

**PINOLE CITY COUNCIL
MINUTES
NOVEMBER 17, 2015**

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

The Regular Pinole City Council Meeting was held in the Pinole Council Chambers, 2131 Pear Street, Pinole, California. Mayor 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
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 November 12, 2015 at 4:00 P.M. 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. She entered the following item into the record that was provided subsequent to the publication of the packet:

- Item 10B – PowerPoint Exhibit

Ms. Athenour announced that Item 7D was postponed to a future agenda, date to be determined, as the City Attorney reported that there were unresolved issues and the terms were still being negotiated.

Regarding Item 7D Debbie asked that when it comes back it be on Old Business

3. CLOSED SESSION

4. RECONVENE IN OPEN REGULAR BUSINESS ITEMS

There were no Closed Session matters scheduled on this Agenda.

5. RECOGNITIONS / PRESENTATIONS / COMMUNITY EVENTS

- A. Proclamations
- B. Presentations / Recognitions

There were no proclamations or presentations.

6. CITIZENS TO BE HEARD (Public Comments)

The following citizens addressed the Council:

Sandee Glanz, Pinole citizen & Skate Park committee member addressed Council regarding one of the elements in the Skate Park that has no coping and needs to be repaired. She said it was already showing incredible wear and asked staff to contact MG Creations, as it is under a one year warranty. Concerned it could become hazardous.

Mayor Murray asked her to take a video and provide it to staff. City Manager Espinosa said staff was aware of the problem and already reported it to the contractor.

Ms. Glanz also addressed the Council regarding the status of the Skate Park plaque. She reported collecting donations for the benches and for a plaque, noting that the benches will be delivered next week. The committee planned to have a contractor install the plaque base at the same time as the benches, but to date has not received a response on the status of the plaque. Language was submitted to the City on October 14th. Ms. Glanz requested an update on the language and questioned the delay. She also suggested that the City retain a liaison between the City and contractors on City projects to retain open communication and said she was interested in serving in that capacity to assist a new City Manager and Development Services Director.

Ivette Ricco, Pinole citizen, also asked why the Council had not placed approval of the plaque on the agenda. She said it is treated as a non-priority item and remains in limbo. She asked that it be placed on the next City Council agenda.

Sal Spataro, Pinole citizen, said he was present to support Sandee Glanz who solicited donations and free labor for amenities at the Skate Park, and now due to this delay has missed an opportunity to have the base poured. He asked that the Council give Ms. Glanz due consideration and the approval she needs to complete the task.

Mr. Spataro also addressed Council and reported on the Planning Commission hearing on Verizon Cell Tower on Pfeiffer Lane the prior evening. He said only four commissioners were present and discussed actions taken by the Planning Commission. He discussed the number of citizens in attendance opposed to the cell tower and said very few people are going to benefit from it. Mr. Spataro said it was time to say no to Verizon.

Irma Rupert, Pinole citizen, spoke in support of moving forward with the plaque at the Skate Park. She said she was also present at the Planning Commission hearing on the Verizon matter and asked that the Council provide plenty of notice of the next hearing to allow the public to speak.

Ms. Rupert also addressed the D & H Landscaping contract that was approved on the November 3rd agenda, and noted that she asked a year ago if the contract included Appian

Way. She cautioned the Council to make sure that all contracts are checked carefully, and to insure the contractors are performing the work for which they are paid.

Dolores Faria Lucas, speaking on behalf of her herself and her sisters, said that she needs more than three minutes to express her feelings on the Faria House as a museum. She requested the Council to place the Faria House on the next meeting.

Council Member Long said she asked that this be placed on a future agenda, but they needed to wait until they hear back from the State regarding the Long Range Property Management Plan and then agendize it for discussion.

Mayor Pro Tem Swearingen said it had not been designated as yet as a museum.

The Mayor promised Ms. Lucas that she would be granted additional time beyond three minutes when it was an agendized item.

7. CONSENT CALENDAR

Items 7D was tabled at the request of staff to allow the parties to continue negotiations on unresolved issues related to the reciprocal easement agreement. Council Member Long asked that the matter be scheduled on Old Business when it was brought back so it could be discussed.

ACTION: Motion by Council Members Long / Swearingen, the Council Approved the Consent Calendar With the Exception of Items 7D.

