

**PINOLE CITY COUNCIL  
MINUTES  
July 19, 2016**

**1. CALL TO ORDER & PLEDGE OF ALLEGIANCE**

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 Councilmember Murray led the Pledge of Allegiance.

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

*An official who has a conflict must, prior to consideration of the decision: (1) publicly identify in detail the financial interest that causes the conflict; (2) recuse himself /herself from discussing and voting on the matter; and (3) leave the room until after the decision has been made, Cal. Gov't Code § 87105.*

A. COUNCIL MEMBERS PRESENT

Mayor Roy Swearingen  
Mayor Pro Tem Debbie Long  
Council Member Tim Banuelos (**Absent**)  
Council Member Peter Murray  
Council Member Maureen Toms

B. STAFF PRESENT

Michelle Fitzer, City Manager  
Hector De La Rosa, Assistant City Manager  
Ben Reyes, City Attorney  
Eric Casher, Attorney  
Neil Gang, Police Chief  
Steve Akre, Acting Fire Chief  
Tamara Miller, Development Services Director/City Engineer  
Andrea Miller, Finance Director

Assistant City Manager/Deputy City Clerk De La Rosa announced the Agenda was posted on July 14, 2016 at 4:00 P.M. All legally required notices were provided. Mr. De La Rosa also stated that additional information pertaining to items 7E & 9A were placed on the Council's dais. The Council stating there were no conflicts with any items on the agenda.

**3. CONVENE TO A CLOSED SESSION**

At 6:03 p.m., Mayor Swearingen convened the Noticed Closed Session to discuss the following item(s).

- A. PUBLIC EMPLOYEE PERFORMANCE EVALUATION – Pursuant to Gov. Code §54957 City Manager
- B. PUBLIC EMPLOYMENT  
Gov. Code § 54957  
Title: City Clerk

**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.

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

- A. Proclamations
  - a. Pinole Valley Community Church - 50<sup>th</sup> Anniversary

Mayor Swearingen presented a Proclamation to the representative of the Pinole Valley Community Church.

- B. Presentations / Recognitions
  - a. Police Dept. Annual Report

Police Chief Gang presented the Annual Report addressing 2015 statistics and programs developed.

- b. Pinole Assisted Living Community

Cheryl Gesselman, Marketing Director for Pinole Senior Village, an Assisted Living and Memory Care Facility, discussed the services that are available at the facility. Encouraged the public to tour the facility.

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

The following speaker addressed the City Council:

**Irma Rupert**, articulated her support, thanks, and appreciation for first responder personnel (Police and Fire) especially at this time when officers are targets of shootings.

**Jeff Rubin**, discussed current and upcoming events which are sponsored by the Pinole Historical Society.

**7. CONSENT CALENDAR**

The following items were removed for discussion:

Item 7C was requested to be pulled and Development Community Director/City Engineer Tamara Miller requested that item 7E be pulled.

**ACTION: Motion by Council Members Toms/Murray, the Council Approved the Consent Calendar Items 7A, B, D & E.**

|              |                 |                                       |
|--------------|-----------------|---------------------------------------|
| <b>Vote:</b> | <b>Passed:</b>  | <b>4-0</b>                            |
|              | <b>Ayes:</b>    | <b>Murray, Swearingen, Long, Toms</b> |
|              | <b>Noes:</b>    | <b>None</b>                           |
|              | <b>Abstain:</b> | <b>None</b>                           |
|              | <b>Absent:</b>  | <b>Banuelos</b>                       |

- A. Approve the Minutes of the Meeting of June 29, 2016 and July 5, 2016
- B. Receive the July 2 – 15, 2016 List of Warrants and the July 15, 2016 Payroll in the Amount of \$ 221,313.18
- C. Approving a Transfer Agreement to Transfer Title of the Faria House Property from the Housing Successor Agency Fund to the City of Pinole in Exchange for Payment of Fair Market Value of the Faria House Property [**Action: Approve Resolution Per Staff Recommendation (H. De La Rosa)**]
- D. Authorizing the City Manager to Execute an Agreement with Tyler Technologies for Implementation, Maintenance and Ongoing Support of the Incode Enterprise Resource Planning Solution [**Action: Approve Resolution Per Staff Recommendation (A. Miller)**]
- E. Approve two Easements to East Bay Regional Park District for the Bay Trail Bridge Project [**Action: Approve Resolution Per Staff Recommendation (T. Miller)**]

**Ivette Rico**, expressed support for the purchase of the Faria house and stated that organization such as the Chamber of Commerce, Pinole Artisans and the Pinole Historic Society could share the facility. She also had a concern that the appraisal was not released sooner.

**Linda Kole**, spoke to the benefits of a museum, having the Faria house designated as a museum, and supporting a museum in Pinole.

Mayor Swearingen, informed the public that the action before the Council was only to purchase the house and not to determine the use of the house. That action would be presented to the Council at a later time.

