

**PINOLE CITY COUNCIL
MINUTES
July 17, 2018**

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

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

A. COUNCIL MEMBERS PRESENT

Mayor Banuelos (arrived at 6:15 p.m.)
Mayor Pro Tem Pete Murray
Council Member Debbie Long
Councilmember Roy Swearingen
Council Member Maureen Toms

B. STAFF PRESENT

Michelle Fitzer, City Manager
Hector De La Rosa, Assistant City Manager
Eric Casher, City Attorney
Tamara Miller, Community Development Director/City Engineer
Neil Gang, Police Chief
Andrea Miller, Finance Director

City Clerk Acosta announced that the agenda was posted on July 12, 2018 at 4:00 p.m. All legally required notices were provided.

Clerk Acosta announced the following documents submitted into the record:

- Item 8B – Page 17 of Review Sewer Rates for Fiscal Years 2018/19 through 2022/23 and Power point presentation on the City's Website Redesign Project.

Following an inquiry to the Council, the Council reported there were no conflicts with any items on the agenda.

3. CONVENE TO A CLOSED SESSION

No Closed Session Items

OPEN SESSION WILL COMMENCE UPON COMPLETION OF CLOSED SESSION DISCUSSIONS, WHICH MAY OCCUR BEFORE 7:00 PM

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

5. RECOGNITIONS / PRESENTATIONS / COMMUNITY EVENTS

A. Proclamation

B. Presentations / Recognitions

a. Code Enforcement Presentation

Development Services Director/City Engineer Miller presented the report and provided an update on Code enforcement activities and sewer lateral code enforcement efforts. She stated that property owners receive informal notification of code enforcement referrals and are given 75 day notice before fines are implemented. Residents are encouraged to submit complaints via the website. Chief Gang stated that animal control response calls are prioritized as they are received.

b. End of the Year presentation from Melanie Fornes, Civicspark Fellow

Melanie Fornes, Civicspark Fellow presented the Year End report and discussed her accomplishments while serving the City of Pinole. She stated that the program is funded in conjunction with East Bay Energy Watch which serves Alameda and Contra Costa counties. Her last day serving the City of Pinole will be August 3, 2018. Council thanked Ms. Fornes for her service and complimented her on the work performed for the City.

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

The following speakers addressed the City Council:

Kent Moriarty, resident of Pinole, addressed the Council and stated his support of pedestrian activity and bicycling in Pinole. He stated his concern that this item is listed in the Capital Improvement Project as an unfunded item. He encouraged Council to reconsider funding this project to benefit the community.

Bob Kopp, resident of Pinole, addressed the Council and presented a check in the amount of \$3,900 to Pinole TV and will be presenting a check to the Police Explorer program within the next few weeks. Council thanked him for his service to the community.

Jack Meehan, resident of Pinole, addressed the Council and suggested that Council consider a semi-annual outreach program that includes literature with a directory of recreation programs and services and code compliance and enforcement efforts.

Jeff Rubin, President of Pinole Historical Society invited Council and the community to attend the co-sponsored 11th Annual Veteran's Day Memorial and Flag Retirement Ceremony on Sunday, November 11, 2018 at 11:00 a.m.; this year is the 100th anniversary of the signing. He requested that the event be recorded and telecasted.

Dennis Clay, representative of Contra Costa Taxpayers Association (CoCoTax), addressed the Council and inquired about the City's unfunded liability. He provided a handout to Council illustrating the City's liability, he inquired about the City's efforts in addressed this concern. City Manager Fitzer responded to the inquiry pertaining to the City's unfunded liability and stated that the Council has approved an IRA Section 115 trust with a significant amount of investment to address the current and projected liability.

David Rupert, resident of Pinole, addressed the Council and inquired about the City's response to the Grand Jury report on the Joint Power Act authority. He requested that the Council provide documentation on the actual cost of settlement for the Cell Tower litigation. He provided an update to Council on the Pinole 4 Fair Government efforts and projects. City Manager Fitzer stated that the City has received the report and is reviewing it to provide a response to the report. The draft response will be brought to Council for consideration at the September 4th meeting.