Before the vote, Mayor Pro Tem Swearingen raised a question on item 7C, asking where the DUI trailer would be located as he did not want it to take up parking places around City Hall.

Chief Neil Gang introduced Officer Rogers to address the question.

Officer Justin Rogers responded that the 26 ft. trailer would be temporarily stored in the City lot and then located to the corporation yard facility.

City Manager Espinosa said the trailer would be roving around the city wherever needed, and confirmed it would be stored at one of the facilities mentioned by Officer Rogers.

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

- A. Approved the Minutes of the Meeting of November 3, 2015
- B. Received the October 31, 2015 – November 13, 2015 Lists of Warrants and the November 6, 2015 Payroll in the Amount of \$ 319,550.90
- C. Adopted **Resolution 2015-107**, Accepted The California Office Of Traffic Safety (OTS) Grant In The Amount Of \$147,000, And Authorize The City Manager To Appropriate Funds For a Purchase Order With Universal Trailers In The Amount

Of \$31,140 For The Purchase Of A DUI Enforcement Trailer [**Council Report No. 2015-121; Action: Adopt Resolution Per Staff Recommendation (Gang/Rogers)**]

- D. Approve The First Amendment To A Reciprocal Easement Agreement (REA) And Declaration Of Covenants, Conditions And Restrictions Running With The Land On The Pinole Gateway East Project, Located On Pinole Valley Road, Between Henry Avenue And I-80 **TABLED AT THE REQUEST OF STAFF**

8. PUBLIC HEARINGS

9. OLD BUSINESS

There were no Public Hearings or Old Business items.

10. NEW BUSINESS

- A. Consider A Request From The Church Of Christ To Enter Into A Shared Parking Agreement With The City Of Pinole For Joint Use Of The Church Property Located At 692 Tennent Avenue [**Council Report No. 2015-123; Action: Provide Direction to Staff (De La Rosa)**]

Hector De La Rosa, Assistant City Manager entered Council Report 2015-123 into the record. Staff requested direction from Council regarding a request from Church of Christ to enter into an agreement to share use of their lot by the City to provide public parking. Mr. De La Rosa provided background information regarding the original forgivable loan for parking lot improvements in exchange for the City to use and maintain the lot for public parking. The agreement has expired and the Church wishes to continue the relationship for a fifteen year term. He summarized the terms, cited in the report and stated that the City's cost is estimated at \$9,806.85 over the fifteen years to cover resurfacing and restriping, monthly cleaning and light bulb replacement. Once direction is received Staff will return for final approval of any contract, if it is the direction of Council.

Council comments and discussion followed. Council Member Swearingen noted a correction on page 2 of the staff report, second to last paragraph.

Council Member Long asked the following questions:

- The number of parking stalls on the lot
- Who would perform the monthly cleaning?
- Provisions for annual proof of insurance coverage
- Confirmation that the church is paying the electric bill

Mr. De La Rosa said he would research the number of spaces. The City would pay a monthly fee of \$25 to the church for cleaning the lot. Mr. De La Rosa mentioned there were several options for payment over the term of the contract which were provided in the staff report

Council Member Long asked to have that term specified in the contract.

Mayor Murray said it would be the City's decision to participate in the shared access and that it is an asset for providing parking for the City ball field and theatre.

Council Member Long said if there were twenty stalls, it could also provide parking for Waste Water parking, especially during the construction, could be designated as such and a portion of the cost could be attributed to that use.

The Council asked which funding source was identified. Staff responded that either the General Fund unallocated reserves or the additional funds in Measure S 2014, which were designated for capital assets by the Council.

Council Member Long reminded the Council that WestCAT was looking for a parking for a direct Lynx to San Francisco and might be able to use that lot for those riders to park.

Mr. De La Rosa said there are about 19-20 available parking stalls for the public if the Council wished to move forward with this proposal.

Council Member Long supported bringing the contract for Council consideration and said that the contract should specify the amount for the cleaning, the inflation factor and an insurance clause.

There was a brief discussion among Council regarding paying upfront vs. payment over the term of the contract. Mr. De La Rosa said staff could bring back other options for payment over the term of the contract

ACTION: Motion By Council Members Swearingen/Banuelos, The Council Directed Staff To Draft An Agreement For Shared Parking At 692 Tennent For Council Review At A Future Meeting.

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

- B. Consider The Process To Fill The Vacancy On The City Council Through An Appointment Or Special Election [Council Report No. 2015-124; Action: Adopt Resolution to Fill Vacancy By Appointment (Reyes)]

Benjamin Reyes, City Attorney entered Council Report 2015-124 into the record, with a recommendation for adoption of a Council resolution to direct the City Clerk to solicit applications for City Council to replace the vacancy created by the death of Council Member Green. An alternative would be to call a special election to fill the vacancy. City Attorney Reyes provided analysis of the cost of each option and explained that if the Council chose the "appointment" alternative, the person would serve a term until the next Council municipal election in November 2016. This process was the result of new legislation approved in August 2015. Reyes also submitted the draft Council Vacancy application and timeline provided by the City Clerk which called for a Special City Council meeting to conduct interviews and Council's determination to fill the vacancy at the December 15, 2015 meeting. City Attorney Reyes recommended approval of an appointment, and was available for questions.

Council Member Long clarified that this seat would be a "short term" and in 2016, a person would have to declare their intent to run for this seat, and the elected citizen would serve until 2018.

Council discussion followed and they concurred that an appointment was the preferred method.

Council Member Banuelos stated preference for an appointment.

City Clerk Athenour said the application filing period would close on December 3, 2015 at 4:30 PM and asked the Council to select the date to conduct the Council interviews in a televised Special Meeting. The date of December 8, 2015 at 6 PM was selected.

ACTION: Motion by Council Members Long / Banelos, The Council Adopted Resolution 2015-106 To Fill the Vacancy on the City Council By Appointment.

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

Mayor Murray reopened the Citizens to Be Heard portion of the meeting.

Bob Kopp, Pinole citizen, congratulated the Council for selection of the new City Manager and said she was an excellent choice. He spoke of the group of citizens that for many years have condemned the Council and most especially City Manager Espinosa and asked them to do something positive for the community and hope that they allow the new City Manager to run the City effectively and stand behind those elected and appointed to the City.

Mayor Murray agreed and noted this was the last meeting where City Manager Espinosa would be sitting at the dais as the manager and took the opportunity to thank her for her good work. He said she did a tremendous job of running the city and he recognized all her hard work over the years and thanked her for a job well done.

Mayor Pro Tem Swearingen said it has been a pleasure working with her for nearly eight years and she always provided immediate answers, has endured the most difficult time the City has ever experienced and her leadership guided the City through to better times. He said she did more than was ever expected.

Council Member Banelos reminisced about their first meeting where she spent an entire morning with him and any times after that to assist him in his new role as a council member and then mayor. He told her to always be proud of her accomplishments.

Council Member Long said she never regretted the decision to hire Ms Espinosa and that she could not think of any of her decisions that she would have overturned. She believes they hired the best person for the position who has always been a solid team player. She said the contractors working on the Project Labor Agreement sung her praises after working with her. Council Member Long thanked her for being accountable and always doing the right thing.

11. REPORTS & COMMUNICATIONS

A. Mayor Report

1. Announcements made by Mayor Pro Tem Swearingen
 - a. Senior Center Crab on January 9th at 5 PM
 - b. Winterfest & Holiday Tree Lighting – Saturday, December 5th

B. Mayoral & Council Appointments

Ms. Athenour reported that the terms of Committee Member Ojeda and Tave expire at the end of the month, and that she had reached out to see if they wished to be reappointed. Currently only four positions are filled and there has been an advertised vacancy since March. The committee meets on an "as needed basis" and the Development Services Director has indicated need to conduct a meeting in January. She said she would agendize their reappointment at the next meeting, if she receives confirmation from them.

C. City Council Committee Reports

Council Member Long reported attending the WCCUSD meeting and that they voted 4-1 vote to put the Pinole Valley High School construction bid out for 30 months instead of 36 months. She said if the construction takes 36 months, the opening would be in 2019.

Ms. Espinosa said the School District had prequalified the bidders and were planning to bid the job with both a thirty month and a thirty-six month timeline, and also to award all the on-site and off-site work to one contractor. Staff recently had a discussion with the District staff regarding the off-site improvements. She said Council Member Long was correct with the thirty month construction timeline, and they may be asking for dispensation for working hours.

Mayor Pro Tem Swearingen said to maintain a thirty month schedule, on a 30 month schedule, if they want another 6 months to finish the gym, there are things that can be phased as he stated last time.

D. Council Requests For Future Agenda Items

1. Faria House (2016 calendar)
2. Policy for Recognition Plaques (2016 calendar)

Council Member Long requested agendizing a discussion specific to the Skate Park request at the December 1 meeting to address the questions raised this evening, and move to a detailed discussion regarding policies after the first of the year.

3. Janitorial needs at the Senior Center – Request for a full time janitor at the Senior Center; concern regarding health department issues (Swearingen) Murray said to add the Youth Center kitchen into the discussion and also discuss rules about how to and who is using the kitchens.
4. Report on the Pinole Creek related to potential for flooding and notification to adjacent property owners about responsibilities for creek maintenance (Long)
5. Contact Comcast (Public Affairs liaison) to see if they are upgrading our lines & delivering the service for which we are charged (Long)
6. Asked if a member voting in the affirmative for the PACE Program would consider motion for reconsideration. She advised of a phone call received from Energy Solutions advertising solar installations (Long)

ACTION: Motion By Council Members Swearingen, Seconded By Council Member Banuelos To Move For Reconsideration Of The Action At The November 3, 2015 Meeting To Adopt Resolution 2015-104, Authorizing The City To Participate In CSCDA Open PACE, Which Will Enable Property Owners To Finance Permanently Fixed Renewable Energy, Energy Efficiency, Water Efficiency And Seismic Strengthening Improvements As Well As Electric Vehicle Charging Infrastructure; And Resolution 2015-105,

Authorizing The City To Become A Member Of The Western Riverside Council Of Governments Joint Powers Authority (WRCOG) And Participate In The California HERO Program, Subject To The Execution Of An Agreement For The California HERO Program To Indemnify The City

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

E. City Manager Report / Department Staff

Al Petrie, Interim City Manager, provided a report to Council on the San Pablo Avenue Paving, Appian to Sunnyview. He said staff observed that the contractor followed procedures. There was good compaction, 2.5 inches thickness, but there was a problem with the lapping of the asphalt. A torching method was selected that did not work correctly. The ride for vehicles is adequate, but staff takes objection to the appearance and have stopped payment, placing the contractor on notice to resolve the appearance of the asphalt. Petrie advised the Council that it would mean they must apply a seal coat or better on the surface which will also cause the road to be restriped.

Council Member Long said she noticed the excellent paving on Hwy 4, and described what appeared to be eight to ten inches in the middle of the lanes that were paved last, leaving no seams. She asked if this was this was the federally funded contract and Mr. Petrie said it was not, and that was has a better appearance.

Council Member Long said if it becomes necessary to have a third party consultant review the matter, she asked that both contracts be reviewed.

Mayor Murray said he noticed continuous voids in sections of pavement

A question was raised by Council Member Banuelos whether this could be resolved given the impending weather. Petrie responded that seal coating could be done year round.

Council Member Long suggested staff take a video to document the record now, before any weather conditions occur that may impact the pavement.

On a separate subject, Council Member Long raised the issue of the schools approaching the City to use our facilities and believe they should utilize their facilities or pay to use ours, and that the District should work with the needs of the schools.

Mayor Murray said to investigate how similar situations were handled in our WCCUSD cities when the circumstance arose there.

Ms. Espinosa said that staff was preparing a Facility Use Policy for their review.

Discussion continued about the WCCUSD with reference to influencing the Board in support of phasing the Pinole Valley High Construction project, as mentioned earlier by Mayor Pro Tem Swearingen.

Mayor Murray provided an update on the recent West Contra Costa Integrated Waste Management Authority meeting. The board met and discussed setting guidelines for agenda setting and development of the board reports.

City Manager Espinosa thanked the Council for their support, said she felt she and the Council worked together successfully for the good of the City, and spoke with appreciation of her employees and team members. She looks forward to retirement and said that Ms. Fitzer will be seated in the City Manager chair at the next Council meeting.

F. City Attorney Report

The City Attorney had no report.

12. ADJOURNMENT to the Regular

At 8:01 p.m., Mayor Murray adjourned the meeting to the Regular City Council Meeting of December 1, 2015, In Remembrance of Amber Swartz.

Submitted by:

Patricia Athenour, MMC
City Clerk

APPROVED BY CITY COUNCIL: