

**JOINT PINOLE CITY COUNCIL &
REDEVELOPMENT AGENCY
MINUTES
February 15, 2011**

1. CALL TO ORDER & PLEDGE OF ALLEGIANCE IN HONOR OF THE US MILITARY TROOPS

The Regular Pinole City Council / Redevelopment Agency Board of Directors meeting was held in the Pinole Council Chambers, 2131 Pear Street, Pinole, California. Mayor Swearingen called the meeting to order at 6 PM and Mayor Pro Tem Murray led the Pledge of Allegiance.

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

A. COUNCIL PRESENT

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

B. STAFF PRESENT

Belinda Espinosa, City Manager / Executive Director
Michelle Fitzer, Assistant to the City Manager
Benjamin Reyes, City Attorney
Stephanie Downs, Agency Legal Council
Richard Loomis, Finance Director
Dean Allison, Public Works Director
Amy Wooldridge, Recreation Director
Mary Drazba, Economic Development Manager

City Clerk Patricia Athenour announced that the Agenda was posted on Friday, February 10, 2011 at 4:00 PM. All legally required notice was provided. She asked the Council and Redevelopment Board of Directors whether there were any conflicts with any items on the agenda. None were reported.

She referred the Council to correspondence received from citizen, John Bender, regarding Item 10B and entered it into the record. Mr. Bender indicated he could not be present this evening but that he was in support of the proposal for 2301 San Pablo Avenue. Copies were available on the dais for the Council and a public copy in the binder at the rear of the Chamber.

She announced the upcoming Council meetings on February 24 and March 8.

3. CONVENE TO A CLOSED SESSION – CITY COUNCIL AND AGENCY BOARD

At 6:06 p.m., Mayor Swearingen convened to the noticed closed session.

Pinole Redevelopment Agency Board of Directors

- A. CONFERENCED WITH REAL PROPERTY NEGOTIATOR - GC §54956.8
 Property Location: 2401 San Pablo Avenue
 Agency Negotiator: Mary Drazba, Economic Development Manager
 Negotiating Parties: San Pablo Avenue Partners LLC
 Under Negotiation: Price and Terms

- B. CONFERENCED WITH LEGAL COUNSEL--POTENTIAL LITIGATION -
 Government Code Section 54956.9(b)(1)
 Legal Counsel: Redevelopment Agency Counsel Stephanie Downs/Ben Reyes
 Number of Cases: One Matter

City Council

- C. CONFERENCE WITH LABOR NEGOTIATOR - Pursuant to GC §54597.6
 City Labor Negotiator: Belinda Espinosa, City Manager &
 Michelle Fitzer, Asst to the City Manager
 Employee Organizations: Local 1, AFSCME, Fire Local 1230, PPEA, Unrepresented, &
 Management Group

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

At 7:20 p.m., Mayor Swearingen reconvened the meeting in Open Session. He announced there were no reportable actions from Closed Session and that Item 3C was carried over due to lack of sufficient time.

5. RECOGNITIONS / PRESENTATIONS

- A. Proclamations

- B. Presentations

6. CITIZENS TO BE HEARD (Public Comments)

The following citizens addressed the City Council / Agency Board:

Bill Miller, Pinole citizen, addressed the Council to advise them of potential opportunities for the Gateway West. He informed them of a new health care model - Accountable Care Organization (ACO), describing it as a group of physicians with bundled services, and all the care providers have agreed on the payment divisions. He said that Sutter has a hole in network, and may have renewed interest on this site. He felt this information was helpful to look at how best to market this site.

Marcia Kalapus, PHS President, announced that the next meeting would be held on February 17 and provided a brief update.

Jeff Rubin, Pinole citizen, addressed Council to provide statistical information on the safety employee and miscellaneous employees contributions to their pension funds. He said that Pinole is in a financial bind and that everyone should make sacrifices and share in the struggle and that the employees should all pay their share of their pension contribution.

Allen Dorsey, Pinole resident, thanked Council for the January 25 fire workshop. He said that the consultant well qualified and spoke to their qualifications and knowledge. He said that the consultant did not address the retirement system because it had nothing to do with the reason

they were there, and that he did not believe they should be discredited because they were former municipal employees or an annuitant in a retirement program. He said that he also had a question on Consent Calendar Item D.

Mayor said that Item 7D would be removed from the Consent Calendar.

Irma Ruport, Pinole citizen, asked if the March 8th reports would be available early and if the budget reports could be line itemized.