Rafael Menis, resident of Pinole, addressed the Council and provided an overview of the City's budget and its unfunded liability. He encouraged members of the community to support the UUT tax measure that will be placed on the ballot.

Irma Ruport, resident of Pinole, invited Council and the community to attend the National Night Out event in her neighborhood on August 7, 2018 at 1131 Marionola Way, Pinole.

Bill Low, resident of Pinole, addressed the Council and requested that the City Manager's report include open cases, closed and pending cases.

7. CONSENT CALENDAR

- A. Approved the Minutes of the Meeting of July 3, 2018
- B. Received the June 30, 2018 – July 13, 2018 List of Warrants in the amount of \$373,148.57 and July 13, 2018 Payroll in the amount of \$ 376,788.45
- C. Accepted The Results Of The Canvass Of The June 5, 2018 Primary Election And Declaring The Results
[Action: Approve Resolution per Staff Recommendation (R. Acosta)]
- D. Reviewed and Approved City of Pinole Pension Investment Policy
[Action: Approve Resolution per Staff Recommendation (A. Miller)]
- F. Approved an Amendment to the Staffing Allocation in the Fire Department
[Action: Approve Resolution per Staff Recommendation (M. Fitzer)]

ACTION: Motion by Council Members Swearingen/Long to approve Consent Calendar Items 7A, 7B, 7C, 7D and 7F. Councilmember Long stated that her approval of Item 7F was in support of Fire Chief Kouns.

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

At the request of Council member Long Item 7E was pulled for further discussion. She stated her concern with allowing staff to release and sign off on public works projects in the amount of \$1 million dollars.

7. CONSENT CALENDAR

- E. Authorize the City Engineer and Development Services Director to Record Notices of Completion for certain Public Works Projects
[Action: Approve Resolution per Staff Recommendation (M. Fitzer)]

Development Services Director/City Engineer Miller presented the report and provided an overview of current public works project specifications. Council stated their concern with threshold amount of \$1 million project approval and their responsibilities to the community in assuring that projects are done correctly. They requested that Notice of Completions be brought

to Council for their review and approval. City Attorney Casher provided an overview of the process and item for discussion by Council as a procedural process.

ACTION: Motion by Council Members Swearingen/Toms, revised resolution, adopt a resolution authorizing the Development Services Director and City Engineer to record notices of completion for public works projects of less than fifty thousand dollars (\$50,000).

The following speaker addressed the City Council:

Chris Wimmer, resident of Pinole, addressed the Council and stated his support of delegating authority to staff in the amount recommended.

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

8. PUBLIC HEARINGS

- A. Continued Public Hearing for the Introduction and First Reading of an Ordinance Adding Chapter 12.36 to the Pinole Municipal Code Regarding Responsibility of Property Owner for Maintenance of Adjacent Sidewalk
[Action: Conduct Public Hearing and provide direction (E. Casher)]

City Attorney Casher presented the report and provided an overview of the ordinance. He recommended that the City Council open and close the public hearing to allow staff to discuss further and incorporate Council and community input.

At 7:44 p.m., Mayor Banuelos opened the Public Hearing, and the following speakers addressed the Council:

David Rupert, resident of Pinole, addressed the Council and stated his support to have this item discussed at a future meeting in order to consider staff and community input.

Bill Low, resident of Pinole, addressed the Council and stated his concern with the description of sidewalk within the proposed ordinance.

Irma Rupert, resident of Pinole, inquired about the proposed ordinance and suggested inviting members of the public to join the discussion with members of the Council subcommittee and staff.

Having no additional speakers, at 7:51 p.m., Mayor Banuelos closed the Public Hearing.

Councilmember Toms stated that this item will be referred back to the Municipal Code Update Subcommittee for further discussion and review.

Councilmember Long requested that staff be well informed about the sidewalk ordinance and compliance in an effort to better assist residents. She stated that the Council has had numerous discussions on this topic and have provided numerous alternatives to minimize the impact to the community while protecting the City.

ACTION: Motion by Council Members Toms/ Swearingen, to open the public hearing continued from April 17, 2018, and again on June 5, 2018, and thereafter close the public hearing and refer the proposed sidewalk ordinance and sidewalk maintenance program to the Municipal Code Update subcommittee for further consideration.

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

- B. Review Sewer Rates for Fiscal Years 2018/19 through 2022/23
 [Action: Conduct Public Hearing and approve resolution (T. Miller)]

Todd Burton from Wildan Financial presented the report and provided an overview of the proposed sewer rate for FY 2019 and the proposed rate adjustments. Council asked questions and received responses.

At 8:22 p.m., Mayor Banuelos opened the Public Hearing, and the following speakers addressed the Council:

Rafael Menis, resident of Pinole, addressed the Council and stated his concern with the proposed rate increase, outreach to residents without internet access and information included in the power point presentation.

Chris Wimmer, resident of Pinole, addressed the Council and read into the record his opposition to the rate increase. He stated his understanding of the need to increase fees; however, he expressed his concern for the method in which the proposed increase will be implemented.

Development Services Director/City Engineer Miller provided a response to Mr. Wimmer's questions on the current rate structure for residential and multi-family units. City Attorney Casher stated that this is a Proposition 218 hearing and the procedure set forth for approval of a rate increase is not set forth by the City Council; it is dictated by Prop 218, so a 50% threshold of current property owners or customers of records is statutory prescribed. The City has noticed public hearings for discussion of the rate study and sent out notices to the public to keep them informed.

This rate is for a service provided and fees collected are protected in an enterprise fund and can't be intermingled with general fund sources. The SRF requires the City to disburse the revenue generating methodology for rates equal and consistently, not allowing for a senior discount. Assistant City Manager De La Rosa stated that under Proposition 218, the City is to proportionally charge customers for their fair share of services. If Council chooses to provide a discount for a lower rate, the discount can't be attributed or charged to another user. The general fund will be required to make up the difference in cost, with no other form of recuperating funds.

At 8:36 p.m., having no additional speakers Mayor Banuelos closed the Public Hearing. City Attorney Casher stated that all written and oral protests (22) were received as required by Proposition 218. As the threshold required was not met, Council has the authority to adopt and implement rates as proposed.

ACTION: Motion by Council Members Toms/Murray, adopt a resolution accepting the Engineer's Report and approving the Sewer Rates for FY 2018/19 through 2022/23.

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

9. OLD BUSINESS - NONE

10. NEW BUSINESS

- A. Consider a Request from Troop 86 Boy Scouts of America in Pinole for a Refund of the Rental Fee for Fernandez Park on May 28, 2018
[Action: Approve Resolution (M. Picazo)]

Assistant City Manager De La Rosa presented the report and provided an overview of the request. Councilmembers expressed their support in having the City establish a process to support Troop 86 Boy Scouts of America in Pinole for all future events.

The following speaker addressed the City Council:

Irma Ruport, resident of Pinole, addressed the Council and stated her support and expressed her willingness to volunteer and solicit participants for community based events.

ACTION: Motion by Council Members Swearingen/Long, to issue a refund in the amount of \$120 for the rental fee use of Fernandez Park on May 28, 2018 and waive future rental fees (does not include processing fee, deposit or insurance) for Troop 86 Boy Scouts of America in Pinole.

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

- B. Resolution creating a Committee to Evaluate the Reuse and Redevelopment of the Property located at 2548 Charles Street (Fowler House)
[Action: Approve Resolution (H. De La Rosa)]

Assistant City Manager De La Rosa presented the report and provided an overview of the committee to be formed. Councilmember Swearingen and Toms requested to be assigned as members of the committee. Council asked questions and received responses.

