

**JOINT PINOLE CITY COUNCIL & SPECIAL SUCCESSOR AGENCY TO THE
FORMER CITY OF PINOLE REDEVELOPMENT AGENCY MEETING
MINUTES
APRIL 21, 2015**

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

The Regular Pinole City Council Meeting and Special Meeting of the Successor Agency were held in the Pinole Council Chambers, 2131 Pear Street, Pinole, California. Mayor Murray called the meeting to order at 5:33 PM and Council Member Long led the Pledge of Allegiance.

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

A. COUNCIL MEMBERS PRESENT

Mayor Peter Murray
Council Member Phil Green
Council Member Debbie Long
Council Member Tim Banuelos arrived at 5:54 p.m.
Mayor Pro Tem Roy Swearingen

B. STAFF PRESENT

Belinda Espinosa, City Manager
Hector De La Rosa, Assistant City Manager
Benjamin T. Reyes, City Attorney
Dean Allison, Development Services Director
Neil Gang, Police Chief
Fire Chief, Rob Piper
Sandra Sato, Interim Finance Director
Winston Rhodes, Planning Manager
Patricia Athenour, City Clerk

City Clerk Athenour announced the agenda was posted on April 16, 2015 at 4:00 P.M. and all legally required notice was provided. Following an inquiry by the City Clerk, the Council members stated there were no conflicts on any item on the Agenda.

City Clerk Athenour entered the following items into the record, provided subsequent to the publication of the Agenda:

Item 8A – Gateway Shopping Center Project

1. Power point Presentation Exhibits for Gateway Shopping Center – Winston will be walking it in
2. Revised Resolution #1 – Mitigated Negative Declaration – supersedes the one provided in the packet
3. Email Correspondence from Ron Caldwell dated April 19, 2015
4. Correspondence from Contra Costa County Flood Control, dated April 20, 2015

Item 9A – Skate Park

1. Email correspondence from Sandee Glanz, dated April 21, 2015, requested to be read into the record
2. Power Point Presentation Exhibits for Pinole Valley Skate Park

Ms. Athenour announced that the WCCUSD was holding a grand opening of the Pinole Middle School fields on Saturday, April 25th at 10 AM and asked if the Mayor or one of the Council could be present to say a few words.

Mayor Murray, Mayor Pro Tem Swearingen and Council Member Long confirmed attendance.

3. CONVENE TO A CLOSED SESSION

At 7:12 p.m., Mayor / Chair Murray convened the noticed Closed Session to discuss the following:

- A. CONFERENCE WITH LABOR NEGOTIATOR - Pursuant to GC §54597.6
City Labor Negotiators: Belinda Espinosa, City Manager; Hector De La Rosa, Assistant City Manager; and Labor Negotiator Bruce Heid, IEDA
Employee Organizations: Local 1 and AFSCME

- B. CONFERENCE WITH REAL PROPERTY NEGOTIATOR - GC §54956.8
Property Locations:
 1. Gateway West, APN No. 401-410-017
 2. Gateway East – Pinole Valley Rd. in front of Kaiser, APN No. 401-211-032
 3. Gateway East – Corner of Pinole Valley Rd & I-80 off ramp, APN No. 401-211-034, Pinole CA 94564
City Negotiator: Belinda Espinosa, City Manager and Hector De La Rosa, Assistant City Manager
Negotiating Parties: Thomas Gateway, LLC
Under Negotiation: Price & Terms

JOINT CITY COUNCIL / SUCCESSOR AGENCY BUSINESS

- C. CONFERENCE WITH REAL PROPERTY NEGOTIATOR
Pursuant to Government Code §54956.8
Property Location: 2361 San Pablo Avenue, Pinole CA 94564
Bank of Pinole building / APN No. 401-162-003
City Negotiator: Belinda Espinosa, City Manager and Hector De La Rosa, Assistant City Manager
Negotiating Parties: Jason Sterlino and Angelo Dalo
Under Negotiation: Price & Terms

- D. CONFERENCE WITH REAL PROPERTY NEGOTIATOR
Pursuant to Government Code §54956.8
Property Location: 2361 San Pablo Avenue, Pinole CA 94564
Bank of Pinole building / APN No. 401-162-003
City Negotiator: Belinda Espinosa, City Manager and Hector De La Rosa, Assistant City Manager
Negotiating Parties: Kris Kaiser
Under Negotiation: Price & Terms

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

At 7:13 p.m., Mayor/Chair Murray reconvened the meeting in open session. He announced that Items 7C and 7D were carried over to the next meeting and there was nothing further to report from Closed Session.

Mayor Murray apologized to City Manager Espinosa for an interruption at the last Council meeting when she was responding to a question.

At 7:16 p.m., Chair Murray adjourned the Successor Agency meeting.

5. RECOGNITIONS / PRESENTATIONS / COMMUNITY EVENTS

A. Proclamations

1. 2015 - National Sexual Assault Awareness Month

Mayor Murray announced that he had issued the above referenced proclamation to Community Violence Solutions to include in their event earlier in the day.

B. Presentations / Recognitions

1. Fire Department Introductions and Promotions
Battalion Chief Akre, Captain Brooks, and Captain Torres

Rob Piper, Fire Chief presented and recognized the recent promotions of the Battalion Chief Akre and Captains Brooks and Torres. Chief Piper introduced the wives and family members of these gentlemen and read their resumes during the badge pinning ceremony.

C. Community Announcements and/or Events

Mayor Murray announced the Grand Opening of the Pinole Middle Field Soccer Field to be held on Saturday, April 25th at 10 am.

6. CITIZENS TO BE HEARD (Public Comments)

The following speakers addressed the City Council:

Cynthia Schwerin, resident of Pinole, addressed Council and presented a program she wants them to consider – California First, and energy saving financing program. She provided a brief description, provided a handout to the Clerk and said she had previously sent a link to the City Manager.

Jack Meehan, Pinole citizen, addressed Council regarding potable water owned by EBMUD. He said EBMUD has asserted they have the rights to the water, and his suggestion was for the City to write a letter to EBMUD asking who owns the water after the treatment; EBMUD, the City or the users who first paid for it, and how it could be amended to allow it to be marketed by those who treat it. Mr. Meehan also made his annual report and gave thanks to firefighters in Vallejo who save his life by using a defibulator when he had a heart attack while driving.

