and post office properties, pledging repayment in fifteen years. Within two years Redevelopment dissolved and the Successor Agency was formed. That borrowing was still a valid debt of the City and there is an obligation to pay it over the remaining thirteen years which coincides with the original Project Area expiration in 2022. The amount paid includes principal and interest at 3.8%. We are liquidating the amount each year, but using the governmental accounting rules, it shows as a short term debt because it was an internal borrowing.

There were no further questions.

**ACTION: Motion By Council Members Swearingen / Long , The City Council Received approved Mid Year Financial Report and Adopted Resolution 2015-04, Approving Changes and Modifying the City Budget for FY 2014/15.**

Mayor Pro Tem Swearingen asked if \$25,000 was sufficient to stock the Police vehicle. Mr. Loomis responded that it is not used for emergency response and the equipment will be transferred from another police vehicle.

<b>Vote:</b>	<b>Passed</b>	<b>5-0</b>
	<b>Ayes:</b>	<b>Banuelos, Green, Long, Murray, Swearingen</b>
	<b>Noes:</b>	<b>None</b>
	<b>Abstain:</b>	<b>None</b>
	<b>Absent:</b>	<b>None</b>

## **11. REPORTS & COMMUNICATIONS**

### **A. Mayor Report**

1. Announcements
  - a. February 11 – Employee Recognition Breakfast
  - b. February 18 – Richmond Elks Lodge Law Enforcement Dinner
  - c. February 21 – Rotary Crab Feed recognizing Public Safety

### **B. Mayoral & Council Appointments – There were no appointments**



C. City Council Committee Reports

Mayor Pro Tem Swearingen attended East Bay League of Cities meeting and reported that El Cerrito Council Member Abelson is the current Chair.

The other members had no reports. .

D. Council Requests For Future Agenda Items

1. Invite West Contra Costa School Board new members or liaison to give update on the campus and communication is where it should be. (Long)
2. Discussion on the new tax discussed by the Governor for roads and highways, based on miles driven. She suggested Susan Bonilla or a legislator to take the Council's questions back for answers and she said she would also present them at the Mayors Conference. (Long)

E. City Manager Report / Department Staff

City Manager Espinosa updated Council on the proposed Fiscal Agreement with the City of Hercules, and noted it was not on the agenda for discussion, but reported at the last Council meeting staff was directed to work with Hercules on the agreement, which was done. She had disseminated a draft document and Hercules City Council is expected to be reviewing the document again at their next meeting on February 10, and she advised City Manager Biggs that the Pinole Council has not yet had an opportunity to review the document again.

She referenced a side letter to address PLA matters, and said she planned to put it on a future agenda for approval.

F. City Attorney Report

City Attorney Reyes asked if there was Council consensus to bring back the matter raised by Council Member Long related to tax for miles. There was Council consensus to add it for discussion.

**12. ADJOURNMENT**

At 9:26 p.m., Mayor Murray adjourned the Regular meeting to the February 3, 2015 to the Special Meeting of February 7, 2015.

**Submitted by:**

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**Patricia Athenour, MMC, City Clerk**

**APPROVED BY CITY COUNCIL: February 17, 2015**