Mayor Swearingen said the reports would be provided in the normal procedure.

Norma Martinez Rubin addressed Council and requested a community workshop on pension reform and how it is relevant to the City budget so there is a better understanding of the costs for services before citizens are requested to pay additional taxes. She referenced the discussion about the Rodeo-Hercules survey for a fire parcel tax.

Belinda Espinosa, City Manager, said clarified the two issues were 1) pension and proposed pension reforms; and 2) the Rodeo Hercules FPD polling efforts regarding a parcel tax or benefit assessment to fund fire services. She said at the March 8 meeting, staff could provide a basic primer on Calipers benefits. She explained at the local level, a city can choose which PERS option and whether the City pays the employee portion.

Mayor Swearingen said to add the topic on March 8th and asked if there would be further discussion on fire services.

Ms. Fitzer said the consultants would be present for a second presentation and professional advice, but the meeting is also to seek direction from Council regarding moving to the next step with the Fire Service Master Plan. Fitzer said that Ms. Martinez-Rubin's request regarding options how we continue to fund services and whether we look at additional funding sources, would be covered under the Fire Master Plan. She reported she would be meeting with Citygate to determine if Pinole could afford the next step and those items would be addressed in the next phase of the proposal, within approximately six months.

Ms. Martinez-Rubin received confirmation from Ms. Espinosa that Calipers /pension would be presented on March 8.

Cindy Trego Pinole citizen, reported attended school safety meeting with Council Member Long regarding the cameras at Pinole Valley High. She reported that Board Member Medrano asked parents to weigh in whether they wanted cameras and where. She asked at the meeting if Medrano could get the District to provide a list of what it will take to come to a conclusion about camera installation. She asked the public and the City to follow up with the District to stay on top of this issue.

7. CONSENT CALENDAR

Council Member Green removed item 7B.

Council Member Long removed Item 7A and noted a word correction to page 8 and 9 of the minutes. It was noted by the City Clerk.

Action: Motion by Council Members Long /Banuelos, the Council / Agency Board Approved Consent Calendar items B and E.

Vote: Passed 5-0.

Redevelopment Agency

- A. Adopt **Resolution 03-2011**, Amend The Contract With Richard Avelar & Associates, And Enter Into Contracts With Axis Consulting And Axis Construction To Prepare A Scope Of Repair For The Property Located At 2401 San Pablo Avenue For A Total Not To Exceed \$60,200 [**Agency Report 2011-05 Action: Adopt Resolution Per Staff Recommendation (Drazba)**] **REMOVED FOR DISCUSSION**

Chair Swearingen provided a brief background for the public's benefit.

Ms. Drazba entered the report into the record. The staff recommendation was to pursue an amendment to the existing consultant bid with Avelar, in order to allow additional destructive testing to provide a firmer repair bid, and to also enter into another contract with Axis, for destructive testing to provide a competitive bid for the same repair work.

Board Member Long recommending holding off any action for thirty days until there was more definitive information on the City's/Agency options on the Governors budget.

Board Member Green said he was originally supportive of selecting one bid, but was also amenable to holding off a few weeks.

Vice Chair Murray said if the State takes all the agency assets, it may be years before this repair is accomplished. Since it must be corrected and there were Agency funds available, waiting longer could worsen the situation and he supported moving forward.

Board Member Banuelos asked if waiting thirty days would cause the buyer to withdraw the purchase agreement. He said he had reservations about receiving a realistic cost, but agreed with Murray that there is a risk to waiting.

Ms. Drazba said it was possible. She explained that both consultant contracts would provide a firm bid for the repair with a warranty, following their individual destructive testing, and also that buyers said he was prepared to do the work based on his estimates.

Board Member Long asked if other cities were transferring their properties to another agency, and assuming it was not challenged, would it be more difficult for the State to take cash assets if the funds were transferred to a different agency; would they be better protected?

City Attorney Reyes said a number of agencies have transferred assets (real property). He said it was currently unknown what would happen if the assets were already sold and had cash assets.

Discussion followed regarding the buyers willingness to continue the contract on the property. Ms Drazba explained that the buyer had stated willingness to wait thirty days for the reports; if there was a delay on awarding the contract for the testing and to receive the results, it would be in 60-75 days. In response to a question from Board Member Green, Drazba also said that the buyer was willing to undertake the repairs as a negotiation for a credit in escrow, based on the current estimate contracted by the buyer. City Attorney Reyes cautioned against discussing specific terms of real property negotiations in open session. A statement was made that the issue was discussed at an EDHAC meeting.

