

**PINOLE CITY COUNCIL  
MINUTES  
MARCH 21, 2017**

**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 Long called the meeting to order at 6:03 PM and Councilmember Swearingen 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 Debbie Long  
Mayor Pro Tem Tim Banuelos (arrived at 6:30 p.m.)  
Council Member Peter Murray  
Council Member Roy Swearingen  
Council Member Maureen Toms

**B. STAFF PRESENT**

Michelle Fitzer, City Manager  
Ben Reyes, City Attorney  
Hector De La Rosa, Assistant City Manager  
Neil Gang, Police Chief  
Tamara Miller, Development Services Director

City Clerk Acosta announced the agenda was posted on Thursday, March 16, 2017 at 4:00 P.M. with all legally required notices.

Following an inquiry by the City Clerk, the Council Members stated there were no conflicts on any items on the agenda.

City Clerk Acosta announced the following documents were presented subsequent to the publication of the agenda and provided at the dais for the Council and copies at the rear of the Chamber for the public.

- Item 8A – Municipal Code Update General Appeal Process Power point
- Item 8C – Letter from Harriman Kinyon Architects to the City of Pinole
- Item 8C – Dialysis staff power point.

**3. CONVENE TO A CLOSED SESSION**

- A. CONFERENCE WITH LABOR NEGOTIATOR - Pursuant to Gov. Code §54597.6**  
City Labor Negotiators: Hector De La Rosa, Assistant City Manager and Labor Negotiator Bruce Heid, IEDA  
Employee Organizations: Fire Local 1230  
Pinole Police Employees Association (PPEA)

B. CONFERENCE WITH REAL PROPERTY NEGOTIATORS- Pursuant to Gov. Code §54956.8

Property: 2850 Estates Ave., Pinole, CA 94564 (APN #360-010-017-0)

Agency negotiator: City Manager Michelle Fitzer

Negotiating parties: Pinole Assisted Living Community ("PALC")

Under negotiation: Price and Terms

C. CONFERENCE WITH LEGAL COUNSEL—ANTICIPATED LITIGATION

Gov. Code § 54956.9(d)(2)

Number of Potential Cases: One

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

At 7:10 p.m., Mayor Long reconvened the meeting in open session and announced there were NO REPORTABLE ACTIONS.

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

A. Proclamations

B. Presentations / Recognitions

- a. Presentation "Let's Get I-80 Moving" by Eric Zell and Hercules City Manager David Biggs

Mayor of Hercules Myrna de Vera thanked Council for the opportunity to present the City of Hercules RITC project. City Manager David Biggs presented to Council future projects that will help alleviate congestion on I-80 to link to ferry, bus and rail services. The project will provide ridership from Sacramento to Emeryville. Members of the public are encouraged to visit HerculesTrainStop.com for more information.

Council members asked several questions pertaining to ridership and potential stops. Council members expressed their concern about the increase of traffic on City streets due to the City of Hercules intermodal use; Council discussed a potential partnership with the City of Hercules for repairs to the San Pablo Avenue bridge. City Manager Biggs answered questions and stated that at this time train ridership impacts by adding a stop in Hercules is unknown and can potentially be exclusive to riders due to cost.

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

The following speakers addressed the City Council:

**Jack Meehan**, Pinole citizen, addressed Council, he stated his appreciation for Fire personnel and the members of the community who saved his life 18 years ago. He attributes the miracle of life to the use of a defibrillator carried by Fire personnel. City Council wished him a Happy re-Birthday.

**Bob Kopp**, Pinole citizen, addressed Council, expressed his concern with overgrown weeds in his neighborhood. City Manger Fitzer stated that she would have staff follow up with him. Mr. Kopp also inquired on the status of the on/off ramp metering lights and signs that were to be installed by Caltrans. Mayor Long stated that staff will inquire on the status of the project and will report to the members of the public at the next Council meeting in April.