ACTION: Motion by Council Members Long/Murray, to adopt a resolution creating a committee to evaluate the Reuse and Redevelopment of the property located at 2548 Charles Street (Fowler House) pursuant to staff recommendations and bring item back for Council discretion.

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

Absent: None

- C. Consider a Letter of Opposition to S.3157 Federal Small-Cell Bill
[Action: Receive report and provide direction (M. Fitzer)]

City Manager Fitzer presented the report and provided an overview of the proposed bill and its impacts on the City of Pinole. The National League of Cities and the California League of Cities recommends that the City of Pinole oppose this legislation. The League of CA Cities has submitted a similar letter as proposed to Council. Council provided input to the proposed letter of opposition. City Attorney Casher stated that the bill is still currently making its way through the committee, has not reached the house floor and is still in review.

The following speakers addressed the City Council:

David Ruport, resident of Pinole, addressed the Council and stated his support.

Rafael Menis, resident of Pinole, addressed the Council and encouraged members of the public to visit www.congress.gov to learn more about proposed bills.

ACTION: Motion by Council Members Toms/Swearingen, to authorize the Mayor to sign the Letter of Opposition to S.3157 Federal Small-Cell bill.

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

- D. Review the City of Pinole proposed FY 2018-19 through 2022-23 Five-year Capital Improvement Plan
[Action: Receive report, discuss and provide direction (A. Miller/T. Miller)]

Finance Director Miller presented the report and provided an overview of the proposed FY 2018-19 through 2022-23 Five-year Capital Improvement Plan projects. Council asked questions and received responses from Finance Director Miller and Development Services Director/City Engineer Miller. Councilmember Toms stated her desire to explore funding opportunities for the Sharrow Pavement Markings project. City Manager Fitzer stated that in the future, staff will include the status of high profile projects in their quarterly department presentations.

The following speakers addressed the City Council:

Irma Ruport, resident of Pinole, requested clarification on the project listed at the intersection of Appian and Marlesta and stated her concern with speeding vehicles.

Rafael Menis, resident of Pinole, inquired about several projects listed and received a response from Council.

ACTION: Council had no additional direction and the item will be referred to the Planning Commission for review and will be brought back for Council adoption on August 21, 2018.

11. REPORTS & COMMUNICATIONS

- A. Mayor Report
1. Announcements

Mayor Banuelos was unable to attend the Mayors' Conference. Councilmember Swearingen attended the event and provided an update.

- B. Mayoral & Council Appointments
None

- C. City Council Committee Reports & Communications

Councilmember Long attended the WestCat meeting and congratulated Mayor Banuelos for his appointment as Vice Chair to WestCat and provided an update to Council. City Manager Fitzer stated that staff is preparing a response to Councilmember Long's questions.

Mayor Pro Tem Murray requested that Mayor Banuelos attend the July 26th meeting of WCCIWMA; Councilmember Swearingen asked that Mayor Banuelos attend the July 27th meeting of WCCTAC.

Councilmember Toms will be attending the July MCE meeting and will provide an update at the next meeting.

Councilmember Swearingen attended the BayFront Chamber meeting and provided an update to Council. He requested that staff inspect the site at Chalk Hill above Ponderosa Trail.

- D. Council Requests For Future Agenda Items

None

- E. City Manager Report / Department Staff

None


- F. City Attorney Report

City Attorney Casher provided an update on the proposed state initiative on the November ballot that would have required a 2/3 vote for passage of tax measures – it is now dead. The UUT ballot measure will be a 50 +1 vote.

- 12. ADJOURNMENT** to the Regular City Council Meeting of August 21, 2018 In Remembrance of Amber Swartz.

At 10:44 p.m., Mayor Banuelos adjourned the Regular City Council Meeting of July 17, 2018, in Remembrance of Amber Swartz and our Military personnel all around the world.

Submitted by:



Rosa G. Acosta
City Clerk

Approved by City Council: August 21, 2018

