

**PINOLE CITY COUNCIL  
MINUTES  
February 20, 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 Banuelos called the regular meeting of the City Council to order at 6:05 p.m. and led the Pledge of Allegiance.

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

**A. COUNCIL MEMBERS PRESENT**

Mayor Timothy Banuelos  
Mayor Pro Tem Pete Murray  
Council Member Debbie Long  
Council Member Roy Swearingen  
Council Member Maureen Toms

**B. STAFF PRESENT**

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

Deputy City Clerk/Assistant City Manager De La Rosa announced the agenda was posted on February 15, 2018 at 4:00 p.m. All legally required notices were provided.

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**

At 6:08 p.m., Mayor Banuelos convened to a Noticed Closed Session to discuss the following items:

**A. CONFERENCE WITH REAL PROPERTY NEGOTIATORS**

Pursuant to Gov. Code §54956.8

Property: 600 Tennent Avenue (APN: 401-142-010)

Negotiator: City Manager, Michelle Fitzer and Assistant City Manager, Hector De La Rosa

Negotiating Parties: Celia Lam

Under Negotiation: Terms

**B. CONFERENCE WITH REAL PROPERTY NEGOTIATORS**

Pursuant to Gov. Code §54956.8

Property: 612 Tennent Avenue (APN: 401-142-011)

Negotiator: City Manager, Michelle Fitzer and Assistant City Manager, Hector De La Rosa  
Negotiating Parties: Celia Lam  
Under Negotiation: Terms

C. CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Pursuant to Gov. Code §54956.8  
Property: 2337 San Pablo Avenue (APN: 401-162-002)  
Negotiator: Assistant City Manager, Hector De La Rosa  
Negotiating Parties: Gozzano Trust/Old Town Realtor  
Under Negotiation: Terms

D. CONFERENCE WITH LABOR NEGOTIATOR

Pursuant to Gov. Code §54597.6  
City Labor Negotiators: Bruce Heid and Hector De La Rosa, Assistant City Manager  
Employee Organizations: Local 1  
AFSCME

***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**

At 7:27 p.m., Mayor Banuelos reconvened the meeting in open session and announced there were NO REPORTABLE ACTIONS

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

- A. Proclamation - **None**
- B. Presentations / Recognitions – **None**

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

The following speakers addressed the Council:

**Arturo Rinteela, community member**, addressed the Council on behalf of Defend Public Education Now and stated his concern and disappointment with charter schools encroaching on public schools within the Contra Costa Unified School District.

**Carlos Taboada, community member and retired teacher**, addressed the Council to state his concern and disappointment with the proposed charter school at Pinole Middle School.

**7. CONSENT CALENDAR**

- B. Received the February 3, 2018 – February 16, 2018 List of Warrants and the February 9, 2018 Payroll in the Amount of \$ 216,297.11 and \$ 389,459.86, respectively
- C. Approved Placement Of Liens For Delinquent Unpaid Waste Collection Charges Falling Delinquent Between September & December 2017, Considered At An Administrative Hearing On February 1, 2018  
**[Action: Approve Resolution per Staff Recommendation (R. Acosta)]**

- D. Approved the Current Rate of \$35.00 per Equivalent Runoff Unit for FY 2018-19 and Requesting that the Contra Costa Flood Control and Water Conservation District Adopt an Annual Parcel Assessment for Drainage Maintenance and the National Pollutant Discharge Elimination System (NPDES) Program  
[Action: Approve Resolution per Staff Recommendation (M. Fitzer/H. De La Rosa)]

**ACTION: Motion by Council Members Toms/Murray, the Council Approved the Consent Calendar Items B, C, E.**

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

Item 7A was removed at the request of City Manager Fitzer, for a correction to be brought back at a future meeting.