**7. CONSENT CALENDAR**

- A. Approved the Minutes of the Meeting of March 7, 2017
- B. Received the March 4 – 17, 2017 List of Warrants and the March 10, 2017 Payroll in the Amount of \$323,120.63
- C. Approved a General Services Agreement with Alameda County Fire Department to Perform Service and Repairs on Pinole Fire Department Apparatus for a Term of Three Years, In an amount not to exceed \$75,000, and Authorized the City Manager to Execute the Agreement  
**[Action: Adopt Resolution Per Staff Recommendation (M. Fitzer)]**

**ACTION: Motion by Council Members Murray/Banuelos Approving the Consent Calendar Items 7A-C**

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

- D. Approved a One Year Agreement with the YMCA of the East Bay for Facility Use and Onsite Aquatic Program Coordination at the Pinole Swim Center  
**[Action: Adopt Resolution Per Staff Recommendation (H. De La Rosa)]**

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

Councilmember Toms requested that swim season be extended a few weeks; she is concerned about ending services on August 11<sup>th</sup>. Rochelle Johnson, Recreation Manager, stated that the reason why the program closes at that time is due to staffing of lifeguards; students returning to college during this time. The YMCA considered the safety of children and determined that it would be most appropriate to close early. Mayor Long questioned the number of Pinole YMCA membership at this time; it is not known and membership includes use of pool. She requested that the YMCA consider the reallocation of funds for future use.

**ACTION: Motion by Council Members Murray/Toms Approving the Consent Calendar Items 7D**

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

**8. PUBLIC HEARINGS**

- A. Introduced and Conducted First Reading of an Ordinance Amending Chapter 1.12 of the Pinole Municipal Code to Create a General Appeal Process for Violations of the Municipal Code  
**[Action: Adopt Ordinance Per Staff Recommendation (E. Casher)]**

Eric Casher of the City Attorney's Office presented the report and provided an overview of the text amendment.

Mayor Long asked if there was a cost to the applicant and Attorney Casher stated that there is not. The appeal process will be at the discretion of the Hearing Officer; the City Manager will appoint a Hearing Officer and will make a determination in conjunction with staff.

At 8:23 p.m., Mayor Long opened the Public Hearing; having no speakers Mayor Long closed the Public Hearing at 8:23 p.m.

**ACTION: Motion by Council Members Swearingen/Toms to adopt an ordinance to amend Chapter 1.12 of the City of Pinole's Municipal Code to Create a General Appeal process in the City of Pinole for challenging the City's determination of a violation of the Municipal Code as adopted by the City.**

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

- B. Introduced and Conducted First Reading of an Ordinance Amending Chapters 9.16, 9.28, and 9.30 of the Pinole Municipal Code to Include E-cigarettes in the Definition of Tobacco Products Throughout the Municipal Code  
**[Action: Adopt Ordinance Per Staff Recommendation (E. Casher)]**

Attorney Eric Casher presented the report and provided an overview of the text amendment. Attorney Casher stated that there is an additional change to Chapter 9.16.030 which amends the age of a minor from 18 (eighteen) to age 21 (twenty-one), and adds the definition of e-cigarettes to the ordinance. California voters passed SB-7, which increases the minimum age of minors to purchase tobacco from age 18 to age 21; this change will be in compliance with CA state law.

Mayor Long asked if the change would impact local businesses. Attorney Casher stated that SB-7 changed the legal age of consumption and merchants should be aware of this change and abide by current laws.

At 8:28 p.m., Mayor Long opened the Public Hearing; having no additional speakers, Mayor Long closed the Public Hearing at 8:28 p.m.