**Stephen Lawton**, commended the City Council for purchasing the Faria house to preserve the history of Pinole.

**Norma Martinez-Rubin**, stated that she would like to see the Faria house set-aside for public interest and to promote civic engagement.

**Edward Johansson**, spoke to the history of the Faria house and his close ties to the family. He also supports the Faria's family use of the house as a museum.

**George Vincent**, provided a chronological history of committee's formed to retain the history of the community. He also supports the purchase of the Faria house as a museum.

**David Rupert** expressed concern of the lateness of the appraisal report to the public, concerned that appraiser estimated the credit value and stated appraiser are not qualified to determine the improvement values (credit).

Assistant City Manager Hector De La Rosa, addressed the questions raised regarding how the City determined the credit which was used to determine the fair market value for the Faria house, and the appraisers dual approach to determine the valuation of the property.

City Attorney Ben Reyes, stated that the appraisal was available to the public at the time the item became a public matter.

**Dolores Faria-Lucas**, stated that the City made a promised 20 years ago to use the Faria house as a museum and supports the purchase of the property for use as a museum.

**Steve Morow**, supports purchase of the Faria house. He would like to see a timeline of the next steps for utilization of the house.

**Jeff Rubin**, as President of the Pinole Historic Society supports the purchase of the Faria house by the City.

Councilmember Maureen Toms explained the classification of the former Redevelopment Housing and Non-housing assets, how the funds of each of the classifications are disbursed (to taxing agencies), and the delays due to legislative action to dissolve Redevelopment Agencies.

Councilmember Murray spoke to fundraising to complete the improvements needed at the Faria house.

**ACTION: Motion by Council Members Long/Toms, approving Consent Calendar Item 7C.**

|              |                 |                                       |
|--------------|-----------------|---------------------------------------|
| <b>Vote:</b> | <b>Passed:</b>  | <b>4-0</b>                            |
|              | <b>Ayes:</b>    | <b>Murray, Swearingen, Long, Toms</b> |
|              | <b>Noes:</b>    | <b>None</b>                           |
|              | <b>Abstain:</b> | <b>None</b>                           |
|              | <b>Absent:</b>  | <b>Banuelos</b>                       |

Director of Development Services/City Engineer Tamara Miller presented the report and informed the City Council that they should have received revised easement documents. The revised documents include minor changes to address ongoing maintenance.

**ACTION: Motion by Council Members Toms/Murray, approving Calendar Item 7E along with the revised easement documents.**

|              |                 |                                       |
|--------------|-----------------|---------------------------------------|
| <b>Vote:</b> | <b>Passed:</b>  | <b>4-0</b>                            |
|              | <b>Ayes:</b>    | <b>Murray, Swearingen, Long, Toms</b> |
|              | <b>Noes:</b>    | <b>None</b>                           |
|              | <b>Abstain:</b> | <b>None</b>                           |
|              | <b>Absent:</b>  | <b>Banuelos</b>                       |

## **8. PUBLIC HEARINGS**

- A. Approving Rule 20A Agreement with PG&E [**Action: Approve Resolution Per Staff Recommendation (T. Miller)**]

Director of Development Services/City Engineer Tamara Miller presented the report citing that the City is planning to underground electrical utilities in coordination with the street improvements in front of the High School. The undergrounding will occur from Ramona Street to Helena Court.

At 9:18 p.m., Mayor Swearingen opened the Public Hearing.

**Jack Meehan**, inquired if residents were aware and if they could they participate in undergrounding the utilities to their property at their cost?

Director of Development Services/City Engineer Tamara Miller spoke to other forms of Rule 20A programs such as Rule 20B or Rule 20C which allows property owners to underground their utilities at their cost.

Mayor Swearingen closed the Public Hearing at 9:26 pm.

**ACTION: Motion by Council Members Murray/Toms, approving Resolution No. 2016-XX.**

**Vote:            Passed:        4-0**  
**Ayes:            Murray, Swearingen, Long, Toms**  
**Noes:            None**  
**Abstain:        None**  
**Absent:         Banuelos**

## **9.      OLD BUSINESS**

- A.      Discuss and Provide Staff with Direction on Municipal Code Update Priorities  
          **[Action: Review, Discuss and Provide Staff with Direction (B. Reyes/E. Casher)]**

Attorney Eric Casher presented the City Council with an overview of the sections of the Pinole Municipal Code that the City Council approved as priority sections for the first phase update and the budget. Mr. Casher also requested that the City Council for a subcommittee of the Council to review the Ordinance changes.

**ACTION: Motion by Council Members Murray/Toms, approving the listing of Priority projects and funding amount and appointing Councilmember Banuelos and Toms to the Subcommittee.**

**Vote:            Passed:        4-0**  
**Ayes:            Murray, Swearingen, Long, Toms**  
**Noes:            None**  
**Abstain:        None**  
**Absent:         Banuelos**

- B.      Adopt the City of Pinole Proposed FY 2016-17 Sewer Enterprise Operations Budget  
          **[Action: Approve Resolution Per Staff Recommendation (A. Miller)]**

Finance Director Andrea Miller presented the report of the FY 2016-17 Sewer Budget, which was previously presented to the City Council. City Manager Fitzer discussed the City of Hercules requested changes to the Wastewater Budget raised at the July 7, 2016 Wastewater Subcommittee meeting.