Chairman Swearingen said the concern was with the possible Agency elimination and the State seizure of the funds, the continual degradation and increase blight to Old Town if the building is not repaired, and why the Board was also discussing investigation of the defect claims.

ACTION: Motion By Board Member Long/Green, The Agency Board Adopted Agency Resolution 03-2011, Entering Into Two Contracts With Axis Construction and Axis Consulting, And Deny Approval Of An Amendment To The Avelar Agreement.

Vote: Passed 5-0.

Joint Agency Board / City Council

- B. Approved the Minutes of the January 25 and February 1, 2011 Meetings
- C. Received the January 28, 2011 and January 29 – February 4, 2011 Lists of Warrants and Receive the February 4, 2011 Payroll in the Amount of \$408,599.44. **REMOVED FOR DISCUSSION**

Council Member Green said he was asked by one of the unions to discuss and verify the payments from the Agency to Moore and Associates for a tenant improvement allowance at 2300 San Pablo Avenue. He asked for clarification that the Agency committed \$300,000 and all construction is to be done at prevailing wage. He asked how the Agency is assured that was being met in accordance with the law.

Ms. Espinosa responded, stating that staff was researching the documents, which would be available in one week. She assured Board that the contract stipulated the payment of prevailing wage, requiring the general contractor to certify payment of such. The City receives and inspects the certification reports.

City Attorney Reyes further explained that the State labor laws require prevailing wage for contracts in excess of \$1,000 and the Agency had adopted a Prevailing Wage Policy. If it is found that the contractor had not paid prevailing wage, there are significant penalties, including the withholding of payment by the Agency. The contractor declares under penalty of perjury that the workers had been paid prevailing wages.

Ms. Espinosa said that there had been five payroll periods on this job, and staff has certification for all five. She also explained that the prevailing wage schedules were posted on the State Industrial Relations website.

Chair Swearingen asked if was correct that no complaint had been filed, and City Manager Espinosa confirmed that was correct.

ACTION: Motion by Council/Board Members Murray/Banuelos, the Agency Board/Council Accepted Item 7C - Warrant Lists.

Vote: Passed 5-0.

City Council

- D. Authorized the City Manager to Execute a Contract with Rodeo-Hercules Fire Protection District for Fire Chief and Administrative Services [**Council Report No. 2011-16; Action: Adopt Resolution Per Staff Recommendation (Espinosa/Fitzer)**]

Marcia Kalapus, Pinole citizen, addressed Council and cited items that she asked to be added to the contract:

1. Section 1.2.4- serve as Fire Marshall to included community outreach education, etc.
2. Section 7.1, 2 & 4 -provide timely copies of records and weekly routine backup.
3. Section 1.2.6 - maintain Pinole TV and web updates with all fire rescue and medical calls
4. Section 1.2.7 - provide annual budget with detailed monthly reports of all individual salaries, pensions, overtime payments

Allen Dorsey, Pinole citizen, said that it was the residents desire to find a solution to keep Station 74 open and that was not addressed in the contract. He said he wanted to make sure it was the sentiment of the new Fire Chief.

Mayor Swearingen thanked him for his comments and said the item before Council was a contract for fire chief services, and did not include discussion about Station 74.

Ms. Espinosa confirmed that the contract term, concluding on December 31, 2012. The recommendation this evening was for securing a shared fire chief through a contract with Rodeo Hercules, and she said she was meeting with the fire partners tomorrow.

Council Member Green said he thought some of those items Ms. Kalapus mentioned were automatic. He asked Chief Hanley his opinion.

Chief Hanley responded to several items raised by Ms. Kalapus, indicating that he would be meeting with the City staff to insure continuity with existing procedures. He addressed her concerns regarding Fire Prevention Services and public education, stating it was a very high priority. He said the data and call volume information is used for grant funding also

Ms. Fitzer said that with regard to call statistics on the TV scroll and web, the updates are done by existing City Hall staff and it should not change. Ms. Espinosa said Chief Hanley would be responsive to the City like all other department managers.

ACTION: Motion by Council Members Green/Murray, the City Council Adopted Resolution No.2011-09; Authorized the City Manager to Execute a Contract with Rodeo-Hercules Fire Protection District for Fire Chief and Administrative Services.

Vote: Passed 5-0.

Chief Hanley briefly addressed the Council and was welcomed to the community.