- A. Approve the minutes of Joint City Council & Planning Commission meeting of January 22, 2018 and minutes of the Council meeting of February 6, 2018

Item 7D was removed at the request of Councilmember Long, for the following comments:

- D. Authorized the City Manager to Enter into a Contract with Rosenow, Spevacek Group Inc (RSG) in the Amount Not to Exceed \$86,330 to Provide Affordable Housing Consulting Services  
[Action: Approve Resolution per Staff Recommendation (M. Fitzer/H. De La Rosa)]

Councilmember Long stated her support for future mixed unit developments to include studios and one bedroom apartments in order to increase affordable units in the City and meet affordability options.

Councilmember Toms stated that the contract for RSG includes the preparation of an RFP/RFQ, which can include mixed unit developments, in addition, she suggested including an option to decouple parking in order to rent a studio without a parking requirement due to its proximity to public transit. In doing so, the City may get more points when applying for Cap and Trade funds. Council stated their support to include mixed unit developments and directed staff to discuss with RSG.

**ACTION: Motion by Council Members Long/Toms Approved Consent Calendar Item 7D**

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

**8. PUBLIC HEARINGS – None**

**9. OLD BUSINESS**

- A. Approved a Facility Use Agreement with the Pinole Seals for Use of the Swimming Pool from April 1 – October 30, 2018 and Authorizing the City Manager to Execute the Agreement  
**[Action: Approve Resolution per Staff Recommendation (H. De La Rosa)]**

Assistant City Manager De La Rosa presented the report and provided an update to Council. He stated that the Pinole Seals will provide the City with a \$7,500 contribution towards the City's maintenance cost. Council asked questions and received responses.

The following speaker addressed the Council:

Phil Magren, Pinole Seals Swim Club, thanked the Council for the opportunity to run the swim center and serve the community.

**ACTION: Motion by Council Members Swearingen/Toms to approve a Facility Use Agreement with the Pinole Seals for Use of the Swimming Pool from April 1 – October 30, 2018 and Authorizing the City Manager to Execute the Agreement.**

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

- B. Approved a One Year Contract with the Pinole Seals to Operate the Pinole Swim Center for the 2018 Season and Authorize the City Manager to Execute the Agreement with the Seals  
**[Action: Approve Resolution per Staff Recommendation (M. Fitzer/H. De La Rosa)]**

Assistant City Manager De La Rosa presented the report and provided an update to Council on the proposed 2018 swim season. He stated that the Pinole Seals are willing to open the pool on weekends from April – June 2018 which is a deviation from last year's services and a benefit to the public. He provided a financial forecast for the 2018 swim season including a potential revenue loss due to change in weather. Council stated their support and asked clarifying questions with responses from Mr. Magren.

**ACTION: Motion by Council Members Long/Swearingen to approve a One Year Contract with the Pinole Seals to operate the Pinole Swim Center for the 2018 Season and Authorize the City Manager to Execute the Agreement with the Seals.**

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

**10. NEW BUSINESS**

- A. Presentation and Discussion of Proposed Ordinance Regarding Sidewalk Maintenance in the City of Pinole  
**[Action: Receive Report & Provide Direction (E. Casher)]**

City Attorney Casher presented the report and discussed the proposed ordinance. He stated that California Streets and Highways Code Section 5610 requires property owners to maintain the adjacent sidewalk fronting their property throughout the State of CA, however it doesn't hold property owners responsible for dangerous conditions on adjacent sidewalks. At this time the City is 100% liable for any trip and fall injuries. The proposed ordinance would hold property owners responsible for injuries caused by a failure to maintain adjacent sidewalks and could reduce the City's cost of premiums with Municipal Pool Authority (MPA). The Municipal Code Update Subcommittee met and recommended Council discussion in order to provide direction to staff.

Councilmember Long inquired as to the City's financial responsibility to public right of ways, the City may still be named a party to future claims, the proposed ordinance does not absolve the City of future liability. She inquired about future repairs and guidelines and stated that the language for parking stripes needs to be removed. She requested public outreach if the ordinance moves forward with simplified terms and no cost for permit. She also requested that the Realtors Association and other interested members of the community be notified for feedback.

Mayor Pro Tem Murray inquired about liability coverage under a homeowner's insurance policy. City Attorney Casher stated that liability coverage is available for homeowners. He stated his desire to inform community members of proposed changes in addition to providing resources.

Councilmember Toms agreed that plans and specifications should be available for property owners in order to assist them with repairs and agreed that the language for parking stripes needs to be removed and create a uniform standard for marking sidewalks in hazardous areas until repaired. She encourages property owners be notified of future liabilities.

Councilmember Swearingen inquired about ADA requirements and compliance. City Attorney Casher stated that ADA requirements and compliance depends on access needs and may vary.

Mayor Banuelos stated that the subcommittee discussed standards and possibly implementing the County's sidewalk standard for the City. He also stated his concern with implementation.

**ACTION: Council directed staff to move forward with proposed ordinance and remove the following language: remove parking stripe from any language, develop plan around specifications sidewalk construction standards, noticed programs to community and residents affected, waiver of permit fee for sidewalk construction, notify interested parties such as realtors association and affected parties, and delete tenant responsibilities in addition, discuss level of standard approval with City Engineer (5-0).**

## 11. REPORTS & COMMUNICATIONS

### A. Mayor Report

1. Announcements

None

### B. Mayoral & Council Appointments

1. Reappoint Warren Clayton to the Contra Costa Mosquito & Vector Control Board  
[Action: Reappoint by Minute Order (R. Acosta)]

**ACTION: Motion by Councilmember Toms/Swearingen, to reappointment Trustee Warren Clayton to a four year term as Pinole's representative to the Contra Costa Mosquito & Vector Control.**

**Vote: Passed 5-0**

2. Traffic and Pedestrian Safety Committee (TAPS) Appointment  
**[Action: Appoint by Minute Order (R. Acosta)]**

Councilmember Swearingen forwarded a recommendation from the Interview Subcommittee to appoint Oliver Collins to the Traffic and Pedestrian Safety Committee (TAPS) to serve a two year term.

**ACTION: Motion by Councilmember Swearingen/Murray, Council accepted the recommendation of the Interview Committee, and appointed Oliver Collins to the Traffic and Pedestrian Safety Committee.**

**Vote: Passed 5-0**

C. City Council Committee Reports & Communications

Councilmember Toms attended the MCE Board meeting and provided an update to Council. She informed the community that the postcard received from PACE postcard states that the program is sponsored by the City of Pinole. She clarified that the City of Pinole is not sponsoring the program; the City approved the program and encourages residents to explore their options. She requested a statement from the City on PACE program to be included in the City Manager's community update.

Mayor Pro Tem Murray attended the WCCIWMA (Recycle More) and provided an update to Council.

Councilmember Long attended a WestCAT Transit and El Sobrante Municipal Advisory Council and provided an update to Council.

Councilmember Swearingen attended the West Contra Costa Transportation Advisory Committee (WCCTAC) and provided an update to Council.

D. Council Requests for Future Agenda Items

Update from school district on proposed charter schools and the status of safety resource officers within Pinole schools. (5-0)

E. City Manager Report / Department Staff

City Manager Fitzer provided an update on the invitation sent to Superintendent Duffy to attend the Council meeting of April 17<sup>th</sup>.

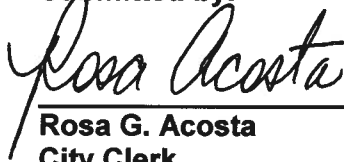
F. City Attorney Report

City Attorney Casher thanked Mayor Banuelos and Councilmember Toms for their participation and discussion of the Municipal Code Update Subcommittee.

**12. ADJOURNMENT** to the Regular City Council Meeting of March 6, 2018 In Remembrance of Amber Swartz.

At 9:05 p.m., Mayor Banuelos adjourned the Regular City Council Meeting of February 20, 2018, in Remembrance of Amber Swartz, victims of school shooting in Florida and our Military personnel all around the world.

Submitted by:



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Rosa G. Acosta  
City Clerk

Approved by City Council: March 20, 2018