**ACTION: Motion by Council Members Long/Toms, approving Resolution No. 2016-XX.**

**Vote:            Passed:        4-0**  
**Ayes:            Murray, Swearingen, Long, Toms**  
**Noes:            None**  
**Abstain:        None**  
**Absent:         Banuelos**

## 10. NEW BUSINESS

- A. Discussion on OPEB & Retirement Liability [**Action: Receive and provide Staff with Direction (A. Miller)**]

Finance Director Andrea Miller presented the report which included an overview of the City's current OPEB and Retirement Liability amounts.

Councilmembers discussed the possibility of refunding the existing Pension Obligation Funds and evaluating use of one time funds to pay down the OPEB or PERs Liability costs.

- B. Receive an Update on TAPS Projects [**Action: Receive and provide Staff with Direction (T. Miller)**]

Director of Development Services/City Engineer Tamara Miller presented a status report on the items discussed at the TAPS meeting which included Existing Crosswalk at Appian Way and Marlesta Road, Red Curbing on Ponderosa Way, Sharrows on Pinole Valley Road, and Traffic Calming Measures for Old Pinole Valley Road near San Pablo Avenue.

Councilmembers expressed concern about utilizing sharrows along certain roads such as Pinole Valley Road where the roadways are narrow which may result in conflicts between vehicles and bicyclists. The Council stated that these issues should be reviewed by staff once specific projects are proposed

- C. Approve a Request from Kiewit Infrastructure West to Grant Access to 850 San Pablo Avenue to Place Engineering Fill for Civil Grading Improvements in Support of the Pinole Shores Business Park Master Plan [**Action: Receive Approve Resolution (T. Miller)**]

Director of Development Services/City Engineer Tamara Miller presented the report stating that Kiewit is requesting use of the Successor Agency property at 850 San Pablo Ave to place the excess soil material from the Pinole Hercules Water Pollution Control Plant Upgrade Project.

Mark Bertolero, Project Manager for Kewiet, showed a 3D video of the current view of the site for the excess soil will be placed and an after view following grading of the site. He also mentioned that additional biological services and wetland review need to be completed.

Councilmembers asked if the use of the site would result in a saving to the City, the composition of the soil or material, salt content, and if the cost to determine viability of the property would be charged to the City.

**ACTION: Motion by Council Members Murray/Long, approving Resolution No. 2016-XX.**

|              |                 |                                       |
|--------------|-----------------|---------------------------------------|
| <b>Vote:</b> | <b>Passed:</b>  | <b>4-0</b>                            |
|              | <b>Ayes:</b>    | <b>Murray, Swearingen, Long, Toms</b> |
|              | <b>Noes:</b>    | <b>None</b>                           |
|              | <b>Abstain:</b> | <b>None</b>                           |
|              | <b>Absent:</b>  | <b>Banuelos</b>                       |

At 11:00 pm, Councilmember Murray/Toms made a motion to extent the City Council meeting by 15 minutes

## 11. REPORTS & COMMUNICATIONS

### A. Mayor Report

1. Announcements

None

### B. Mayoral & Council Appointments

1. Traffic and Pedestrian Safety Committee (TAPS) Appointment [**Action: Appoint by Minute Motion (De La Rosa)**]

Mayor Swearingen stated that he and Councilmember Banuelos interviewed Mr. Kent Moriarty and recommends he be appointed to the TAPS Committee.

### **Motion made by Councilmember Long/Toms to appoint Kent Moriarty to the TAPS Committee.**

### C. City Council Committee Reports & Communications

Mayor Pro Tem Long discussed the actions taken by WestCat, concerns raised by community members on the dog park, homeless in our parks, and dust from trucks at the Pinole High School. Need to advertise/market Movies in the Park.

### D. Council Requests for Future Agenda Items

### E. City Manager Report / Department Staff

City Manager mentioned the I-80 corridor lights went live today and the metering lights will be live in the near future.

### F. City Attorney Report

City Attorney mentioned the filing period opened on July 18, 2016 and ends August 6, 2016 and filing is to be done at the Contra Costa Records Office.

## 12. **ADJOURNMENT** to the regular City Council Meeting of August 16, 2016.

At 11:12 p.m., Mayor Swearingen adjourned the Regular Meeting of July 19, 2016, in Remembrance of Amber Swartz, and support in our military who lost their lives and former Mayor of Pinole Bruno Filice.

### **Submitted by:**

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**Hector De La Rosa**  
**Assistant City Manager/Deputy City Clerk**

**Approved by City Council: August 16, 2016**