David Rupert, Pinole citizen, addressed Council regarding a letter to the editor published in the Contra Costa Times, April 20th, regarding Acalanes School District ballot language. He urged the City to take a look at the lawsuit to be sure that Pinole does not get tied up in a similar situation, referring to the 2014 ballot Measure S.

Anthony Gutierrez, Pinole citizen, invited Council and the community to the Dads of Ellerhorst Pasta Feed on April 25th at the Senior Center to support the local elementary school.

James Tillman, Pinole citizen, addressed Council regarding a prior request for information on the leakage in the City pipes and since then, EBMUD has been on Canyon and Ridgecrest fixing breaks. Tillman also referred to the April 15th WPCP Subcommittee meeting and discussion regarding the PLA, and his comments at that meeting.

Mayor Murray asked Mr. Tillman to speak on the latter matter when the agenda item is discussed later in the meeting.

7. CONSENT CALENDAR

Council Member Green removed Item 7C.

ACTION: Motion By Council Members Swearingen/Long, The City Council Approved the Consent Calendar, Items A & B.

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

- A. Approved the Minutes of the Meeting of April 7, 2015
- B. Received the April 4 – 17, 2015 List of Warrants and the April 10, 2015 Payroll in the Amount of \$355,370.32
- C. Authorize the City Manager to Amend the Job Description for the Recreation Coordinator Position [**Council Report No. 2015-27; Action: Adopt Resolution Per Staff Recommendation (Johnson)] REMOVED FOR DISCUSSION**

Council Member Green asked about the qualifications and stated in the past the requirements were different; college was not required. He said there are some qualified people who are capable to work in Recreation and was not sure the college education component should be required, even the AA level as now recommended in the staff report. If they have the experience, an applicant should be allowed to apply for the job.

Hector De La Rosa, Assistant City Manager, explained the Recreation Coordinator position was not management, but was a supervisor position. Typically for mid-management and above a degree is required. He provided two options for qualifying for this position; one with a BA and three years experience or an AA with five years experience, each having one-year in a supervisory role.

Council Member Green thought more emphasis should be given to employees who have a much longer tenure with the City. He suggested proposing a third classification to allow no education requirement for a person with twelve years with supervisory experience.

Mayor asked the Council for their comments on Council Member Green's suggestion. Long was not in favor. She confirmed that his suggestion included no requirement for certification, seminars, etc.

Mayor Murray recommended moving forward now, as time was of the essence and have staff return in the future with more options. He asked for a motion to approve staff's recommendation.

ACTION: Motion By Council Members Long / Green, the Council Adopted Resolution 2015-20, Amending the Recreation Coordinator Job Description, And To Agendize Further discussion at a future date to review qualifications further in more detail.

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

8. PUBLIC HEARINGS

A. Gateway Shopping Center Project – Consider Adoption of a Mitigation Negative Declaration and Mitigation Monitoring and Reporting Program, Design Review (DR 14-11), Conditional Use Permits (CUP14-05, 14-06, 14-07, and 14- 08), a Tentative Parcel Map (TPM 651-15), and a Development Agreement (DA14-01) for a sign program, one drive through, grocery store alcohol sales (including determination of Public Convenience and Necessity), and outdoor dining and outdoor merchandise display; a tentative parcel map; and a Development Agreement to construct a commercial development with 3 retail buildings totaling approximately 40,558 +/- sq. ft.; one 4,000 sq. ft. +/- office building, a 75-foot +/- pylon sign, & related improvements, on a 5.7-acre site, consisting of three existing parcels and an approximately 0.16-acre portion of the Pinole Creek property. **[Council Report No. 2015-28; Action: Introduce an Ordinance, Waiving First Reading & Adopt 8 Resolutions Per Staff Recommendation (Rhodes / De La Rosa)]**

1. Adopt Resolution Adopting a Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program For the Gateway Shopping Center Project, Including a 27,014 Sq. Ft. Market and 11,328 Sq. Ft. Retail Shop Building on the Gateway West Portion of the Project Site, and a 2,216 Sq. Ft. Coffee Shop with Drive-Through, 4,000 Sq. Ft. Medical Building, and a 75-Ft. Pylon Sign on the Gateway East Portion of the Project Site.
2. Adopt Resolution Approving The Design Review Request For The Gateway Shopping Center Project (DR 14-11)
3. Adopt Resolution Approving A Conditional Use Permit For A Master Sign Program (CUP 14-08)
4. Adopt Resolution Making A Determination Of Public Convenience Or Necessity Regarding Alcohol Sales; And Approving A Conditional Use Permit To Allow Beer & Wine Sales For Off-Site Consumption, To Allow Outdoor Merchandise Sales, And To Allow Outdoor Seating In Conjunction With A 27,000 +/- Sq. Ft. Market (CUP 14-05)
5. Adopt Resolution Approving A Conditional Use Permit For A Drive-Through & Outdoor Seating In Conjunction With A 2,216 Sq. Ft. +/- Coffee Shop In The

Gateway Shopping Center East Pinole Valley Road And North Of I-80, APN 401-211-032 (CUP 14-07)

6. Adopt Resolution Approving A Conditional Use Permit For Up To 1,000 Sq. Ft. Of Outdoor Seating In Conjunction With A 11,328 +/- Sq. Ft. Retail Shopping Space (CUP 14-06)
7. Adopt Resolution Approving A Tentative Parcel Map To Subdivide Approximately 4.53 Acres Into Two Parcels Of 2.513 Acres (Parcel 1) And 2.013 Acres (Parcel 2) - APN 401-410-017 (MS 651-14)
8. Adopt Resolution Approving A Lease Agreement And A Purchase & Sale Agreement, Both By And Between The City Of Pinole And Thomas Gateway LLC Relative To The Use And Development Of Property
9. Introduction of an Ordinance Approving A Development Agreement Between The City Of Pinole And Thomas Gateway LLC Relative To The Use And Development Of Property

Winston Rhodes, Planning Manager presented Council Report 2015-28 into the record. Mr. Rhodes also entered correspondence received from Ron Caldwell and the Contra Costa County Flood Control District, the revised draft Resolution adopting a Negative Declaration of Environmental Significance and the Power Point exhibit. Mr. Rhodes provided a presentation overview which addresses the land use entitlements, Items 1 – 7. Rhodes provided project summary depicting the size of the building and services, a 75-foot pylon sign, medical services and a coffee shop, and a site plan. All criteria and discussion points included in the presentation materials entered and made part of the record. On April 6, 2015, the Planning Commission made recommendations to the City Council to adopt resolutions to approve the Mitigated Negative Declaration and MMRP, conditionally approving the Design Review, approving a CUP for sign program, a Public Convenience and Necessity Finding and a CUP for the market for alcohol sales and outdoor dining, and a second CUP for outdoor dining, a drive through restaurant, a parcel map and finding of consistency with the General Plan. Three issues arose where Planning Commission recommended additional conditions related to truck deliveries and pick up/drop off times, pylon sign brightness, and providing electric vehicle charging stations. Rhodes highlighted the amended conditions (Conditions 10, 29 & 33), changed from what was presented in the staff report.

Mr. Rhodes discussed the following project points:

1. a parking analysis and a proposal for credit of fifty or one-hundred percent for the shared parking spaces on the west side of Pinole Valley Road side and an analysis on the east side also where the applicant is proposing more spaces for the medical building than is required.
2. creek enhancements - 65 ' buffer from center line of the creek, and installation of additional native landscaping with long term maintenance funded by the Landscape and Lighting District, applicant to pave the trail, install seating areas along the trail, and new trail lighting.
3. Addressed General Plan consistency
4. Project facts v. fiction – addressed inaccurate statements circulating in the community which were detailed in the presentation materials.

Hector De La Rosa, Assistant City Manager, presented Items 8 & 9, the Lease Agreement, Purchase and Sale Agreement between the City of Pinole and Thomas Gateway LLC, and the

draft ordinance approving the Development Agreement between the City and Thomas Gateway LLC. He reported that the Council had discussed the project in Closed Session for nearly two years to negotiate price and terms. The property is owned by the former Redevelopment Agency of the City, and the City is required to submit a plan on the disposition of this property and explained the Long Range Property Management Plan (LRPMP). The property was transferred to the City for development and ultimate disposal of this property and the City is moving forward with this process with the approval of the state as long as it is contingent to the approval of the LRPMP. De La Rosa highlighted pertinent sections of the ground lease and the development agreement. All rent and sales proceeds will be sent to the County for disbursement to the taking agencies, of which the City will receive back nineteen percent. City hoping to sell the property to Thomas shortly after development of the project, until then the ground lease would be in effect.

The Development Agreement provides Developer with certain entitlements beyond those allowed under State law, and allowing it to be extended. Documents are contingent upon approval of the LRPMP by the State of California. Shared parking as noted in Section 1.4.3 reinforces restrictions recorded on the Reciprocal Easement agreement.

Council questions followed, which included the number of electric car charging stations. Staff responded that there would be two.

Council Member Banuelos asked about the truck delivery limitations and provided scenarios how issues would be handled. Mr. Rhodes said the Police would handle enforcement and violation could be a basis for reconsideration. There is a two-hour window during the time children are coming and going from school that deliveries are prohibited and the market has felt this limitation will not impact their process. Council Member Banuelos asked if there had been any kind of comparison between the two. He also asked if the pylon sign design was approved as part of the shopping center or separately, and how it would be handled if there were some undesirable elements of the sign.

Mr. Rhodes said the design is part of the entire project and also in the sign program; both resolutions are required to approve the pylon sign. The maximum on the pylon sign is 75' in height shown with and without a crown, depicting the Pinole Gateway emblem. Council has the discretion to make changes, draft conditions or send it back to the Planning Commission for further review. Most recent signs of that same height are at Pinole Vista Crossings where signs of this size are allowed adjacent to freeway.

Council Member Long said she had requested site plans prior to the Planning Commission approval and a plan showing any changes made after. Mr. Rhodes responded that the change was the reduction of the medical office building, and the most current site plan was the one contained in the Planning Commission packet.

A question was raised regarding the distance from the I-80 off ramp to the first driveway on east side of the project. The traffic consultant said it was 215 feet and from the driveway to the signalized intersection driveway is about 300 feet.

Council Member Long asked if the traffic metering was taken into consideration when the analysis was done.

Steve Abrams, Abrams & Associates confirmed they took into account the metering devices on I-80 and that it should improve the traffic in this area. He explained how the metering works and it would not allow traffic to back up on Pinole Valley or the metering lights will turn green

Council Member Long raised questions regarding the following:

1. Queuing at the Starbucks drive-through – whether the existing Starbucks on Fitzgerald was used as a comparison for queuing and proposed traffic.

Stephen Abrams, Abrams & Associates Traffic Engineering said the Fitzgerald store was not used as a comparable. Mr. De La Rosa said it could accommodate eight or nine cars. The parking is calculated excluding drive-thru area.

2. Whether the area of existing parking requires restriping and repaving, as well as questions related to traffic, the parameters of the traffic study, parking on both the west and east sides, especially as it relates to the proposed coffee shop (Starbucks), conditioning location of employee parking and the electric charging stations, and maintenance

Mr. Abrams said it would not significantly change the operations or create delays. The confines of the traffic study spanned from I-80 to Tennent and San Pablo Avenue. There was discussion of increasing the length of the left hand turn, and one lane was recommended to be extended.

Mr. Rhodes responded to the question regarding employee parking, stating there was a condition of approval requiring a Parking Management plan which would address the concerns expressed. Regarding the electric charging stations, Mr. Rhodes said the charge time varies depending on the technology from thirty minutes to three hours. The stations can either be managed by the property owner or sometimes a third party. The logistics of the charging stations could be included in the Parking Management Plan.

At 9:16 p.m., Mayor Murray opened the Public Hearing.

Steven Thomas, Thomas Properties LLC address Council, describing the time and effort to bring this project for final approval, and spoke to the collaborative effort to achieve the City's vision of this site. This center will bring 500 construction jobs and 200 permanent jobs to Pinole, as well as significant revenue from sales and property tax. Mr. Thomas described the project amenities and said he was ready to move the project forward. His team of professionals was present to answer questions.

Jim Brownlee, Pinole resident, addressed Council to state the following concerns:

1. Parking is problematic; the formula is wrong and should be based on number of seats, not square footage.
2. Stated that he was not opposed to the project, but the 244 spaces are flawed and he said there will be 100 employees.
3. Shared parking is a gimmick.

He said if this project is approved as proposed it will make Traders Joes look like a perfect center.

Jaime Ziino, Pinole resident, spoke in favor of the project, was glad the truck deliveries are monitored, and was excited about the trail.

Lance B. Smith, Pinole resident, spoke in support of the project, as an excellent improvement in Pinole and an improvement to the gateway to Old Town. He said it was well planned and the City would benefit in numerous ways, and developed a parcel that has been derelict.

Nicole Wilbur, Pinole resident, spoke in support of the project, as are many others residents. She said just because they are not all here speaking, does not mean there is not a lot of community support for this development.

Diana Khajavi Pinole resident also spoke in support of the project, and appreciative to no longer need to drive out of Pinole to make purchases and her tax dollars will be spent in Pinole. She liked the idea that the tax revenue that will support our City, and specifically mentioned the Pinole library

Joni Shattuck, Pinole resident, spoke in support of the project.

Julie Merkt, Pinole resident, completed a speaker card stating support of the project, but had left before speaking.

David Rupert, Pinole resident, addressed Council regarding his concerns regarding the mitigation of the animal wildlife. He spoke about correspondence from the State Clearing House and comments from the Fish and Game letter dated February 6th, and he stated there were indications that the state is concerned about pond turtles. He expressed concern with the mitigating factors that have been laid out in the report and also with the fences encasing animals.

Anthony Gutierrez, Pinole resident, thanked Hector for informing people which agencies own these properties. Mr. Gutierrez said these properties are not owned by the City, but rather the Successor Agency. He provided a historical perspective on the ownership and said that anyone who has standing can sue the City, and stated that Mr. Thomas has standing. Gutierrez asked if there was a land lease and whether the property taxes would be paid.

Dave Olsen, Pinole resident, attended two planning commission meetings and as a new resident still had questions. Although he was in favor of the development, some things do not align with the General Plan or the Three Corridors Specific Plan: He stated the following concerns:

1. Connection of the development to the rest of the City relative to moving bicycles and pedestrians down Pinole Valley Road; movement from one side of Pinole to the other beneath the I-80 corridor.
2. Pylon design, specifically the conditions for illumination.
3. Jobs – is there a minimum wage set in Pinole?
4. Size of parking spaces; compact or standard; more ADA spots are appropriate
5. Retail shops may detract from existing downtown businesses.

Carol Thompson, Pinole resident, former Planning Commissioner and founder of Kids Creek said she supported the project but expressed her concerns:

1. The time the traffic study was done; early morning and at 4:30 to 5:30 PM.
2. Also DOT submitted a letter about level of service and because the numbers were skewed it looks like there is not a problem, when she said there is.
3. The drive-through was done in 2004 and found problems with ingress and egress and needs to be reevaluated.
4. Truck deliveries, size and parking and circulation through the lot. Walnut Creek Mayor told her not to believe their varied truck size story.
5. The Fire Department access to the Valley is reduced.
6. Traffic studies do not consider school traffic in the studies.
7. Objects to the proposed tubular meal fencing along the creek.
8. Challenged the 65' buffer zone.

9. CEQA – The fish passage will be within 100 feet of this property and the Initial Study did not mention it.

Ms. Thompson said the City must wait for the approval of the LTPMP and hope Council sees the issues yet to be resolved and takes the time needed to address those issues.

Bob Kopp, Pinole citizen, address Council to refute some of the statements. He said the runoff from parking lot to the creek was a false statement; water flows toward Pinole Valley Road and there is a drainage system that goes through a cleaning process before entering the creek. The creek is approx 100 feet wide from the bridge all the way to the freeway. Kopp also stated that once the center is finished, it will diminish some of the problems at Pinole Valley Shopping center and said this plan was considerably better than Pinole Valley. The site plan shows that the property will be graded, eliminating the berm and making the area visible to Pinole Valley Road

Margaret Prather, Pinole resident, said her concern is traffic and parking. The traffic currently speeds down Pinole Valley Road. She urged the Council to do something about the impact of parking and traffic.

Lorina Tornai, Pinole resident, reported that she had studied the Pinole Creek and have some concerns based on her research. Tornai said the shopping center is not in compliance with the General Plan regarding a protection zone. She thanked the Council for the creek improvements to date. She wished to maintain water quality in the creek, and parking lots encourages run off. She asked for the precise setback measurement from the creek, and said she did not want the parking lot next to the creek.

Alison Crooks, Pinole resident, said she was afraid of losing the small town nature of Pinole. She said the project as a whole does not bother her, but these individual items are concerns:

1. Not a fan of Starbuck's
2. Does not believe Pinole has the infrastructure to support the center
3. The recent addition of alcohol sales at Sprout's; aware of rules about proximity to schools and parks.
4. Pylon is too large and viewed from neighborhood homes; asked that it be located away from housing. Believes it to be excessive.
5. In favor of Sprout's and the medical use, but noted there were five Starbucks within close proximity, and could force closure of East Bay Coffee and Bear Claw.
6. Need a third traffic lane.

Sal Spataro, Pinole resident, not opposed to development but cited some negative aspects to the development, for example an overconcentration of establishments that sell grocery items. Safeway is the likely candidate to close and there will be a dead shopping center at Appian 80. Gateway West has three points of ingress/egress. Gateway East has two ingress/egress, and problems will occur with cars will be stacking. He concluded, stating Starbuck's was unnecessary and will be a problem for Kaiser. The area was intended for medical.

Chris Wimmer, Pinole citizen, addressed Council and expressed the following concerns:

1. Must be requirement for a covered trash area for containment.
2. Insure there is no natural gas near the bus stop
3. Stated that a large gas line runs outside of the back door of the proposed market, and recommended it be tested to insure safety. Each building should have an AED installed.
4. Signage must use LED lighting for energy conservation.
5. Unable to make a U-turn at the Kaiser light
6. Require the developer to finish the Pinole Creek trail all the way to the I-80 freeway, behind the bowling alley

7. Recommended the art work tied to the Cesselini property
8. Sprinklers should be installed in the shops.

Irma Ruport, Pinole citizen, asked how an item can be agendized as a Closed Session for property negotiation when there is also a Public Hearing on the project. She said the public should be informed of information, and said it was a “done deal.” Ms. Ruport asked if a condition can be imposed that the property cannot be vacant, referring to Doctors Hospital as an example. She was concerned about the trucks and asked that they be required to do a trial to see if they fit and maneuver safely on the site. She believed that the Saturday Little League games will prohibit the safe turning maneuvers and felt the public should have some input to make this a good project and a win for everyone.

James Tillman, Pinole citizen, addressed Council and said more conditions are necessary for parking enforcement. He said his biggest concern was traffic and the existing problems morning and evenings and Saturdays and Sundays, stating an additional lane would help. The Starbucks drive-through needs to be looked at again to make sure it works properly. Regarding alcohol sales, he believes the City has a 100’ separation requirement from a school and that the ABC’s separation is 650”. Tillman said they do not need a repeat of Pinole Valley Shopping Center.

Paul Mariotti, Pinole citizen, said the creek is one of our greatest treasures and it should be an asset not a parking lot. He also expressed concern with a six foot tubular steel fence and suggested a two foot wooden fence separating the creek from the development.

Colin Smith, Pinole citizen, asked what happens when a truck does not show up at the appropriate time; where does the truck go.

Stephen Abrams responded that was an operational issue that a traffic consultant would not study, but assumed the driver would circulate through the lot and get back to the freeway and leave. He said trucks would usually leave through the main entrance.

Mayor Murray asked if Sprouts has been queried about the logistics of the delivery process.

Steven Thomas, applicant said logistics are very important to Sprouts and they schedule their deliveries knowing they have one ramp; deliveries generally do not occur in the middle of the day. It would be an extreme situation if it were to occur at all.

Mayor Murray asked about the trash enclosures and the applicant’s architect responded that all enclosures were covered and sealed.

Steven Thomas, Thomas Gateway, LLC, applicant was provided a rebuttal time and responded to the points raised by speakers:

1. Pylon Sign is down in a hole and it appears to be 33’, and to the eye driving on the freeway appears seven feet shorter.
2. Parking plan - the amount of parking exceeds any project he has done to date. The project is well parked; many parking stalls are standards, with very few compact stalls. He stated support for a Parking Management Plan and identifying areas for employee parking. The area behind the market is anticipated to be employee parking and those are compact. The project also exceeds the required number of handicap parking.
3. Metal fencing – stated willingness to do a split rail, preferred by the community, if it supported by the City and the Police Department.

4. Gas line – they are aware of the gas line located behind Sprouts and will be surveying before construction and determining the condition and a gas pipe company will be present at the time of digging.

Mr. Thomas asked the architect to discuss the sprinklers.

Les Mui, Mui Architects, said FPA regulations will be followed for installation of appropriate sprinklers and if Pinole Fire has additional criteria, they will follow those regulations also.

Council Member Long asked about the mechanical valves for the sprinkler system and whether they can be put in vaults underground.

Mr. Thomas said they use underground vaults as an exception; since they are not visible some Fire Departments object to them. They use only when they absolutely have to. He also addressed the electric charging stations and said a fee would be assessed and he did not think they can limit the use to those shopping at the center.

Council Member Green thought the number should be increased to four.

Mayor Murray mentioned the bus turn out and location of any nearby natural gas sources, as indicated by an earlier speaker, Mr. Wimmer.

Mr. Mui said he was unclear what Mr. Wimmer meant, but the existing gas line is south of the bus stop.

Council Member Green discussed the need for the bus turnout to provide space for two buses.

Al Shaghaghi, AMS Associates, said WestCat requires 80' for two buses and they have been conferring with WestCat who will advise them if they need room for one or two buses.

Council Member Long said the elimination of the Starbuck's drive-through might solve a big problem and asked if that has been broached. After hearing from Steve Thomas that Starbuck's would not locate there without a drive-through, she asked if there was another configuration that would allow a drive-through in another location on the site. Mr. Thomas said they said no to that as well. He said as the developer, he feels the circulation plan is adequate.

Council Member Green referred to condition #29 about truck deliveries and said all deliveries should be after closing.

Mr. Thomas responded. Most deliveries would occur in the early morning hours and asked if staff and the developer could confer to amend that condition.

Mr. Rhodes provided background information how the condition was drafted and amended with the second sentence which was later struck.

At 10:56 p.m., Mayor Murray closed the Public Hearing.

ACTION: Motion by Banuelos / Swearingen, the Council Extended the Meeting to Complete All Business on the Agenda.

Vote: Passed Unanimously; 5-0

Council discussion ensued regarding delivery hours.

Council Member Green commented that he did not see a pylon sign at the Walnut Creek Sprouts and did not think such a large sign was necessary. He asked who struck out the language on Condition #10, and asked staff to take a look at reducing the height to forty-five feet. He also said he did not support credit for any shared parking, and should meet the goal of 249 spaces without shared parking. He said a third lane going southbound from Henry Avenue to I-80 is absolute mandatory, and suggested adding the third lane from the east side of Pinole Valley Road. He said the buffer should be measure from top of creek and allow a 50' buffer from that point.

Mr. Rhodes responded that condition #10 was amended at the direction of the Planning Commission to control and adjust the brightness, which need to be dimmed after 10 or 11, when stores are closed. He and Public Works Director Allison would be evaluating the brightness of the sign.

Mr. Abrams dialogued and responded to questions and scenarios provided by Council Member Long and then to Council Member Green regarding the addition of a third lane and explained that they would not lineup past the Kaiser entrance if lanes were moved. He also explained why school traffic was not included in the traffic study during the peak 15-minute period. He said the standards are met, as they exist today, not for the future. Most cities would allow development to continue even though you have congestion during the commute hours because it is self-regulating.

Mayor Murray also added that the City does not control the property, referring to a third lane in the area of the bowling alley frontage. He also informed the public that there was nothing the Council could do about changing the pathway / trail as it approaches the freeway.

Council Member Long said there had been a discussion regarding lighted crosswalks and asked if a complete study had been done, and if not, the length of time needed to obtain Cal Trans' approval.

Mayor Murray said it is something that our Public Works Director would explore with Cal Trans but was not part of this project.

Mr. Abrams said that lighted crosswalks are only allowed at unsignalized locations; Cal Trans would not allow it there as it would be a distraction.

Mayor Murray asked whether there are signs that could be visible from one angle and not so dominant from another. Mr. Rhodes said he was not aware of any and not sure how Cal Trans would weigh in.

Mayor Murray said the public art tied to the Cesselini Family resonated with him and he thought it was a good idea.

Mr. Rhodes explained Parking Management Plan. Mr. Thomas said they monitor their parking constantly and they self-police their properties. Regarding the pylon sign as designed with LED controlled lighting isn't all that bright with channel letters.

Council Member Long raised a question about the 65 feet related to the creek. Mayor Murray said what has been surveyed is from the center of the creek to the edge of the pathway.

Mr. Rhodes provided detail regarding the trail and where the modifications would occur. The buffer meets the General Plan requirements and means additional permitting is not required as the area will not be affected.

Council Member Long provided comments:

1. With reference to the creek, requested assurance it is not interpreted differently by another agency.
2. Deliveries should be restricted to evening hours as well as restricting the size of the trucks leaving on Pinole Valley Road. More discussion required on timing and restrictions for egress.
3. Prefers to change the fencing material, and provide options, with input from the Police Department.
4. Requested a trash program

Mr. Thomas agreed to a trash program and said the level of trash depends on the volumes in the center. He commented on the trucks and deliveries. Changing their delivery program will not be well received by Sprout's and reducing the truck size will increase the number of trucks. He suggested working with staff, setting specific hours and if it becomes a problem, staff has leeway to impose further restrictions, but suggested not over imposing before it is determined to be a problem.

Discussion ensued on parking between Council Member Banuelos and Green.

Council Member Long suggested scheduling a special meeting,

Mayor Pro Tem Swearingen supported making a decision now and commented as follows:

1. Fencing – he questioned the safety factor if it is changed to a two foot split rail
2. Acknowledged there is wildlife in Pinole
3. Said the creek will look much better that it does today, also with the addition of lighting.
4. Disagrees there will be parking problems; there are more spaces and larger ones and the shared parking is not needed at all.
5. Exits allowing egress in two directions is a positive.
6. Truck deliveries – stated that four a day is minimal and the prohibitions between 8-9 am and 2-3 pm should further eliminate any problems.
7. A 45' pylon sign would be useless.

Mayor Pro Tem Swearingen spoke to the attributes of Sprout's after visiting the San Rafael store recently. He said time was of the essence and he wants Sprout's built here in Pinole. If we do not act reasonably soon, we will lose them and keep our blighted area.

Mayor Murray concurred with Mayor Pro Tem Swearingen. He said the Police Chief would weigh in on the fencing as it needs to make sense with the community. He concurred with staff regarding the parking and did not believe the site would be under parked. If there is nothing substantive, he is in favor of moving forward, and requested a motion.

There was discussion whether there was any consideration given to have the first resolution regarding the Mitigated Declaration of Environmental Significance broken into two resolutions, one for the west side and one for the east.

City Attorney Reyes said that would be difficult, CEQA studies have been reviewed as one project with both Gateway East and West together.

Council Member Green asked whether the Council would require that this project be prevailing wage.

City Attorney Reyes said there are two policies, the “good neighbor policy” involving participation in community and the second policy is prevailing wage. City Attorney Reyes said staff believes the developer has been participating in good faith and this project is not a public works project, it is paid by the developer, and there is no legal requirement for prevailing wage.

Council Member Long said she wanted to Mr. Thomas our policy documents.

Steven Thomas said he is committed to local hire and advertising in local publications and would also take suggestions from staff.

ACTION: Motion by Council Members Swearingen / Banuelos, the City Council Adopted Revised Resolution 2015-21, Adopting a Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program For the Gateway Shopping Center Project, As Presented.

Vote: Passed unanimously 5-0.

Ayes: Banuelos, Green, Long, Murray, Swearingen
Noes: None
Abstain: None
Absent: None

ACTION: Motion by Council Members Swearingen / Banuelos, the Council Adopted Resolution 2015-22, Approving the Design Review Request (DR 14-11) For Development of the Gateway Shopping Center, 4 and A 75' +/- Pylon Sign and Accompanying Improvements.

Vote: Passed 4-1.

Ayes: Banuelos, Long, Murray, Swearingen
Noes: Green
Abstain: None
Absent: None

ACTION: Motion by Council Members Swearingen / Banuelos, the Council Adopted Resolution 2015-23, Approving a Conditional Use Permit (CUP 14-08) for the Gateway Shopping Center Sign Program.

Vote Passed 4-1.

Ayes: Banuelos, Long, Murray, Swearingen
Noes: Green
Abstain: None
Absent: None

ACTION: Motion by Council Members Banuelos / Swearingen, the Council Adopted Resolution 2015-24, Making a Finding of Public Convenience and Necessity and Approving a Conditional Use Permit (CUP 14-05) For Alcohol Sales, Outdoor Merchandise Sales and Outdoor Dining at the Proposed Market.

Vote: Passed unanimously 5-0.

Ayes: Banuelos, Green, Long, Murray, Swearingen
Noes: None
Abstain: None
Absent: None

ACTION: Motion by Council Members Swearingen / Banuelos, the Council Adopted Resolution 2015-25, Approving a Conditional Use Permit (CUP 14-07) Allowing a Drive-Through and Outdoor Dining at the Proposed Coffee Shop - Suite E1-A.

Vote: Passed 3-2.

Ayes: Banuelos, Long, Murray, Swearingen
Noes: Green, Long
Abstain: None
Absent: None

ACTION: Motion by Council Members Swearingen / Banuelos, the Council Adopted Resolution 2015-26, Approving a Conditional Use Permit (CUP-14-06) Allowing Outdoor Dining at the Proposed Retail Shop Space Building.

Vote: Passed unanimously 5-0.

Ayes: Banuelos, Green, Long, Murray, Swearingen
Noes: None
Abstain: None
Absent: None

ACTION: Motion by Council Members Banuelos / Swearingen , the Council Adopted Resolution 2015-27, Approving a Parcel Map (MS 651-14) To Divide the Single Parcel (APN 401-410-017) of Approximately 4.53 Acres West of Pinole Valley Road Within the Gateway Shopping Center into Two Parcels.

Vote: Passed 4-1.

Ayes: Banuelos, Long, Murray, Swearingen
Noes: Green
Abstain: None
Absent: None

ACTION: Motion by Council Members Banuelos / Swearingen, the Council Adopted Resolution 2015-28, Approving a Lease Agreement and a Purchase & Sale Agreement between the City of Pinole and Thomas Gateway LLC Relative to the Use and Development of the Gateway Shopping Center Project Property.

Vote: Passed unanimously 5-0.

Ayes: Banuelos, Green, Long, Murray, Swearingen
Noes: None
Abstain: None
Absent: None

ACTION: Motion by Council Members Swearingen / Banuelos, the Council Introduced Ordinance 2015-01, Approving A Development Agreement Between The City Of Pinole And Thomas Gateway LLC Relative To The Use And Development Of Property

Vote: Passed 4-1.

Ayes: Banuelos, Long, Murray, Swearingen
Noes: Green
Abstain: None
Absent: None

9. OLD BUSINESS

- A. Authorize the City Manager to Execute a Construction and Professional Services Contracts for the Pinole Skate Park Project
1. Adopt Resolution Authorizing The City Manager To Award And Execute A Construction Contract With M.G. Creations, From Santa Cruz, CA In An Amount Not To Exceed \$235,911, And Authorize Expenditures Up To \$23,591, For Possible Extra Work For A Total Authorization Of \$259,502 For The Construction Of The Pinole Skate Park
 2. Adopt Resolution Authorizing The City Manager To Award And Execute A Professional Services Contract With Wormhoudt Incorporated For Inspection Services For An Amount Not To Exceed \$6,000 For Inspection Services
 3. Adopt Resolution Authorizing The City Manager To Award And Execute A Professional Services Contract With Pillar Design Studios For Design Services During Construction For An Amount Not To Exceed \$2,500
 4. Adopt Resolution Authorizing Expenditure Of Up To \$2,500 Under An Existing On-Call Contract With Cornerstone Earth Group For Geotechnical Services
 5. Adopt Resolution Modifying The City Budget To Increase The Skate Park Capital Project For Fiscal Year 2014 – 15 to \$344,202
[Council Report No. 2015-29; Action: Adopt 5 Resolutions Per Staff Recommendation (Allison)]

Dean Allison, Development Services Director, entered Council Report 2015-29 into the record to recommend award of a construction contract, three service contracts, and modification to the FY 2014-15 Budget to increase the funding for the Skate Park Project. He reported that the numbers were very close to the Engineer's Estimate and the two lowest bids were very close to one another. MG Creations was the lowest responsible bidder. Services need during construction include inspection, design, and geotechnical services during construction. The total project cost is \$344,202 and Allison recommended amending the FY 2015/16 budget to add \$51,175 from 2014 Measure S monies to complete the project.

Council Member Long asked to add the following language to the contract: "consultants cannot bill for any time speaking to community members, unless approved by staff". She thinks that should be across the added to all consulting contracts.

City Attorney Reyes confirmed that was acceptable language to add to the contract.

Council Member Green said he and Mr. Allison had conversations on the designer, and said that Brad was involved previously and necessary to the project in the field, and questioned whether the contractor from Santa Cruz has the same knowledge

Mr. Allison explained the real obstacle to using Brad was the requirement for a three week notification, which was unacceptable.

City Manager Espinosa said she and Public Works Director had conferred and they believe this to be the best decision due to cost and availability.

There was dialogue regarding whether Ms. Glanz had contacted Brad, and Brad had expressed an unwillingness to change his fee or terms.

Mr. Allison expressed confidence in Wormhoudt's ability to deliver inspection services.

Council Member Long said her husband was familiar with MG Creations, the construction contractor and had heard good reviews regarding the company.

City Clerk Athenour read comments into the record from Sandy Glanz and Julie Meier, Pinole citizens and members of the Skate Park Subcommittee.

The following resolutions were approved under one motion.

ACTION: Motion by Council Members Banuelos / Green, the Council Adopted Resolution 2015-29, Authorizing The City Manager To Execute A Construction Contract With M.G. Creations, In An Amount Not To Exceed \$235,911, And Authorize Expenditures Up To \$23,591, For Possible Extra Work For A Total Authorization Of \$259,502 For The Construction Of The Pinole Skate Park.

ACTION: Motion by Council Members Banuelos / Green, the Council Adopted Resolution 2015-30, Authorizing The City Manager To Execute A Professional Services Contract With Wormhoudt Incorporated For Inspection Services For An Amount Not To Exceed \$6,000 For Inspection Services

ACTION: Motion by Council Members Banuelos / Green, the Council Adopted Resolution 2015-31, Authorizing The City Manager To Execute A Professional Services Contract With Pillar Design Studios For Design Services During Construction For An Amount Not To Exceed \$2,500

ACTION: Motion by Council Members Banuelos / Green, the Council Adopted Resolution 2015-32, Authorizing An Expenditure Of Up To \$2,500 Under An Existing On-Call Contract With Cornerstone Earth Group For Geotechnical Services.

ACTION: Motion by Council Members Banuelos / Green, the Council Adopted Resolution 2015-33, Modifying The City Budget To Increase The Skate Park Capital Project For Fiscal Year 2014 – 15 to \$344,202

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

B. Continue Discussion Regarding Project Labor Agreement (PLA) Deal Points
[Council Report 2015-30; Action: Provide Direction (Espinosa)]

Belinda Espinosa, City Manager, entered Council Report 2015-30 into the record. She summarized and stated she had provided Pinole's comments on the PLA Deal Points to the City of Hercules, and their council discussed the matter last week. The attachment to the staff report contains Hercules' comments to the Deal Points.

There was agreement to some of the points; however there was no agreement on the following:
No. 3 - Define benefit package and contribution requirements and parameters.

No. 4 – Incorporate and Define Core Worker Provisions.

Ms. Espinosa said they wanted a broader definition and wants the core worker as a management employee, and a maximum of 50% of all employees of the contractor and foreman level and below who have been on the Contractor's payroll for 60 days.

No. 5 – Establish local hire goal and define local hiring bands and protocols.

Hercules did not agree with the Local hire goal and definition of the local hiring bands.

No. 6 – Clarify provisions for non-union worker access to employment through union halls.

Hercules requested more information and Pinole had identified needing further information on how the union applied union dues to non-union workers in the halls.

Council discussed the deal points above. Council Member Green asked for clarification on benefit payments. It was stated that the contractor pays the benefits to the union hall and the union pays it to the workers.

Mayor Murray discussed the definition of a core worker vs. the workers who would be hired from the hall, and said anyone from the foreman down was not a core worker, but it was somewhat of a gray area how the union dues for non-union local workers apply.

Council Member Long commented that there was not a requirement to join the union.

Ms. Espinosa said you one does not have to join the union but was subjected to paying union "fees" or "dues."

A lengthy discussion ensued on the deal points concerning core worker definitions and classifications, benefit package payments, prevailing wage, and local hire. At the end of the discussion, Council Member Green asked whether there were any recommendations from the subcommittee members.

Council Member Long said they were asked to bring it back to their councils and believe Hercules will discuss it also, as this Council was doing. She said they felt this was a close as we can get.

Council Member Banuelos said there was nothing said that would change his mind. The two cities are still distant on the definition of non-core workers and on local hire.

Council Member Long agreed, and she thought that Pinole has done as much as possible at negotiating with them and explaining our position.

Mayor Pro Tem Swearingen said, regarding No. 3, Hercules was opposed to double payments to the union and agreed it was definitely not a fair method. He also said that Council Member Swearingen said a definition of core workers are the ones employers know and trust, not a crew that he does not know. He would not bid a project if he could not bring his people onto the job. He said they need to take a hard look at that definition.

Mayor Murray directed questions to staff regarding the status of the plans and the timeline.

Ms. Espinosa said they have received the 90% drawings. The PLA matter is lagging, and taking longer than the plans. She said as soon as Carollo says the plans are good, they will be ready to move forward.

Mr. Allison said the plans should be finished in mid-June. He said the critical path was getting the PLA negotiated. The PLA and the plan process must be integrated in the end in order to advertise and begin construction. .

Mayor Murray said it was time to realize we have an impasse and Hercules has determined they are not going to support the PLA. Time is critical, and in response to the question of the next step, he said it is to give direction to staff to retain a negotiator to negotiate the PLA.

Council Member Long said they should direct staff to proceed with hiring a negotiator, provide all Hercules comments and provide reports to them as we progress with hiring the negotiator and then the negotiation process.

Mayor Pro Tem Swearingen asked City Attorney Reyes for his opinion on the likelihood of getting sued on this matter.

City Attorney Reyes opined that the laws had changed significantly in the past thirty years with reference to a PLA, and PLAs are recognized as legal and enforceable, so there is no issue regarding the legality of a PLA. He said he would rather conduct a Closed Session if the Council was asking about the potential for legal action to be filed by the City of Hercules. He said it had been Hercules' position all along that this is Pinole's project; Pinole assumes the liability and ownership as defined by the 2001 agreement, and the contract will be let by the City of Pinole.

Council Member Long said everyone does not have to agree on the PLA but once it is approved we all work for the best project moving forward and cannot continuous looking back and look to completing this project together.

Mayor Pro Tem Swearingen said his concern is that the PLA is fair and allows the most contractors to bid the job and get the best price and the best qualify project.

COUNCIL DIRECTION:

Council provided direction to staff to move forward and hire a negotiator to negotiate a Project Labor Agreement.

10. NEW BUSINESS

There were no New Business items.

11. REPORTS & COMMUNICATIONS

A. Mayor Report

1. Announcements

B. Mayoral & Council Appointments

City Clerk Athenour announced receipt of another Planning Commission application. The filing deadline is May 14, 2015; and the filing period for the Community Service Commission and Traffic Safety Committee is open until filled.

C. City Council Committee Reports

There were no reports

D. Council Requests For Future Agenda Items

1. Asked the City Manager to requesting that Board Member Kronenberg, Dr. Harter and the consultants attend a Council meeting and provide an update on the Pinole Valley High School construction timeline (Long)
2. Presentation by EBMUD on their leak detection, maintenance, repair of pipes (Long)

E. City Manager Report / Department Staff

1. Report on Traffic Enforcement Issues on Pinole Valley Road from Pinole Creek Bridge 6 to City Limits [**Council Report No. 2015-31; Action: Receive Written Report (Chief Gang)**]

Chief Neil Gang presented Council Report 2015-31 into the record. He updated Council regarding the department's response to the citizens who addressed Council at the last meeting regarding the speeding and activities in the area of Pinole Valley Road from the bridge to the City limits. Staff conducted a traffic analysis of the area and evaluated the calls for service. No patterns were found. Staff developed a strategic plan for addressing the issues voiced at the meeting. They found an average speed is only 36 mph in a 35 mph zone. Digital signs were placed in the area and foliage was trimmed where necessary from blocking speed and stop signs. The recommended action included education, increase traffic enforcement and install digital speed signs in the area to raise awareness. Nineteen citations and sixteen verbal warnings were issued since the April 7 council meeting. Chief Gang said these efforts will definitely make an impact in that area.

Council Member Long wanted to de-emphasize the average speed. She said there has to be a lot of speed to have an average speed of 36 mph. She asked if more signs were needed.

Gang said the department applied for a GOHA grant to purchase a new traffic trailer which will help raise awareness. He said he was not surprised by the amount of vehicles driving in that area on a daily basis.

Council Member Banuelos said his efforts have had a positive effect.

Mayor Pro Tem Swearingen asked the total number of vehicles in the survey. Chief Gang said there were 2,184 vehicles leaving Pinole and 2,116 entering. Mayor Pro Tem Swearingen said he was also concerned about the bike riders who disregard traffic safety.

Council Member Green appreciated the idea of the traffic safety pamphlets.

F. City Attorney Report

There was no report.

12. ADJOURNMENT to the Regular City Council Meeting of May 5, 2015 in remembrance of Amber Swartz.

Adjourned April 22, 2015 at 2:09 am

Submitted by:

Patricia Athenour, MMC, City Clerk

APPROVED BY CITY COUNCIL / SUCCESSOR AGENCY BOARD: