

**JOINT PINOLE CITY COUNCIL & SUCCESSOR AGENCY  
MINUTES  
OCTOBER 20, 2015**

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

The Joint Pinole City Council and Successor Agency of the Former Redevelopment Agency of the City of Pinole meeting was held in the Pinole Council Chambers, 2131 Pear Street, Pinole, California. Mayor Murray called the meeting to order at 6:00 PM and led the Pledge of Allegiance.

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

**A. COUNCIL MEMBERS PRESENT**

Mayor Peter Murray

Mayor Pro Tem Roy Swearingen

Council Member Tim Banuelos arrived at 7:54 p.m.

Council Member Phil Green was absent / excused. The voting record reflects his absence.

Council Member Debbie Long

**B. STAFF PRESENT**

Belinda Espinosa, City Manager

Benjamin Reyes, City Attorney

Hector De La Rosa, Assistant City Manager

Neil Gang, Police Chief

Fire Chief, Rob Piper

Al Petrie, Interim Development Services Director

Patricia Athenour, City Clerk

City Clerk Athenour announced the Agenda was posted on October 15, 2015 at 4:00 P.M. and all legally required notice was provided.

The Council responded to the City's Clerk question, stating there were no conflicts with any items on the agenda.

City Clerk Athenour announced an amendment to the October 6<sup>th</sup> minutes noted subsequent to the publication of the packet and advised the Council to strike the second sentence under Item 3 regarding Council Member Green being present for the Closed Session. With this reporting the Council accepts this correction; it will be reflected in the minutes of this meeting.

City Clerk Athenour entered into the record the following documents: Item 10B- Revised Exhibits for Attachment A and B and a new Exhibit B2, which will be displayed on the screen during the presentation for viewing.

### 3. CONVENE TO A CLOSED SESSION

At 6:306 p.m., Mayor Murray convened the Notice Closed Session.

- A. CONFERENCE WITH LEGAL COUNSEL—ANTICIPATED LITIGATION  
Gov. Code § 54956.9(d)(2)  
Number of Potential Cases: 1 Matter

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

At 6:36 p.m., Mayor Murray reconvened the meeting in open session. He announced there were no reportable actions from Closed Session.

### 5. RECOGNITIONS / PRESENTATIONS / COMMUNITY EVENTS

- A. Proclamations
- B. Presentations / Recognitions
  - 1. Northern CA Cruisers Check Presentation to Service Organizations

**John Loudon**, Northern California Cruisers, presented checks from the proceeds of the 2015 Annual Pinole Car Show to the following service organizations:

|  |                                       |
|--|---------------------------------------|
| Bay Area Rescue Mission                | \$2,000 - Accepted by John Anderson   |
| CA Autism Foundation                   | \$2,000 – Accepted by Allisa Fullard  |
| Pinole Youth Foundation                | \$2,000 – Accepted by Mayor Murray    |
| El Sobrante Boys and Girls Club        | \$2,000 – Accepted by Rae Rowland     |
| A donation the Pinole Police Explorers | \$ 500 – Accepted by Pinole Explorers |

Two Police Explorers addressed Council briefly and discussed providing security at this event.

Each recipient thanked the Northern California Cruisers for their continuing support and the City of Pinole for hosting the show. The Police Explorers gave a brief presentation on their assistance with security and traffic control at the Car Show.

Mr. Loudon announced the 2016 show would be held on June 26, 2016.

**Jim Shattuck**, Pinole Youth Foundation Treasurer, addressed Council and thanked the Cruisers for holding this show every year and thanked the City, noting that all parties must benefit from these agreements to make them work well.

- 2. Introduction of Ann Tarabini – Pinole Representative on the WCCUSD Prioritization Committee

**Ann Tarabini**, Pinole citizen, introduced herself to the Council and thanked them for the appointment to the WCCUSD Prioritization Committee. She is a parent of a Pinole Valley High graduate and a teacher in the District for over 30 years, currently at Helms School in San Pablo. She said the first committee meeting would be held on October 22.

Council Member Banuelos arrived at 7:54 p.m.

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

The following citizens addressed the City Council:

**Jim Tillman**, Pinole citizen, addressed Council to express dissatisfaction with the quality of the San Pablo Avenue paving project, asking that staff be directed to review the work. He also said in 2011 he said then-Assistant City Manager Fitzer the amount owed on City unfunded liabilities related to retirement and also medical costs. He said he was told it was \$20 million and asked now for the total liability. He presented a written request to the City Clerk.

**Jeff Rubin**, Pinole Historical Society (PHS) President, reported on three upcoming events:

- November 6<sup>th</sup> – PHS membership meeting
- November 11<sup>th</sup> – 8<sup>th</sup> annual Veteran's Day & Flag Retirement Ceremony
- November 17<sup>th</sup> - Pinole Through Time, autograph session at the Pinole Library

**David Ruport**, Pinole citizen, addressed Council regarding the state of our ecological health in Pinole. He said there was a misconception that Pinole was getting cleaner and he reported that was a misnomer. Two unknown citizens have adopted and cleaned the waterfront area near every day for the past year. Ruport said the areas around Pinole Shores and other areas in Pinole are not so pristine, and believes citizens should do this every day, not just on a designated Coastal Cleanup event.

Mayor Murray agreed with Mr. Ruport regarding the littering but said that Coastal Cleanup is an event that is attended and participated in by the youth who are being taught stewardship and to care for their community from this point forward.

Mayor Pro Tem Swearingen encouraged any concerned citizens to adopt a clean-up project in another area and said the City would assist and support that endeavor. He suggested that Mayor Murray had done undertaken Coastal Cleanup for over twenty years and it may be time for others should step forward to expand the program.

Council Member Long suggested neighborhood involvement.

**Irma Ruport**, Pinole citizen, addressed Council and reported that a car was vandalized at Pinole Shores while they were participating in the Coastal Cleanup event, as well as homeless encampments on the East Bay Regional Parks property. He suggested that the Council advise the Park District at the next local meeting.

Mayor Murray said that informal Bay Trail committee had disbanded but there is an EBPRD representative who should be advised.

**Sandee Glanz**, Pinole Skate Park Committee member reported that the activities at the Skate Park were working well, and mentioned the prior discussion to separate the fine for helmets from more serious incidents. She reported when the Berkeley skate park issued citations, the skaters moved back to the streets to eliminate citations. Berkeley no longer requires skaters to wear protective gear. While she does not support that, she suggested a separate approach to educate rather than punish, and issue fix-it tickets, and further suggested a helmet donation program. Ms. Glanz said she would be happy to host community service days to get helmets on kid's heads and to educate rather than punish.

## 7. CONSENT CALENDAR

The following items were removed from the Consent Calendar for discussion, by requests from members of the public: Items 7B, 7F, 7I, 7J, 7K and 7L.

**ACTION: Motion by Council Members Swearingen/Long, the Council Approved the Consent Calendar Items With the Exception of B, F, I, J, K and L.**

**Vote:            Passed:        4-0**  
**Ayes:            Banuelos, Long, Murray, Swearingen**  
**Noes:            None**  
**Abstain:        None**  
**Absent:         Green**

- A.    Approved the Minutes of the Meeting of October 6, 2015
- B.    Received the October 3 - 16, 2015 List of Warrants and the October 9, 2015 Payroll in the Amount of \$369,866.92 **REMOVED FOR DISCUSSION**
- C.    Approved the 2015 Holiday Closure Schedule and the 2016 City Council Meeting Schedule [**Council Report No. 2015-101; Action: Approve by Minute Order (Espinosa / Athenour)**]
- D.    Adopted **Resolution 2015-87**, Approved Placement of Waste Collection Liens Considered at an Administrative Hearing Held on October 8, 2015 For Delinquent Accounts Assessed Between May and August 2015 [**Council Report No. 2015-102; Action: Adopt Resolution Per Staff Recommendation (Athenour)**]
- E.    Adopted **Resolution 2015-88**, Authorized the City Manager to Execute a Consulting Services Contract with Greg Kennedy In the Amount of \$24,000 for Emergency Medical Quality Assurance Services [**Council Report No. 2015-103; Action: Adopt Resolution Per Staff Recommendation (Piper)**]
- F.    Adopted **Resolution 2015-89**, Authorized the City Manager to Execute a One-Year Contract with Contra Costa County to Provide Emergency Medical Services and Receive Payment in the Amount of \$49,427 [**Council Report No. 2015-104; Action: Adopt Resolution Per Staff Recommendation (Piper)**] **REMOVED**
- G.    Adopted **Resolution 2015-90**, Authorized the City Manager to Execute A Purchase Agreement with Folsom Lake Ford for the Purchase of a Police Vehicle In the Amount of \$30,732.06 [**Council Report No. 2015-105; Action: Adopt Resolution Per Staff Recommendation (Gang/Avery)**]
- H.    Adopted **Resolution 2015-91**, Approved Delegation of Authority for Check Signing and **Resolution 2015-92** Approval For Wire Transfers [**Council Report No. 2015-106; Action: Adopt 2 Resolutions Per Staff Recommendation (Miller)**]

**ITEMS REMOVED FROM THE CONSENT CALENDAR**

- 7B. Received the October 3 - 16, 2015 List of Warrants and the October 9, 2015 Payroll in the Amount of \$369,866.92

**Irma Ruport**, Pinole citizen, addressed Council regarding the attorney fees totaling \$108,538.65 on the Warrant list.

Staff said the list encompasses two months.

Mayor Murray responded to Ms. Ruport and brought her attention to a Public Records Act entry on the Warrant List that generated over \$20,000 in legal fees, which she had filed several months back. He understood she had not been in to review the records that were produced.

Ms. Ruport said that she had been out of town and ill and unable to set a time yet, but would be reviewing them. She asked the amount of attorney fees accrued to date this year, and suggested the Council perform a comparison between that cost and an in-house attorney.

Council Member Long said many of the attorney costs have off-sets and are reimbursable.

**ACTION: Motion by Council Members Swearingen/Banuelos, the Council Approved the Consent Calendar Items 7B**

**Vote:            Passed:        4-0**  
**Ayes:            Banuelos, Long, Murray, Swearingen**  
**Noes:            None**  
**Abstain:        None**  
**Absent:         Green**

- 7F. Adopted **Resolution 2015-89**, Authorized the City Manager to Execute a One-Year Contract with Contra Costa County to Provide Emergency Medical Services and Receive Payment in the Amount of \$49,427 [**Council Report No. 2015-104; Action: Adopt Resolution Per Staff Recommendation (Piper)**]

This item was removed but the speaker actually intended for Item 7I. There was no discussion on this matter.

**ACTION: Motion by Council Members Banuelos / Swearingen, the Council Approved the Consent Calendar Items 7F, Adopted Resolution 2014-89**

**Vote:            Passed:        4-0**  
**Ayes:            Banuelos, Long, Murray, Swearingen**  
**Noes:            None**  
**Abstain:        None**  
**Absent:         Green**

- 7I. Approve Resolution Setting the Designated Window Period From October 21, 2015 to April 16, 2016 for Two Years Additional Service Credit With CalPERS in Accordance with Section 20903 for Two Members of the Management Employment Group [**Council Report No. 2015-107; Action: Consider First Reading of Resolution (De La Rosa)**]

**Bob Kopp**, Pinole citizen, requested an explanation of the proposed action.

**Hector De La Rosa** provided a report explaining this was the 2<sup>nd</sup> step in a process initiated and introduced at the last meeting, to implement a term negotiated in the employment contracts of the two management employees. It provided an option for two additional years of service credit in exchange for the evergreen contract status. The action before Council now was to certify that the City complied with Government Code Sections 20903 and 7507. He reiterated there was a monetary savings; the cost was approximately \$182,000 and should the employees remain under employment for the full term the cost would be over \$300,000.

The following speakers also addressed the Council on this matter:

**James Tillman** Pinole citizen, expressed confusion that a golden parachute was offered to two employees, and said that Interim City Manager Long had also done this in 2007, and he said there was an agreement not to do it again. Mr. Tillman said this was a bad decision even if it was part of a prior labor negotiation. He said the employees benefit and being rewarded.

Mr. De La Rosa addressed the questions about the evergreen contracts and said in 2013, the management employees were asked to give up the evergreen contracts for term contracts, in exchange for the two-year service credit eligibility. With regarding of savings, under Sections 20903 and 7507, there was a requirement to leave one position vacant and said the Police commander position was identified, and the cost will more than offset the cost of the two-year service credit to both employees.

**Irma Rupert**, Pinole citizen, said she attended the last meeting where this was discussed and she said not to touch any public safety positions.

Mayor Murray brought the matter back to the Council.

**ACTION: Motion by Council Members Banuelos / Swearingen, the Council Adopted Resolution 2015-93, Setting the Designated Window Period From October 21, 2015 to April 16, 2016 for Two Years Additional Service Credit With CalPERS in Accordance with Section 20903 for the City Manager and the City Clerk, Members of the Management Employment Group**

|              |                 |   |
|--------------|-----------------|---|
| <b>Vote:</b> | <b>Passed:</b>  | <b>4-0</b>                                |
|              | <b>Ayes:</b>    | <b>Banuelos, Long, Murray, Swearingen</b> |
|              | <b>Noes:</b>    | <b>None</b>                               |
|              | <b>Abstain:</b> | <b>None</b>                               |
|              | <b>Absent:</b>  | <b>Green</b>                              |

- 7J. Approve Amendment to City Manager Belinda Espinosa's Employment Contract and Authorize Mayor Peter Murray To Execute Amendment In A Form Approved By The City Attorney [**Council Report No. 2015-108; Action: Adopt Resolution Per Staff Recommendation (Reyes)**]

**James Tillman**, Pinole citizen, said this item should have been scheduled under New Business and that he understood this payment was for training a new City Manager. Tillman suggested that Mr. De La Rosa could train the person.

Mayor Murray explained that the nuances, and all issues and projects have to be transitioned and that the Council believes this will provide an opportunity for a smooth transition, with the

new manager gaining the experiences from Ms. Espinosa and it is valuable to have her remain on board for a few more months.

**Irma Rupert**, Pinole citizen, requested a staff presentation.

City Attorney Reyes presented and summarized Council Report 2015-108 into the record. He referred to the numerous duly noticed Closed Sessions that were held on these matters. He stated that Ms. Espinosa was preparing a transition plan and will be assuming the duties to train the new manager on the projects contained in the written staff report. The plan contemplates all the priorities read into the record. The Council appointed Council Member Long to negotiate these matters, and this was a unanimous directive from the Council Members present. .

**Irma Rupert** said the transition plan was outrageous. She said that Ms. Fitzer was extremely capable and this arrangement does not sound fair, if it were to be approved.

Council Member Long explained if Ms. Espinosa were to leave after only 30 days, the City would be short one key position so the void is filled with her agreement to stay ninety additional days and she is to be compensated for going beyond her responsibility. Council Member Long concurred that Ms. Fitzer was an excellent choice because she does know the community and its members.

Mayor Murray felt the Council put together an excellent plan to bridge the change.

**Julie Maier**, Pinole citizen, addressed Council and noted there was a defensive posture due to citizens having a difference of opinion. She said she also was a public employee and most teachers or administrators do not receive an extra stipend to train their successors. She stated appreciation for Ms. Espinosa's work to develop a plan the last couple months, but believe that the closed session discussions should have provided reporting out before now and this public response is their reaction to this news. She said she personally would like these extra funds used in some other manner, as this was not a good use of money.

Council Member Long said our City Manager is the lowest paid in the County by approximately \$35,000 plus their more lucrative benefits. Council Member Long said she stands by the hard work the Council has done to try to a City manager that is responsive to the community and picks up the phone to return their calls, as Ms. Espinosa has done.

**ACTION: Motion by Council Members Banuelos / Swearingen, the Council Adopted Resolution 2015-94, Approved An Amendment to City Manager Belinda Espinosa's Employment Contract and Authorized Mayor Peter Murray To Execute The Amendment, In A Form Approved By The City Attorney**

|              |                 |   |
|--------------|-----------------|---|
| <b>Vote:</b> | <b>Passed:</b>  | <b>4-0</b>                                |
|              | <b>Ayes:</b>    | <b>Banuelos, Long, Murray, Swearingen</b> |
|              | <b>Noes:</b>    | <b>None</b>                               |
|              | <b>Abstain:</b> | <b>None</b>                               |
|              | <b>Absent:</b>  | <b>Green</b>                              |

- 7K. Appoint Michelle Fitzer as City Manager and Authorize Mayor Peter Murray to Execute Employment Contract in a form approved by the City Attorney  
**[Council Report No. 2015-109; Action: Adopt Resolution Per Staff Recommendation (Reyes)]**

**James Tillman** Pinole citizen stated his comments were not personal; they were about savings and about not opening Station 74. He said these items should have been on New Business to allow the citizens to discuss the matter, as a tax payer's right. He said the City has an Assistant City Manager and could have transitioned easily without an issue, and then hired an assistant city manager. He questioned why the recruitment was not advertised in City publications. He cited reasons due to the poor economic state, and suggested that the Assistant City Manager be named as the City Manager.

City Attorney Reyes responded to the allegations of lack of transparency, explaining that all matters were agendized properly and complied with the law during noticed Closed Session and then placement of the contracts on the Consent Agenda for approval in open session. Any accusation that the Council did something wrong was absolutely incorrect. The decision to negotiate a contract with Fitzer was a decision made by all five council members and was unanimous.

**Irma Ruport**, Pinole citizen, concurred with the Council decision to hire Michelle Fitzer as the City Manager. She said Ms. Fitzer has a degree from Cal State Hayward and was capable, competent, and she was glad to see her return to Pinole. .

**ACTION: Motion by Council Members Long / Banuelos, the Council Adopted Resolution 2015-95, Appointed Michelle Fitzer As City Manager And Authorized Mayor Peter Murray To Execute Employment Contract In A Form Approved By The City Attorney**

|              |                 |   |
|--------------|-----------------|---|
| <b>Vote:</b> | <b>Passed:</b>  | <b>4-0</b>                                |
|              | <b>Ayes:</b>    | <b>Banuelos, Long, Murray, Swearingen</b> |
|              | <b>Noes:</b>    | <b>None</b>                               |
|              | <b>Abstain:</b> | <b>None</b>                               |
|              | <b>Absent:</b>  | <b>Green</b>                              |

- 7L. Approved Amendment to the Existing Contract with Avery & Associates To Increase the Scope of Services to Add Recruitment for the Fire Chief In the Amount of \$41,400 [Council Report No. 2015-110; Action: Adopt Resolution Per Staff Recommendation (De La Rosa)]

Bob Kopp, Pinole citizen, asked for clarification on the contract price, stating that it was higher than the contract included in the prior report.

**Hector De La Rosa**, Assistant City Manager explained that \$41,400 was the cost for two recruitments; the Development Services and the Fire Chief. By handling both recruitments under one contract, the City would actually receive a discounted rate. If recruiting for three positions, the total cost would have been approximately \$60,000.

Mayor Pro Tem Swearingen said he had difficulty understanding the numbers also. In addition, he expressed his interest in having a more in-depth discussion regarding proceeding with the recruitment for a Fire Chief, and was uncomfortable with the cost. He said perhaps other there were other options to be considered, and the Council had not discussed other persons who might be qualified for the job. He had no problem moving forward with the recruitment for the Development Services Director.

Council Member Long asked if Avery & Associates had sufficient staff to recruit both positions simultaneously and suggested adding language in the contract stating that time was of the essence.

Council discussion followed, with Council Member Long raising the issue of salary range and questioned whether the Council should approve the job description and salary range.

The City Attorney opined that the Council could approve the job description and salary range.

More discussion followed on the matter of salary ranges and how the position would be advertised and the role of the recruiter in bringing qualified persons.

Staff explained that the City would provide guidelines and Avery would carry those out and recruit qualified applicants who were willing to consider the job and the salary.

Council Member Long preferred to review the salary range for the position and that a person with less experience would be brought in at the lower end of the range. She wants to be sure the salary fits within the approved budget and wished to review the job description / salary before Avery posts an advertisement. She said the salary of the former Director should be the top of the salary offered.

Mr. De La Rosa explained there are no ranges for management positions; it is a set salary. The Development Services Director would be advertised at the same salary of the former employee.

Ms. Espinosa said the City could provide Avery with a specific salary and direct not to bring any candidates that are not willing to work for that amount. She said the salary could be advertised as DOQ on the flyer and provide Avery direction that the salary has a finite amount.

**Irma Ruport**, Pinole citizen, addressed Council and stated that the Fire Chief recruitment should be put on hold until Ms. Fitzer comes on board, and also noted that Development Services Director received a salary increase for assuming more responsibility with the Wastewater Plant.

**Motion By Swearingen to approve the Development Services Director recruitment, and hold over the Fire Chief Recruitment Until the November 3 Council Meeting.**

Mayor Pro Tem Swearingen said he believed there were other options such as an in-house candidate or another method whereby the City could save \$17,000. Mayor Pro Tem Swearingen said more time was necessary to discuss the position and suggested that Ms. Fitzer may want an opportunity to weigh in.

**The motion died for lack of a second.**

Mayor Murray said it would cost an additional \$6,000 if the two recruitments did not run concurrently, under the same contract.

**ACTION: Motion By Council Member Long / Banuelos, The Council Adopted Resolution 2015-96, Authorized The City Manager To Execute An Amendment To The Avery Contract For To Include A Recruitment For A Development Services Director And A Fire Chief, In The Amount Of \$41,400**

|              |                 |                                |
|--------------|-----------------|--------------------------------|
| <b>Vote:</b> | <b>Passed:</b>  | <b>3-1</b>                     |
|              | <b>Ayes:</b>    | <b>Banuelos, Long, Murray,</b> |
|              | <b>Noes:</b>    | <b>Swearingen</b>              |
|              | <b>Abstain:</b> | <b>None</b>                    |
|              | <b>Absent:</b>  | <b>Green</b>                   |

8. PUBLIC HEARINGS
9. OLD BUSINESS

There were no Public Hearings or Old Business matters.

10. NEW BUSINESS

- A. Authorize the City Manager to Execute a Construction Contract with Joseph Murphy Construction In an Amount of \$299,445 for the Senior Center Roof Repair [**Council Report No. 2015-111; Action: Adopt Resolution Per Staff Recommendation (Petrie)**]

**Al Petrie**, Interim Development Services Director presented Council Report 2015-111 into the record. Bids for the Senior Center Roof Project were opened on October 8, 2015. The low bidder for the Base bid was Joseph Murphy Construction with a bid of \$168,185.00. The Alternate Bid was \$130,260 for a total of \$299,445.00. Petrie reported that the roofing consultant, RCS, was emphatic that the entire roof needed to be replaced at this time; therefore staff's recommendation was to award both the base and alternative bid. Discussions took place with the Joseph Murphy Construction regarding methods to protect the structure during the rainy season and Petrie reported they have positive experiences due to immediate placement of the underlayment which is water proof to insure that the roof would not leak. If the contract is awarded, the Base bid work can be by the Christmas holiday and the Alternative bid section by the end of January 2016. Staff recommended awarding the Base and alternative bid to Joseph Murphy Construction.

Questions and discussion followed.

Council Member Long said the Base and Alternative bids exceed the budget, and also asked if the contractor had local experience. She stated that this was a prevailing wage contract, and must be monitored by staff. Long wished to insure that if the dry days are only weekends, the contractor will have to work then, without change orders or additional cost.

Assistant City Manager De La Rosa responded that the bid includes about \$30,000 for new wood and if not needed there would be a change order which would reduce the contract. The contractor is from Livermore.

Interim Development Services Director Petrie indicated the contractor would not be working on weekends.

City Attorney Reyes addressed weather delays, stating there was a protocol in place in our specifications and in the industry which specifies that the City would grant an extension to the contractor so the job is completed within the specifications, with no additional cost for overtime.

Council discussion ensued regarding the Alternative Bid. Mayor Pro Tem Swearingen said he did not see the roof in danger of failure in the dining area (Alternative Bid) but thought the Base bid also included the built up roof. He said he could not support the Alternative bid portion.

Mr. Petrie said there had been no leaks in the dining area, but RCS, the roofing consultant recommended taking advantage of having the roof open and doing the entire metal roof at one time.

Mr. De La Rosa responded to a questions raised regarding the original budget, stating it was \$236,000 for both sections, based on the consultant's recommendation for replacement.

**ACTION: Motion by Council Members Swearingen / Long, the Council Adopted Resolution 2015-97, Authorized the City Manager to Execute a Construction Contract with Joseph Murphy Construction For the Senior Center Roof Project In an Amount of \$169,185 for the Base Bid Only.**

**Vote:**           **Passed:       4-0**  
                  **Ayes:           Banuelos, Long, Murray, Swearingen**  
                  **Noes: one**  
                  **Abstain:       None**  
                  **Absent:       Green**

- B. Consider West Contra Costa Unified School District (WCCUSD) Request For An Encroachment Permit for Installation of Overhead and Underground Fiber optics To Interconnect School Facilities [**Council Report No. 2015-112; Action: Council Discretion - Provide Direction To Staff (Petrie)**]

**Al Petrie**, Interim Development Services Director presented Council Report 2015-112 into the record to present the encroachment permit request filed by the WCCUSD to install fiber optic connection between schools. He identified their exhibit which calls for a portion of the fiber to be underground and some overhead on existing poles. Staff was seeking direction from council regarding their position on this encroachment permit and asked if the preference was for the City to remain steadfast and require all fiber to be underground or allow over half of the extension in this area to go overhead. Mr. Petrie also included a summary of the Rule 20A funds, which total \$1.4Million to underground existing overhead wiring.

Council discussion followed. Mayor Pro Tem Swearingen asked why the District was proposing overhead. Mr. Petrie said they proposed to underground in areas where there were no overhead poles, but to use overhead when possible because it was a less costly method.

**Mary Phillips**, WCCUSD representative, reported that it would be cost prohibitive to go underground. She said the underground conduit that is being installed could also be used also by the City and save money for the City's Rule 20A project.

The Council expressed concern that there had been no communication from the District and asked why they did not engage any dialogue.

Ms. Phillips' response was that this was a federally funded project and they do not usually discuss it with the City. She said there were no plans three years ago when this project was first proposed to go undergrounding. The goal is to increase band width at their sites so the District can deliver the curriculum.

Mayor Murray said the City will then be on the hook to pay for all the undergrounding of the School Districts line later and that they should be paying the true cost of the project. He asked why the District did not notify the City and the community three years ago.

Ms. Espinosa said the City has passed a resolution requiring all new development to place all utilities underground and it was disturbing that the District is building a new school and are proposing overhead wiring in that vicinity.

Ms. Phillips said the vendor is responsible for putting the plan together and should be contacting the cities, as the fiber is the property of the vendor, not the District.

Discussion ensued. The Council stated that the only control was enforcement of the regulations approved in the Code. They discussed the funds the City has accrued in the Rule 20A fund will only underground a small portion along Pinole Valley Road and the District was fully aware of that information.

Council Member Long said everything in front of the school should be underground per our ordinance and anything overhead, can remain overhead in the interim and when the City's undergrounding project is constructed, the District should be under contract to pay their portion of the costs.

Ms. Phillips asked if the Council could table this until the vendor could meet with the City to respond to the issues. Mayor Murray said also recommended including a representative from the District. He represented that the City wants the benefits for the students, but need to maintain the elements adopted in the City's General Plan.

The discussion was closed and would be rescheduled when all parties could be present for further discussion.

- C. Discuss Increasing the Funding Allocation for Pinole Community Television (PCTV) For Additional Staffing Resources [**Oral Report; Action: Provide Direction to Staff (Snell)**]

**Belinda Espinosa**, City Manager presented and opened the discussion regarding a request to increase PCTV staff in order to perform the level of City filming requests and outside contracts and obtain clarification and direction from Council.

Council Member Long expressed her concerns that the program is not being rebuilt to what it was before it became an enterprise fund, which was implemented to offset our expenses with outside contracts. She said it had been brought to her attention that the City was not recording school activities due to lack of staffing. PCTV lost volunteers, cut back employee positions and lost part-time staff. She raised questions regarding the number of employees working part-time, the number of hours worked, the programs lost, and whether there were contracts PCTV was unable to accept due to lack of employee resources, and whether the goals and objectives were being met. She referred to the reason applied for changing a part-time Permit Techs to a full-time, and whether the same logic can be applied in PCTV with a contract employee with fluctuating hours.

Council Member Banuelos said a plan was needed for meeting our contractual obligations and later have a marketing person for securing new contracts. We have technical staff and need to bolster up our TV station.

Mayor Murray stated that determining the goals for PCTV was important but during the recession the City tried to make the division self-sufficient, and in the fervor to gain revenue, other services were lost. The community finds PCTV very important and the City will assist by providing base funding and the revenue generation helps to expand their capabilities where they can provide community services and also provide outside contract services to enhance revenue. He concurred it was time to take a step back and evaluate the program to be able to do more community programming, and give the opportunity to grow with base funding.

Mayor Pro Tem Swearingen requested a departmental report. Council Member Long said she initiated this first for Council discussion without having staff spend hours drafting a plan and a staff report prior to receiving Council direction first.

Mayor Pro Tem Swearingen said he supported providing an investment in PCTV so the community will receive the services previously provided.

**Jeff Rubin**, Pinole citizen, said the City would have no recorded history if it were not for TV Coordinator Dave Snell, and said from his perspective, PCTV was the most important services Pinole offers outside of the basics of police, fire and public works. He said the enterprise model did not work and a lot of local programming had been lost. He said it should be funded through the General Fund and restore the TV station to its original purpose, which is to be a forum for people to express their views and community programming.

**Irma Rupert**, Pinole citizen, agreed with the previous speaker and said Snell was the hardest worker in the City. She suggested getting some community volunteers and working with David Snell and help him make the program what it used to be.

Council provided the direction through the comments noted and asked staff to bring back a report at a future meeting with a plan to enhance PCTV programming.

### **JOINT CITY COUNCIL / SUCCESSOR AGENCY MATTER**

- D. Transfer Of A Loan To Eden Housing From The “Successor Agency To The Redevelopment Agency Of The City Of Pinole” To The “City Of Pinole” Pursuant To Health And Safety Code Sections 34176(A) And 34181(C), Acknowledging That Contra Costa County Will Assist In The Financing Of East Bluff Apartments, And Approving The Assignment Of The Eden Loan To The New EBLP Entity And Approving Certain Modifications To The Eden Loan [**Council Report No. 2015-113; Action: Adopt 3 Resolutions Per Staff Recommendation (De La Rosa / Downs)**]

**Hector De La Rosa**, Assistant City Manager presented Joint City Council / Successor Agency Report 2015-113 into the record regarding the transfer of a loan issued to Eden Housing from the Successor Agency to the City of Pinole, and approving assignment of the Eden Loan to a new entity, EBLP and also approve modifications to the loan. He explained the basis for each of the three resolutions presented, as outlined in the staff report. He stated that the following the action of the Council and Successor Agency, a resolution approving the transfer of the loan from the Successor Agency to the City would require approval of the Oversight Board, tentatively scheduled in November. De La Rosa said there was no fiscal impact to the City and the Successor Agency will receive payment in full for the bond loan and the proceeds will be distributed to the taxing agencies. Staff recommended approval of the three resolutions and was available for questions.

Council Member Long requested clarification on several matters involving the original loan and asked if the original loan is repaid, what portion of the bond would be repaid.

**Joanna Carman**, Eden Housing, responded that the \$4.595 Million loan would be paid off. The RDA issued the bonds, the lien holder is US Bank and that balance would be fully paid.

Council Member Long asked whether there would be proceeds to distribute to the taxing agencies.

De La Rosa provided an explanation on how proceeds would be distributed.

City Attorney Reyes explained that the facility is considered a public amenity and this will retain the affordability covenants for an additional 55 years and was never intended to be paid off.

Council Member Long asked if there were any consequences to the action.

De La Rosa said there was no difference in the process that exists now, and there will be no impact to the City or the Successor Agency. Staff said the rehabilitation planned for the facility will be brought before the Planning Commission on November 9, 2015. He mentioned that East Bluff would also like to revisit the security fee at a future date.

Mayor Murray asked about Section 8 Housing and the County's funding assistance

Mr. De La Rosa said the City would subordinate to the County's bond issue. Ms. Carman said the County would serve as the first lien holder investing two million dollars.

Ms. Carman said they wished to discuss the Security Fee in the future because the fee was increasing and a rapid rate and would like to discuss placement of a ceiling. In addition, further security upgrades would be added with the rehabilitation project.

Mayor Murray said the Council would entertain future discussions.

**Irma Ruport**, Pinole citizen, said the public safety fee was assessed for the 144 units and it important to keep that under control; the cameras are an excellent addition, and hope with the County coming in, that Pinole does not let our guard down and that we continue the progress at this property.

**ACTION: Motion by Council Members Swearingen / Long, the Council Adopted Joint Council /Successor Agency Resolution 2015-98, Approving Transfer of An Amended and Restated Owner Participation Agreement, Deed of Trust, and Regulatory Agreement for the Real Property Located at 1813 Marlesta Court, Pinole To The City of Pinole As the Housing Successor Pursuant to Health and Safety Code Sections 34176(a) and 34181(c)**

Vote:            Passed:        4-0  
                  Ayes:            Banuelos, Long, Murray, Swearingen  
                  Noes:            None  
                  Abstain:        None  
                  Absent:         Green

**ACTION: Motion by Council Members Swearingen/Banuelos, the Council Adopted Resolution 2015-99, Acknowledging that the County of Contra Costa Will Assist in the Financing of the East Bluff Apartments Located at 1813 Marlesta Drive**

Vote:            Passed:        4-0  
                  Ayes:            Banuelos, Long, Murray, Swearingen  
                  Noes:            None  
                  Abstain:        None  
                  Absent:         Green

**ACTION: Motion by Council Members Swearingen/Banuelos, The Council Adopted Resolution 2015-100, Approving The Assignment By Eden Housing Of Its Amended And Restated Owner Participation Agreement (OPLA) With the City, As Housing Successor, To A New Tax Credit Owner In Order And To Agree To Certain Modifications Of The OPLA In Order To Support The Rehabilitation Of East Bluff Apartments**

**Vote:            Passed:        4-0**  
**Ayes:            Banuelos, Long, Murray, Swearingen**  
**Noes:            None**  
**Abstain:        None**  
**Absent:         Green**

**11.    REPORTS & COMMUNICATIONS**

**A.    Mayor Report**

1.    Announcements
  - a.    October 31 - Halloween Carnival at Fernandez Park
  - b.    October 31 - Meet & Greet with Supervisor Gioia and Mayor Murray at the East Bay Coffee Company at 9 am
  - c.    November 11 – Veterans Day and Flag Retirement Ceremony
  - d.    January 9, 2016 - Senior Center Annual Crab Feed
  - e.    Announcements of Openings on City Board & Commissions

**B.    Mayoral & Council Appointments**

**C.    City Council Committee Reports**

Mayor Murray displayed a memento given to him at the Skate Board Grand Opening. He asked staff to display it at City Hall and thanked the Skate Park Committee.

Mayor Pro Tem Swearingen reported on the Contra Costa Mayors Conference meeting. The Conference passed a resolution asking the Metropolitan Transportation Commission (MTC) to enter into discussions with ABAG about their plan to incorporate ABAG into MTC.

**D.    Council Requests For Future Agenda Items**

1. Add a section to the Agenda for Council Questions and Comments (Long)
2. Staff to check CalTrans schedule for repairing the potholes on east Bound I-80 Onramp at Pinole Valley Road (Long) Murray mentioned Appian also
3. Reported street lights out along Pinole Valley Road; staff needs to identify lights to determine which are City and PGE's, and report to PGE to fix theirs
4. Also fix decorative street lights in the medians on Pinole Valley Road (part of the LLAD)
5. Upload the list of Public Works projects to the website

Council Member Long also noted that passing of Ed Villanueva and also said to keep Council Member Green in our prayers and thoughts.

Council Member Banuelos requested a report on the PGE Pathways Project.

City Manager Espinosa provided an update on the PGE Pathways Project, stating that she made a visual inspection and was satisfied with all the trees. She reported there was a problem on Appian near Uncle Chung's where two pine trees must be removed because they are on top of a pipeline. She authorized PG&E to apply for their encroachment permit. Further discussions

will ensue about the tree replacement. PG&E will either provide the City with \$100 for each tree and the City would be responsible for the planting, or PG&E would obtain the trees and plant them. Both she and Mayor Murray believe it is best to have PG&E plant the trees. Staff recommended also getting input from the Garden Club

Council Member Long said PG&E they must guarantee the trees for two years, and she believes they must also compensate the City for the additional cost for water to get the tree established. She said she preferred receiving the funds to plant the trees at a time and location selected by the City.

On a separate matter, Council Member Banuelos asked if there was any precedent where cost becomes a factor in requiring cities to respond to Public Records Act requests.

City Attorney Ben said this has been an ongoing dilemma and legislation has been presented and have failed. The only thing we can do is confer with the requestors to determine what exactly they want in order to limit the scope. He said that is difficult to achieve as a requestor could say we are trying to discourage the public from receipt of records. City Attorney Reyes suggested sending correspondence to the legislators to draft a bill on behalf of the cities and would provide letters he had received from the League for signature by the Mayor.

Council Member Long asked for a status on the Long Range Property Management Plan.

Mr. De La Rosa said the Plan was on the second tier review at the Department of Finance and the last email he received earlier this week indicated they will not be working on our plan until after November, as the ROPS take priority. De La Rosa also said he was trying to schedule a meeting with them, knowing the priority of the Gateway project and the developer's need to have everything finagled by March.

Mayor Pro Tem Swearingen said several citizens told him they have seen other people loitering around who do not belong in Pinole. He noticed a number of youth boarding during school hours at the Skate Park, and said the officers should patrol more during midday. Council Member Long commented that she also received a complaint that youth are smoking cigarettes and pot, bar-b-cueing and loitering in the parking lot.

City Manager Espinosa asked Chief Gang to report back on these issues and whether the security cameras had been installed at the Skate Park. .

- E. City Manager Report / Department Staff
- F. City Attorney Report

There were no reports

**12. ADJOURNMENT** to the Regular City Council Meeting of November 3, 2015.

At 10:50 p.m., Mayor Murray adjourned the Regular Meeting to the Regular Meeting of November 3, 2015 in Remembrance of Amber Swartz, Ed Villanueva and prayers and thoughts for Council Member Phil Green.

**Submitted by:**

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**Patricia Athenour, MMC**  
**City Clerk**

**APPROVED BY CITY COUNCIL:**

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