**ACTION: Motion by Council Members Banuelos/Toms adopt an ordinance to amend Chapters 9.16, 9.28, 9.30, and 9.16.030 of the City of Pinole's Municipal Code to include e-cigarettes in the definition of tobacco products and increase minor age from 18 to 21.**

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

- C. Considered Design Review Request 16-29 and Conditional Use Permit 17-01 and 17-02: Gateway East Medical Dialysis Clinic  
**[Action: Adopt Resolution and Conditions of Approval Per Staff Recommendation (W. Rhodes)]**

Winston Rhodes, Planning Manager, presented the report, background project information, and cited the proposed changes to the Gateway Medical Office building and parking garage. He stated that the proposed changes include enlarged office space from the originally approved 4,000 square feet to the proposed 11,135 square feet; use permit request for six space reduction of parking spaces; and a proposal to eliminate the approved center identification sign and replace with a relocated monument sign.

Chris Kinzel, of TJKM Transportation Consultants, discussed the traffic and circulation study for the project. Mr. Kinzel stated that there are no additional impacts from a traffic standpoint due to the method of patient transportation.

Nick Pappani, of Raney Planning and Management, discussed the environmental review of the proposed project and discussed the previously approved environmental report. Mr. Pappani stated that a review of the CEQA report indicates that there are no new impacts or increases in severity and stated his determination that an addendum would be appropriate as per CEQA guidelines.

Councilmember Toms questioned the ground floor/garage ventilation and aesthetics of the windows displayed. Planning Manager Rhodes stated that the windows will be open for ventilation. She also questioned if there would be a security gate for after hours and EV charging stations. Planning Manager Rhodes stated that there would be a gate and that EV charging stations would be needed to comply with current Building Code requirements.

Councilmember Murray asked if story poles were requested for this project. Due to the proposed parking structure, he questioned if employees would be issued employee parking stickers to alleviate the parking congestion at this location. He questioned the dramatic increase from approved 4,000 sq ft. to 11,000 sq. ft. for the development of the medical office building. It was noted that Kaiser Medical Center is owed 14 parking spaces that were displaced by Starbucks and also spaces that would be lost to the future project. There was a question about the 9 foot shopping center sign instead of the medical facility sign which indicates appropriate use of the site. Planning Manager Rhodes stated that there is a draft condition of approval; if Dialysis Center ceases operation the use permit can be reconsidered. He also stated that story poles were requested but applicant decided that renderings would be more appropriate for this project. Employees will be asked to park in the designated employee parking.

Mayor Pro Tem Banuelos thanked the applicant for the use of Photosims as he considers them to be the industry standard. He questioned the original use/building approval of the site and asked if the Dialysis Center was an original part of the plan. He requested that site plans be included for future review of projects to assist in determining proximity to the street. Planning Manager Rhodes stated that the project was approved for a smaller development but the applicant decided to increase the project size after a signed agreement with the Dialysis Medical Center. In regards to traffic and employee parking, he stated that the Dialysis center business hours will take into consideration Kaiser's hours of operation to alleviate parking congestion.

Councilmember Swearingen thanked staff for their efforts in moving this project forward. Mayor Long stated her disappointment with Kaiser's lack of partnership with regard to their requirement to replace parking. She stated a concern with the size of the building, additional parking restrictions, and landscape.

At 10:00 p.m. **Mayor Long opened the Public Hearing; the following speakers addressed the City Council in regards to the proposed project.**

Applicant Steve Thomas, Thomas Properties, discussed the project and provided answers to Council questions.

Don Kinyon, Harriman Kinyon Architects, discussed the floor plan of the Dialysis center and stated the need to increase corridors due to current regulatory requirements. Mr. Kinyon provided Council with a letter that addressed licensing requirements for the increase to building floor plan, area increase comparison chart and circulation.

Lester Meu, George Meu Associates, discussed the design concept and provided an overview of the project.

**At 11:00 p.m. Mayor Long requested a motion to extend the public hearing and meeting past 11:00 p.m.; so moved by Swearingen/Banuelos and approved by Council (5-0).**

At 11:01 p.m. Mayor Long closed the public hearing. At 11:02 p.m. Mayor Long opened the public hearing; Councilmember Swearingen asked a question of the architect regarding the window type and including ventilated skylights in some areas.

Councilmember Toms questioned if the project would be delayed for unresolved items. Planning Manager Rhodes suggested forming a subcommittee to review the design elements of the project and bring back to Council; approval will allow the project to move forward.

At 11:07 p.m. Mayor Long closed the public hearing with no further questions or speakers.

Council thanked the developer and DaVita for their efforts and hard work in bringing this information to Council.

Council subcommittee follow-up items:

- Motorcycle parking
- Monument signage
- Stone element on the side of building
- Material change on windows or ventilation
- Landscaping on Pinole Valley Road
- Identify employee parking location
- Identify visitor parking spots, if needed

**ACTION: Motion by Council Members Toms/Swearingen to Adopt resolution approving the design review request DR16-29 and conditional use permit requests CUP 17-01 and 17-02 for approximately 11,135 square foot of New Medical Office Building and associated improvements subject to further review; subcommittee to review signage, windows, ventilation and landscaping, bringing back issues on Consent for Council review.**

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

**Absent:       None**

Councilmember Toms and Murray will serve on the subcommittee to review the items requested by Council.

**9.       OLD BUSINESS**

- A.       Receive an Update on the Fernandez Park Restroom Project and Provide Direction to Staff  
          **[Action: Verbal Report, Council Discussion and Direction to Staff (T.Miller)]**

Development Services Director/City Engineer Tamara Miller presented the report and discussed the project options. Council asked questions and received responses. Council stated a preference for a six unit, single stall restroom design. Council indicated that they were okay with the “Cortez” style of pre-fabricated, concrete restroom and asked that Tamara come back with a final recommendation and cost analysis for the project.

- B.       Discussion of Possible Use of Housing Funds  
          **[Action: Council Discussion and Direction to Staff (M. Fitzer)]**

Mayor Long requested that item 9B be continued to the April 4, 2017 meeting. Council Approved (5-0)

**10.      NEW BUSINESS – None**

**11.      REPORTS & COMMUNICATIONS**

- A.       Mayor Report
  - 1.       Announcements

Mayor Long attended the Orangetheory Fitness Ribbon Cutting and welcomed the new business to town. Mayor Long requested that community members e-mail her with WestCat ridership feedback. Councilmember Toms was nominated to serve on the Recreation Programming Review Committee. (5-0) She requested an update on the community mural project and an update on the Caltrans light in the Pinole Valley area.

Assistant City Manager De La Rosa stated that he could provide an update now on the mural project. He has reached out to Caltrans and the railroad (BNSF) and is awaiting responses for the murals on their property. He is ready to submit the Agreement to the other property owners where City murals are located.

- B.       Mayoral & Council Appointments – None
- C.       City Council Committee Reports & Communications

Councilmember Toms attended the Contra Costa Climate Leaders Forum and provided an update to Council. She will be attending the League of CA Cities Environmental Policy Committee. She announced that Contra Costa Community College offers Lifeguard training classes on Saturdays with certification for potential employment.

Councilmember Murray attended the Integrated Waste Management Meeting and provided an update to Council.

Mayor Pro Tem Banuelos attended the WestCat meeting and provided an update on current projects to Council.

Councilmember Swearingen stated that he will be attending the Bay Front Chamber of Commerce upcoming meeting and will provide an update to Council.

D. Council Requests for Future Agenda Items

Councilmember Swearingen requested that signs be installed at Pinole Valley Park regarding no dogs on the soccer field. Mayor Long requested an update to park signs prohibiting the use of e-cigarettes and all other smoking. Council requested a review of citywide signage.

E. City Manager Report / Department Staff – None

F. City Attorney Report – None

**12. ADJOURNMENT**

At 12:20 p.m., Mayor Long adjourned the Regular Meeting of March 21, 2017, in Remembrance of Amber Swartz, and our Military personnel all around the world.

**Submitted by:**

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**Rosa G. Acosta**  
**City Clerk**

**Approved by City Council: April 4, 2017**