- E. Waived Second Reading and Adopted **Ordinance 2011-01** Authorizing An Amendment To The Contract Between The City Council Of The City Of Pinole And The Board Of Administration Of The California Public Employees Retirement System To Include Section 20903, Two Years Additional Service Credit For Safety Employees, [**Council Report No. 2011-17; Action: Waive Reading and Adopt Ordinance (Fitzer)**]

Items Removed From the Consent Agenda

8. PUBLIC HEARINGS

- A. Continued Agency Public Hearing To Consider A Purchase And Sale Agreement Between The Agency And 2401 San Pablo Partners, LLC (The "Buyer") Pertaining To The Disposition Of Property Located At 2401 San Pablo Avenue, (APN #:401-166-060-4) [**Agency / Action: Continue Public Hearing to March 15, 2011 (Drazba)**]

ACTION: Council Consensus to Continue the Hearing to March 15, 2011.

- B. Conduct A Joint Public Hearing To Consider The Sale Of Real Property At The Southeast Corner Of Henry Avenue And Pinole Valley Road (APN 401-211-033) To Market Street Development, LLC Or Assigns And Approve A Reuse Report Required By Health And Safety Code Section 33433 [**Jt. Agency/Council Report No. 2011-20jt Action: Adopt Resolutions Per Staff Recommendation (Drazba)**]

Mary Drazba, Redevelopment Manager entered Agency / Council Report 2011-20 into the record. Drazba provided background information on the property, which was approved for a 7,500 square foot medical building. A previous offer, from the same person was withdrawn in 2010, because of the inability to secure any tenants and lack of bank financing. Ms. Drazba explained the current deal points in the purchase agreement from Market Street Development LLC (same principal) for a total price \$653,400, higher than the prior offer. The conditions include a 180-day due diligence, with full cash at closing. The 33433 report demonstrates that the Agency realized a profit on the sale of this property with a net gain of \$420,790. There were no development cost associated with this site, on costs were captured as part of the Kaiser Medical Office Building development. The total price less brokerage fees was \$614,196. Staff was available for questions.

At 8:37 p.m., Chair Swearingen opened the Public Hearing. No speakers addressed the Agency Board and the Public Hearing was closed, bringing the matter before the Board for deliberation.

Board Member Green raised concern with the receipt of a \$10,000 refundable deposit during the 180-day due diligence period, considering that this principal tied up the property last year before withdrawing the contract. Board Member Green suggested that the buyer should pay five percent for the right to tie up the property, and that the commission should be negotiated to a more favorable rate. He also raised questions regarding the development costs budgeted under the Kaiser project, whether it included the Faria house, and whether the parking was sufficient.

Ms. Drazba responded that during the time the property has been marketed, there have been only his two offers. She said this parcel was fully entitled; the parking plan was approved under the development plan, designated in a reciprocal agreement between Kaiser, the restaurant parcel and this parcel approved for a medical use. She said that Kaiser was aware that they would need to relocate their employee parking. Drazba further explained that if the 180 day due diligence period was approved, the buyer agrees that the Agency can continue to market the site during that period. If an offer is received the buyer has agreed to withdraw his offer.

Chair Swearingen asked if that was in writing anywhere. Ms. Drazba said it was contained in an email document.

Vice Chair Murray asked to discuss marketing of this site, and what level of interest on this site could be expected.

Sonny O'Drobinak, Grubb & Ellis, said he had been marketing the property for over two years and described the market place. He said a developer willing to draw plans and move forward is a rarity. He explained that his charge during the six months would be marketing the site to find tenants so this buyer can move forward with the sale. He addressed the commission, stating that he had been marketing the site for several years and believed that he had earned a commission, but was willing to continue discussion.

In response to a question from Vice Chair Murray, Mr. O'Drobinak responded that Sutter had been interested in that location, and he believed it is a prime location for a larger player and that the ACO model is becoming more prevalent, but that development was at least a year or two away.

Board Member Banuelos asked for clarification on the parking. Ms. Drazba stated that some parking would be constructed on the site, and additional parking, attributable to this building was located on the Kaiser site.

Board Member Long asked how he would market this site; whether the contract was amended to take back up offers; whether he could provide 45 day updates and whether he would continue to market to tenants for the existing buyer. Mr. O'Drobinak explained that his partner would work for the seller and he would represent the buyer, and agreed to a written addendum to that affect. He responded that he would market by contacting hospitals, specialty groups and information blasts.

Board Member Long commented that the preliminary design provided to the Board was not reflective of a design desired by the Board for this site. Mr. O'Drobinak said it was very preliminary and he would receive their comments.

Board Member Long questioned why the site construction costs were apportioned to the Kaiser development and not this pad. Ms. Drazba said that Kaiser needed to construct the majority of the Henry side of the parking lot because they needed access and wanted to control their own parking; Kaiser is adequately parked on its site and this building pad would contain the necessary parking spaces on it's site.

Board Member Long asked if the developer had inquired about Agency funds for tenant improvements, and Drazba said staff was clear that there were no available funds.

Regarding the pending potential elimination of redevelopment agencies, Chair Swearingen said this property could be taken by the State and if the Agency was under contract, it would be more difficult for the State to impinge on that agreement. Staff said it was their understanding if the Agency was under contract, the contract would be honored.

Chair Swearingen was in favor of entering in an agreement to keep the State from taking it.

The Agency Board considered a motion with the following conditions:

1. The information in the email referenced by staff would be included in the Purchase Agreement; and
2. An addendum to the contract specifying that one realtor would be marketing the buyer and a different one representing the seller; and
3. The funds from the sale would be set aside in a reserve account, and any expenditure would be subject to approval by the Board.

Action: Motion by Council / Board Members Murray/Banuelos, the Council / Agency Board Adopted Council Resolution 2011-10 and Agency Board Resolution 04-2011 Approving the Sale Of Real Property At The Southeast Corner Of Henry Avenue And Pinole Valley Road (APN 401-211-033) To Market Street Development, LLC Or Assigns And Approve A Reuse Report Required By Health And Safety Code Section 33433, subject to the conditions noted above.

Board Member Green asked if it included reducing the commission was included. Chair Swearingen said no.

Vote: Passed 4-1 (Green opposed).

9. OLD BUSINESS

10. NEW BUSINESS

At 9:13 pm, Mayor called a brief recess, and reconvened the meeting at 9:20 PM. The Council consented to reordering the agenda to take Item 10B next.

- B. Report on Project to Improve Appearance of Property Located at 2301 San Pablo Avenue [Agency / Council Report No. 2011-22jt; Action: Provide Direction to Staff (Allison)]

Dean Allison, Public Works Director entered Council / Agency Report 2011-22 into the record, and described the conceptual project using exhibits. This request originated from the Chamber for a community sponsored project to enhance the corner parcel by removal of the fence and installation of rock cover and mulch. There would be no lighting, irrigation, benches or trash enclosure. The Chamber proposes to act as the organizer/fundraiser and recruit community non-profits for labor and resources. Staff's proposal included an undetermined City fixed contribution from the City/Agency and resources (staff) for specific tasks such as the initial site preparation. If the Council / Agency Board was supportive of the conceptual plan, staff's recommendation was to refer the project to the Community Services Commission to review the plans and work with the Chamber, with final approval by the Agency Board in May and construction in Summer 2011.

Policy Issues associated with the project include:

Should the project proceed?

Should City/Agency provide funding?

Does the Council approve this project approach?

Ivette Ricco, Chamber President, provided background on the conceptual plan for this prominent parcel. She said the fence was self-inflicted blight and City tax dollars could be better spent. She requested removal of the fence and installation of the improvements shown tonight, using the future fence rental costs toward enhancements. Ms. Ricco was available for questions and requested Agency / Council support of the project.

Chair Swearingen asked if the Chamber had fundraising ideas.

Ms. Ricco said this was in very preliminary stages without a budget at this time. She discussed selling memorial bricks to be located at the corner of Tennent and San Pablo as a fundraising effort and was open to ideas for other non-profits. She also forwarded an idea for establishing a sign for local non-profits to feature their events and to allow organizations to place announcements.

Chair Swearingen confirmed this was a phased process and said this would be a temporary enhancement until such time that a developer was acquired on that site.

Ms. Ricco said that she understood and believed the Chamber Board would sign a document to that affect.

Jeff Rubin, Vice-Chair of Community Services Commission, announced a Community Service Day event on June 4th to solicit sponsors and projects. He said this project was a perfect tie-in with Pinole Community Service and asked whether this could be fast-tracked so the first phase could be accomplished on June 4.

Laurelle Martin, Community Services Commissioner spoke in support of the project. She said the Richmond-Pinole Lions Club would be happy to work on this project. She addressed negative comments that have been noted on the blogs.

Mr. Phillips, Director of Community Services of the Pinole Rotary Club, here in support of the beautification project and agree to assist the chamber by providing volunteers.

Cindy Trego, Pinole citizen, asked if there had been any discussions with Mr. Gozanno, owner of the adjoining parcel that he would remove the fence surrounding his parcel.

Chair Swearingen said Mr. Gozanno was contacted and he was not interested in removing the fence on his site.

Ms. Espinosa said that the Agency was paying for all four sides of the fence on 2301 San Pablo and could also take that shared section of fencing down.

Ms. Trego said she understood equipment was stored on his site. Ms. Trego also said that EDHAC had raised liability concerns and the possible requirement for worker's compensation coverage on the subject parcel.

Board Member Long in support of project, but questioned how this was brought to EDHAC when the Agency had referred it to the Community Services Commission. She said the fencing on the adjacent lot should not hold up this project. She suggested river rock adjoining the sidewalk, and was in favor of funding at a \$3,000 level with a Chamber or community match. She requested a report from Public Works regarding the allocation of City resources, and a project timeline to coincide with the June 4th Community Service Day.

Council Member Banuelos said the Youth Commission was interested in volunteering. He commented on the conceptual sketch he drafted and said the pathways were proposed as decomposed granite, which was also proposed adjacent to the sidewalk. He supported the project as a temporary use. He said that the Gozanno fence could be dealt with later.

Mayor Pro Tem Murray was critical of the project initially and said that everyone had tried to address his concerns. He said this was a prominent parcel for economic development and the EDHAC committee reviewed it in that a capacity, and addressed both positive and negative points. His concern was regarding selling memorial bricks; where people begin taking an expectation of permanency, and he wanted that addressed. EDHAC did support the proposal and he was in support also.

Council Member Green said he was highly supportive of the plan, and thought that there were other areas in the City in need of beautification in the future.

Chair Swearingen commented and recommended phasing this project. He said that the fencing on the Gozanno parcel can be cleaned up/mitigated with plants or rocks that give it a finished look and later encourage Gozanno to clean his portion. He did not think vandalism was a concern and that the memorials bricks could be moved to other areas and reused. He supported fast tracking the project, a referral to the Community Services Commission to work with the Chamber and the committee, and initial \$3,000 participation from the Agency.

Board Member Green asked who comprised the committee and Chair Swearingen told him it was Dean Allison, the Chamber, Council Member Banuelos and himself.

Ms. Ricco said the next step was a presentation to the Community Services Commission in March, a committee will be created and then designate a date for the work.

ACTION: Motion By Board /Council Members Murray / Long, The Joint Boards Authorized Project Funding In The Specific Amount Of \$3,000 With Staff In Lieu Time, Amount To Be Matched By Outside Agencies, Approved The Proposed Project In A Phased Approach, Authorized Staff To Expend Time Working With The Chamber (The In Lieu) And Review And Provide Input On The Preliminary Site Plan Prior To Its Appearance Before The Community Services Commission

Mayor/Chair Swearingen commented that time is of the essence.

Vote: Passed 5-0.

City Council/Agency Board

- A. Annual Auditor's Report for FY 2009-10 Prepared by Mann, Urrutia & Nelson [Agency/Council Report No. 2011-21]t Action: Receive Report & Provide Direction to Staff (Loomis)]

Richard Loomis, Finance Director, entered Joint Agency/Council Report No. 2011-21 and a slide exhibit into the record. The Council was briefed on the examination that was completed and was given an opportunity to direct questions to staff. He sought direction from Council whether to negotiate a contract extension with the existing audit firm or solicit bids for a new auditor for FY 2011-12. Loomis explained the mandatory activities and the discretionary oversight of the Measure S disbursements. He presented the audit findings and reported receipt of an unqualified opinion, that there were no material weaknesses, with some minor recommended changes to the accounting procedures. Loomis presented the analysis of net assets and the working capital, which had declined significantly during the year. Fiscal highlights of the General Fund, Agency funds and the Sewer Enterprise funds were discussed.

Loomis summarized the presentation, stating there was a cash flow deficiency due to a structural imbalance in the budget. The Sewer fund was operating at a surplus and the Redevelopment funds at a deficit, with limited cash flow for funding capital projects, and with severely restricted access to credit markets for project financing. Mr. Loomis was available for questions.

Council Member Banuelos asked staff to explain an "unqualified opinion".

Justin Williams, Mann, Urrutia & Nelson, said an unqualified opinion was a clean opinion.

Council Member Long raised a question on page 3, City Accounts regarding the sewer fund and whether it took into consideration that Pinole was only fifty percent of the operation.

Mr. Loomis said that it has to do with billing and reimbursements from Hercules. He explained that the City's General Fund is in a situation where revenues and expenses cannot be kept in balance and we also cannot rely on the Agency funds to stay balanced. The only alternative would be to borrow from the Sewer Enterprise for the General Fund. He said if one cannot fund depreciation on the plant, ultimately there would be balance sheet illiquidity, meaning the amount of debt exceeds the value of the depreciated assets. At this point it was an observation and precaution.

Council Member Long questioned why the City would consider a loan from the Sewer fund, since they had used the PALC fund.

Loomis said that the year could not be closed out without paying back the PALC line of credit. Ms. Espinosa further explained that the Sewer fund would be tapped if the City was unable to pay PALC, or further reduce the General Fund. She stated again that the entire General Fund was used to fund public safety. Mr. Loomis said that the best of all solutions to keep the Sewer Fund unencumbered. The PALC line of credit was specifically identified as a short-term borrowing. The ideal situation is that the ending balance should be the beginning balance for the next year.

Council Member Long commented that it's not for cash flow, its borrowing cash to balance the sheet. Mr. Loomis agreed.

Council Member Long asked if they could discuss doing that from PALC, because she is concerned that with using the Sewer Enterprise Fund. She asked how a report like this would affect our bonding capacity.

Mr. Loomis responded that it would be best for us if we avoid borrowing from the Wastewater Enterprise fund. The stronger that fund is, the greater our borrowing capacity and the stronger our credit rating would be.

Council Member Green asked for clarification whether the budget was balanced. Mr. Loomis responded that there was a \$900,000 shortfall last year and an accumulated General Fund deficit of \$3 million.

Council Member Green questioned whether there was a plan for the \$21million unfunded liability. Council Member Green said it would be helpful to receive some on payroll reductions. He said that he had seen only reduction in events and that the salaries should be reviewed more deeply.

Ms. Espinosa identified it as the OPEB liability; at the current time cities are required to identify the liability Ms. Espinosa the unfunded liability said she had given options in the recovery plan and was also working on concession bargaining.

Mayor Swearingen said they were looking at salaries, and noted staffs attempts at bargaining with the labor groups, and also the prior reductions in force. If the budget didn't balance, there would be more reductions.

Ms. Espinosa said if all employees were to fund their PERS contribution, it would yield only \$350,000.

Mayor Swearingen said it takes a combination of reductions. Mayor Swearingen projected a small upsurge in sales tax, but certainly not property tax, which could continue declining.

Mr. Loomis said the good news was that there are strong indications that sales tax is starting to firm up in Pinole. The rebound was only \$10,000 but he expected this quarter to be \$30,000 higher than last year (quarter to quarter).

ACTION: Motion by Council Member Long / Green, the Council extended the meeting past 11:00 PM.

Vote: Passed 5-0.

Staff requested direction from Council regarding either continuing with the existing auditor firm or drafting an RFP for a new firm. Loomis said that the firm had reduced their fees over the past two years. They perform an independent audit of the Measure S funds, which is discretionary and asked that the Council whether they wanted to consider formation of an oversight committee of one or two individuals to review the Measure S revenues. He and the City Manager would pursue that option if the Council felt there was merit. The Measure S audit was approximately \$4,000.

Council Member Long asked whether the City Treasurer should serve on the committee. He said it was Council discretion and the oversight review was for a transparency issue, not a compliance issue. There are approximately twelve transactions per year, and he generally spends about four hours with the auditor on this fund and would likely spend about eleven hours with an oversight committee.

Mayor Swearingen commented that a new firm would not have all the information the current auditor firm has and it could cost more than the existing firm.

Mr. Williams, Mann, Urrita, & Nelson, confirmed there would definitely be an increased cost for a new engagement. Williams explained that the firm had internally switched partners and managers to insure there are looking at the engagement properly, with a fresh set of eyes. He said they could potentially reduce fees again this year, as they are very familiar with the City.

Mayor Pro Tem Murray preferred to negotiate a fee decrease and extend the contract another year. Council Member Green said he supported periodically receiving bids, but supported a renewal this year. Banuelos supported an extension, and Council Member Long supported negotiating the terms this year and extending one more year; but noted that PALC had a substantial reduction when they enlisted a bid.

Council consensus to negotiation a reduction and extend the contract with Mann, Urrita and Nelson.

11. REPORTS & COMMUNICATIONS

- A. Mayor / Chair Report
 - 1. Announcements

Mayor Swearingen provided a Mayors Conference Update. Garamendi presented a state of the nation to the Mayors Conference. Swearingen said he asked about placing a tariff on imports and Garamendi agreed and said that Congress was looking at that issue. He did not support Garamendi's comment regarding electric car purchases killing OPEC. He also reported that LAFCO appointments would likely occur in May.

Mayor Swearingen also attended the Chamber Board meeting last week.

- B. Mayoral / Council Appointments
 - 1. Appointment of 2 Members to the TAPS Committee

Council Member Banuelos reported that he and Council Member Green conducted TAPS interviews. They noted that the Chair and Vice Chair incumbents, Doug Taylor and Faith Dunham Simms were doing a commendable job and recommended reappointment.

ACTION: Motion By Council Member Banuelos/Green, The City Council Reappointed Doug Taylor And Faith Dunham Simms To A Two-Year Terms On The TAPS Committee.

Vote: Passed 5-0

- C. City Council / Agency Board Committee Reports

Council Member Long provided a WestCat Board meeting update and mentioned the possibility of City using Twitter as a networking tool.

Mayor Swearingen asked the City Attorney to show the Council the Ipad used to access Council packets for one of his other clients. City Clerk Athenour took the opportunity to speak the Council briefly to see if there was interest in pursuing a totally paperless packet in Pinole to save on staffing resources. If there was consensus of the Council, she would bring back a report on cost and cost efficiencies. The e-packet is prepared and uploaded currently only to the web and paper packets are prepared for the Council, specific staff, and public. Council discussed briefly and while there was interest from one to two members, the direction from the majority was to keep paper packets for the time being. While Athenour highly supported paperless, it would not be cost or time effective to have two different platforms.

Council Member Long raised camera issue at Pinole Valley High. She requested to add this as an item to a future Council agenda and the Chief could identify the camera locations. She also said that School Board Member Medrano suggested a joint board meeting.

Council Member Banuelos reported on the Youth Commission meeting, and asked the Council to consider serving as judges at the May 6 Talent Show. He volunteered his services again this year.

Council Member Green asked the City Manager for a Recreation Update to address the 2011 Swim Center schedule and proposed opening.

Ms. Espinosa said there would be a complete presentation on recreation services at the March 8 Special Budget meeting.

Mayor Pro Tem Murray provided a West Contra Costa Integrated Waste Management update; topics included the waste to energy plant. The consensus was, unless it means a reduction to the constituents, they're not interested. The second item was a bylaws change in the terms of the board chair and vice chair from July 1 to February 1, requiring Council approval; a letter would be forthcoming from the Executive Director.

- D. Council Requests For Future Agenda Items

- 1. Pinole Valley High camera concerns (Refer to Long's earlier statement).

2. Council Member Green asked a procedural question regarding Closed Session and whether minutes were taken. City Attorney Reyes addressed the Council and said there were no formal minutes prepared from the Closed Session. He also recommended against minutes due to the nature of the confidential discussions. The matter was concluded.
3. Development of the Gateway East parcel and issues raised by Bill Miller (Murray)
4. Requested inventory of Agency properties – not an agenda item (Banuelos)

E. City Manager / Executive Director Report / Department Staff

City Manager Espinosa reported regarding on the topic of a centralized library contract asking for all cities to take over maintenance of the library buildings. She said that Pinole was the only city not involved in that process, as we cannot afford to undertake maintenance.

She also reported on an effort by Don Freitas regarding the NPDES Program, stating that they are in process of polling citizens to see if they support raising taxes for program implementation. She said the PMA squashed the effort at their meeting and asked Freitas to attend and report at a future West County Mayors Meeting. She said it would also be agendized on the CCC Mayors Conference agenda.

F. City Attorney Report

City Attorney Reyes briefed the Council on proposed legislation requiring local agencies upon request to make plans and specifications free to Plan Rooms on January 1, 2012. He said his office was tracking that legislation and changes to prevailing wages. His firm was watching the legislative occurrences on Redevelopment issues at no cost to the cities.

12. ADJOURNMENT.

At 11:53 P.M., Mayor Swearingen adjourned the meeting to the Special Redevelopment Agency/City Council Meeting of February 24, 2011 and in memory of the fallen US Armed Service members and Pinole citizens Amber Swartz, Gloria Waite, Madeleine Cochran Jungles and Georges C. Vitry and Kathy Radke, and Pauline Weaver.

Submitted by:

Patricia Athenour, MMC
City Clerk

APPROVED BY AGENCY BOARD / CITY COUNCIL: