

**PINOLE CITY COUNCIL
MINUTES
APRIL 5, 2016**

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 Pro Tem Long called the meeting to order at 6:00 PM and Council Member Toms led the Pledge of Allegiance.

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

A. COUNCIL MEMBERS PRESENT

Mayor Pro Tem Debbie Long
Council Member Tim Banuelos
Council Member Peter Murray
Council Member Maureen Toms

COUNCIL MEMBERS NOT PRESENT

Mayor Roy Swearingen, Absent / Excused

The voting record reflects his absence.

B. STAFF PRESENT

Michelle Fitzer, City Manager
Benjamin T. Reyes, City Attorney
Hector De La Rosa, Assistant City Manager
Tamara Miller, Development Services Director
Neil Gang, Police Chief
Patricia Athenour, City Clerk

City Clerk Athenour announced the agenda was posted on Thursday, March 31, 2016 at 4:00 P.M. 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 announced the following documents were presented subsequent to the publication of the agenda and provided at the dais for the Council and copies at the rear of the Chamber for the public.

- Item 8B – WCCUSD PowerPoint Exhibit

City Clerk Athenour also reported that City Attorney Reyes had advised that an emergency item rose subsequent to the posting of the agenda related to a construction matter involving a gas line rupture at City Hall and recommended adding the matter to the agenda this evening. It required a unanimous vote of the Council to add the item.

City Attorney explained that item would be added under urgency status of Brown Act. Added as Item 10C. In order to add it to the agenda as an urgency item, it must have occurred subsequent to the posting and it would require a 4/5's vote in support, or in this case a unanimous vote of Council to add the item to the agenda.

ACTION: Motion by Council Members Toms/Murray, the Council Added the Matter to the Agenda As An Urgency Item 10C – New Business.

Vote: Passed: 4-0-1
Ayes: Banuelos, Long, Murray, Toms
Noes: None
Abstain: None
Absent: Swearingen

3. CONVENE TO A CLOSED SESSION

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

There were no Closed Sessions Matters.

5. RECOGNITIONS / PRESENTATIONS / COMMUNITY EVENTS

- A. Proclamations
 - 1. Presented to Patricia Athenour

- B. Presentations / Recognitions
 - 1. Pinole Valley High School Project Update

Lisa Le Blanc, Associate Superintendent and **Luis Freese** addressed Council with an update on the Pinole Valley High School Construction Project Bid and the impacts to the Pinole Valley high construction project. The power point project handout from the April 4, 2016 Facilities Subcommittee Special Meeting was entered into the record and included a detailed summary of the project history culminating at the construction bid that came in over budget at \$129,894,002. Mr. Freese provided a full budget history on the project to date and new alternatives for consideration to construct the new campus. The bid would be presented to the West Contra Costa Unified School District Board for award on April 13. The following alternatives were presented and discussed by Le Blanc and Freese.

- Option A – Award as bid and increase the project budget \$32,300,000;
- Option B – Redesign the project to 1,200 student capacity and within existing budget; or
- Option C – Proceed with parts of scope and redesign remaining buildings.

Council questions and comments followed.

Council Member Toms asked how Option B would be handled. She discussed comments made at the April 4th meeting, stating that Pinole residents were not being greedy when they ask for equity for their high school. She asked District staff to explain the cause of the project escalation that occurred since the time of El Cerrito High construction to now. She talked about the increased cost due to delays and higher costs for a reduced footprint and amenities.

Council Member Murray added that El Cerrito was designed, and there were add-ons to the project and would like to see that information passed on as well. He asked who approved those

actions and how they affected the schools that followed. He referred to one of the WCCUSD Board Members referring to Pinole citizens as greedy and the school as Pine Valley. Council member Murray said there had never been enough money and has never been a plan that every school would have equal funds. He said the actions were egregiously unprofessional.

Council Member Banuelos shared Council Member Murray's concerns. He asked how the contract term was established, and how long the addendums were going to take.

District staff said they would have a better estimate of a timeline at a meeting later this week.

Council Member Murray raised questions about the cost due to a twelve to twenty-four month delay with potential escalations and architectural redesign, stating that it seemed it would be a significant increase.

Mr. Freese referred to the handout which provided a \$10 million estimate, including labor costs.

Council Member Toms emphasized they were considering spending ten million to save thirty-two million and not receiving ten million in capital improvements. These are soft costs and will not provide physical improvements.

Mayor Pro Tem Long prefaced that her comments were not directed to the School District staff, Le Blanc and Freese. Regarding Option C, she said the School Board already approved the project and now it came in over bid. Mayor Pro Tem Long asked who made decision to come up with other options; when were they made and by whom?

District staff responded stated the plan was to use value engineering and decrease the size of the classrooms. These were options the District presented to the Board for their consideration.

Mayor Pro Tem Long said she understood the staff recommendation was Option A and asked if staff was directed by other individuals to come up with other Options B and C specifically or were you directed to bring other options.

Ms. Le Blanc said it was a staff recommendation and staff forwarded other options for Board consideration.

Mayor Pro Tem Long asked where the other overage come from before the project was bid.

Ms. LeBlanc said after the plans were drawn, they used an estimator on the plan and established that they had \$104 Million to work with. She said there was an awareness that the bids would be higher than the estimate, and estimates were provided to the Facilities Subcommittee.

Mayor Long asked if the community has any questions to the District staff's presentation.

Bob Kopp Pinole citizen said he believed Option B should be selected. The City does not have 1,600 students in Pinole; if reduction in size can save thirty to forty million, he favored that option.

Council Member Toms said Option B would require temporary housing for eight to nine years without a gym, auditorium or a theatre. She said there would be additional costs soft costs (design) which would not go toward the construction of school facilities.

There were earlier references to a Board Member speaking badly of Pinole, and it was mentioned on the record, that Board member was Liz Block.

Mayor Pro Tem Long explained to Mr. Kopp why Option B was not a preferred selection, based partially on the use of the portables. She reported that Pinole Valley High is at the bottom ratings of all District schools relative to the number of college-bound students. She verbalized the comments and actions made by Board Member Liz Block at the meeting, degrading Pinole, calling citizens greedy, not referring correctly to the school's name and misrepresenting when she came to the Council in August and said she was supporting the construction, when she really knew there was not enough money. The District needs to uphold that they tore down Pinole Valley High and now they need to rebuild it. Liz Block needs to change her attitude about Pinole. The Board meeting is scheduled on April 13th at LaVonya DeJean Middle School in Richmond at 6:30 pm, and Mayor Pro Tem Long urged citizens to attend and voice their concerns to the Board.

Council Member Toms suggested placing the Board Member email addresses in the City Managers Weekly Report and also attach the handout presented and referenced this evening.

6. CITIZENS TO BE HEARD (Public Comments)

The following speakers addressed City Council:

Bob Kopp, Pinole citizen, addressed Council regarding the Memorial dinner honoring former Development Services Director Dean Allison. He also reported May 21st will be the annual Community Service Day, and encouraged volunteer signups.

Jackie Bucholz, Pinole citizen, addressed Council regarding meeting protocol regarding an action taken in January 2016 at the TAPS – Traffic and Pedestrian Safety Committee, which now has been noticed for new consideration because a neighbor who did not attend objected to the outcome.

Abel Pineda, representing, Assembly Member Tony Thurmond presented a Certificate of Recognition to City Clerk Patricia Athenour, thanking her for her service to Pinole.

Ivette Ricco, Pinole citizen, Pinole High School Subcommittee Chair, and CBOC member, addressed Council about the Pinole Valley High School budget and the Master Plan. She said the project estimates are using today's dollars and in order to continue with all school replacements, the estimate totals over one billion dollars. She said Pinole Valley High School was in jeopardy of not being completed in 2019, and encouraged the community to attend the Board meeting on April 13th.

7. CONSENT CALENDAR

ACTION: Motion by Council Members Murray / Banuelos, the Council Approved the Consent Calendar As Presented.

| | | |
|--------------|-----------------|-------------------------------------|
| Vote: | Passed: | 4-0-1 |
| | Ayes: | Banuelos, Long, Murray, Toms |
| | Noes: | None |
| | Abstain: | None |
| | Absent: | Swearingen |

A. Approved the Minutes of the Meetings of March 1, 14, 15, and 29, 2016

- B. Received the March 12, 2016 – April 1, 2016 List of Warrants and the March 25, 2016 Payroll in the Amount of \$329,043.01.
- C. Adopted **Resolution 2016-24**, Authorized the City Manager To Execute An Agreement with the YMCA To Operate the Pinole Swim Center for the 2016 Season [Council Report No. 2016-40; Action: Adopt Resolution Per Staff Recommendation (De La Rosa)]
- D. Adopted **Resolution 2016-25**, Approve and Declare Information Systems Equipment As Surplus Property [Council Report No. 2016-41; Action: Adopt Resolution Per Staff Recommendation (Janke)]
- E. Adopted **Resolution 2016-26**, Approved FY 2016/17 Storm Water Utility Assessments For Drainage Maintenance For The National Pollutant Discharge Elimination System (NPDES) Program [Council Report No. 2016-42; Action: Adopt Resolution Per Staff Recommendation (T. Miller)].

8. PUBLIC HEARINGS

9. OLD BUSINESS

- A. Receive Report on Procedures for Maintenance of the Murals Located on Private Property [Council Report No. 2016-43; Action: Receive Report and Provide Direction (De La Rosa)]

Hector De La Rosa, Assistant City Manager, presented Council Report 2016-43 into the record, stating that the report was requested by Council. The concern was due to a property owner considering painting over the murals, which provide beatification and a historical perspective of Pinole. Staff contacted a muralist to evaluate the condition of the murals. He described the remedial work needed, which is “touch up” to some of the murals, followed by a graffiti sealant as a protector, estimated to cost \$10,000 to touch up and maintain the murals. De La Rosa said the mural located at San Pablo and Oak could not be maintained as the wall was not initially prepared correctly. Staff recommended removing the mural, and was seeking authorization for \$10,000 to maintain the murals. Another option would be a soft power washing and a seal coating, which would cost approximately \$6,000.

Council Member Banuelos asked how long the touch up and sealant would last. Mr De La Rosa responded it would be three to five years.

Council Member Murray clarified that the \$10,000 would be for the two muralist touchups and the Pinole Artisans to refresh all murals, except the one recommended for deletion at Oak and San Pablo Avenue. Council Member Murray recommended considering this request with the 2016/17 budget.

Council Member Toms agreed that it was a worthwhile expenditure but there was no way to fund it now, and agreed it should be included in the next budget.

Mayor Pro Tem Long also supported maintaining the murals. She said some murals are on private property and advised staff to contact the property owners and develop a mural agreement to obtain owners agreement to preserve the murals and the City would provide the maintenance.

There was a brief dialogue whether expending public funds on private property was acceptable. City Attorney Reyes responded that it would be an appropriate expenditure if Council deemed it an acceptable use.

Ms. Fitzer said she believed there were available Measure S 2014 funds in this fiscal year or the project could be held over to be considered in the budget.

Jeff Rubin, President Pinole Historical Society, expressed gratitude to the City for addressing the retention of the murals, stating that it would be a loss if a renter or property owner was allowed to paint over part of the City's history, but was not sure the action discussed was strong enough and asked whether there was support for an ordinance to preserve Pinole history.

Ira Milken, Pinole Artisans, said the Artisans were happy to support the City to insure the murals are preserved. He agreed the mural under I-80 requires the most work due to vehicular traffic.

Council discussion followed.

Council Member Murray supported preservation of the murals and determining where funds may be available.

Council Member Toms advised that exterior painting of a commercial building requires Design Review approval and recommended advising the property owners.

Council Member Banuelos asked if there would be a consequence if a property owner painted over a mural, and Mayor Pro Tem Long asked if an ordinance could be adopted that would be binding on property owners.

City Attorney Reyes said it was possible and has been done by other cities. He noted that there was insufficient budget this fiscal year for major code amendments, but his office was planning a comprehensive Code update in 2016/17, and if the Council directed staff to prioritize this issue, an ordinance could be drafted for consideration.

No formal action was taken, but Mayor Pro Tem Long confirmed that funds should be identified in the 2016/17 budget for mural preservation and development of an ordinance.

- B. Rescind Resolution 2016-23, And Authorize City Manager To Award A Construction Contract For The Pinole-Hercules Water Pollution Control Plant Upgrade Project To Kiewit Infrastructure West Co. In An Amount Not To Exceed \$43,143,000 And Authorize A 7% Contingency In The Amount Of \$3,020,010 [Council Report No. 2016-44; Action: Adopt Resolution Per Staff Recommendation (Fitzer / T. Miller)]

Tamara Miller, Development Services Director, presented Council Report 2016-44 into the record. Ms. Miller advised Council of the communications since meeting two weeks ago, has had communications with the State. She said the loan documents would not be ready by April 8th when the bids expire and need to consider alternative plans. The staff recommendation was to award the contract to Kiewit, as the risk of awarding the contract was minimal compared with not awarding it. The recommendation was to rescind Resolution 2016-23 and adopt the draft resolution presented this evening to award the construction contract for the Water Pollution Contract Plan Upgrade Project.

ACTION: Motion by Council Members Toms/ Banuelos, the Council Rescinded Resolution 2016-23 And Adopted Resolution 2016-30, Authorized City Manager To Award A Construction Contract For The Pinole-Hercules Water Pollution Control Plant Upgrade Project To Kiewit Infrastructure West Co. In An Amount Not To Exceed \$43,143,000 And Authorize A 7% Contingency In The Amount Of \$3,020,010.

**Vote: Passed: 4-0-1
 Ayes: Banuelos, Long, Murray, Toms
 Noes: None
 Abstain: None
 Absent: Swearingen**

10. NEW BUSINESS

- A. Authorize the Execution Of Multiple Contracts For The Refunding Of The 2006 Wastewater Revenue Bonds Series 2006
1. Authorize the City Manager to Enter Into A Contract with Stifel, Nicolaus & Company Inc. to Serve as Underwriter for the Refunding of the 2006 Wastewater Revenue Bonds Series 2006."
 2. Authorize The City Manager And Executive Director To Enter Into A Contract With NHA Advisors To Serve As Financial Advisors For The Refunding Of The 2006 Wastewater Revenue Bonds Series[Council Report No. 2016-45; Action: Adopt 2 Resolutions Per Staff Recommendation (De La Rosa)]

Hector De La Rosa, Assistant City Manager, presented Council Report 2016-45 into the record, recommending the execution of contracts with the bond team to prepare the refunding of the 2006 Wastewater Revenue Bonds. Representatives from both entities were in the Council Chamber and available for questions.

Mayor Pro Tem Long asked why other bonds were not being refunded. Staff explained that bonds are required to be held for at least ten years prior to a refinancing.

ACTION: Motion by Council Members Murray / Toms, the Council Adopted Resolution 2016 - 27, Authorize the City Manager to Enter Into A Contract with Stifel, Nicolaus & Company Inc. to Serve as Underwriter for the Refunding of the 2006 Wastewater Revenue Bonds Series 2006.

**Vote: Passed: 4-0-1
 Ayes: Banuelos, Long, Murray, Toms
 Noes: None
 Abstain: None
 Absent: Swearingen**

ACTION: Motion by Council Members Murray / Toms, the Council Adopted Resolution 2016 - 28, Authorize The City Manager And Executive Director To Enter Into A Contract With NHA Advisors To Serve As Financial Advisors For The Refunding Of The 2006 Wastewater Revenue Bonds Series 2006.

Vote: Passed: 4-0-1
Ayes: Banuelos, Long, Murray, Toms
Noes: None
Abstain: None
Absent: Swearingen

- B. Direct Staff To Initiate The Process Of Issuing Wastewater Revenue Refunding Bonds In The Aggregate Principal Amount Of Approximately \$8,500,000 [Council Report No. 2016-46; Action: Adopt Resolution Per Staff Recommendation (De La Rosa)]

Hector De La Rosa, Assistant City Manager, presented Council Report 2016-46 into the record, recommending initiation of the process of issuing a refunding of the 2006 Wastewater Revenue Bonds, Series 2006. The current interest rate is approximately 3.15%, with a twenty year repayment period. Staff sought direction from Council to proceed with the refunding process. The close is anticipated in approximately ninety days. De La Rosa said if there was interest to consider a thirty-year vs. a twenty-year term, it could be brought for Council consideration in June, and he discussed how it would affect the State Revolving Loan.

Mayor Pro Tem Long suggested considering that if there was an opportunity to also fund the collection system.

Ralph Holmes, Stifel, Nicolaus & Company, Inc. said the difference would be an annual payment of \$30,000 to \$40,000.

Mayor Pro Tem Long said there was interest to bring more detail for consideration of a longer term at a future meeting.

ACTION: Motion by Council Members Banuelos / Murray, the Council Adopted Resolution 2016-29, Directed Staff To Initiate The Process Of Issuing Wastewater Revenue Refunding Bonds In The Aggregate Principal Amount Of Approximately \$8,500,000.

Vote: Passed: 4-0-1
Ayes: Banuelos, Long, Murray, Toms
Noes: None
Abstain: None
Absent: Swearingen

- 10C. Consider Emergency Gas Utility Repair for City hall and Administration Building [Council Report 2016-48; Action: Approve Per Staff Recommendation (T. Miller)]

Tamara Miller, Development Services Director, presented Council Report 2016-48, added as an urgency item. She explained the urgent need to repair the gas service, due to a gas leak. The gas had been shut off and the building was without heat or hot water.

Two bids were received. The lowest cost to repair the gas lateral was \$18,635. Staff sought approval to move forward with the repair.

City Attorney Reyes advised that the item had been properly added to the agenda, and the Council could act this evening. Staff would bring a resolution to ratify the action at the April 19, 2016 meeting.

Council Murray directed staff to confirm that the licenses and insurances are in order and it full compliance with the State Licensing and Industrial Relations Board.

Council Member Banuelos sought more detail on the repairs. Development Services Director Miller responded with the timing and the method for completion of the concrete repairs, to occur at a later date. The concrete repairs were not included in this bid.

City Attorney Reyes stated that this action required a unanimous vote to carry.

ACTION: Motion by Council Members Banuelos / Toms, the Council Directed Staff, By Minute Order, To Initiate The Gas Line Repair to City Hall.

| | | |
|--------------|-----------------|-------------------------------------|
| Vote: | Passed: | 4-0-1 |
| | Ayes: | Banuelos, Long, Murray, Toms |
| | Noes: | None |
| | Abstain: | None |
| | Absent: | Swearingen |

11. REPORTS & COMMUNICATIONS

A. Mayor Report

1. Announcement by Mayor Pro Tem Long
 - a. Parkview Plaza have been experiencing park users requesting use of their restrooms, as well as parking issues and requested staff to report whether there was adequate parking at the City lots and adequate directional signage

B. Mayoral & Council Appointments

1. Process For Interviews For The Planning Commission and Contra Costa County Advisory Council on Aging Candidates
[Council Report No. 2016-47; Action: Provide Direction (Athenour)]

Patricia Athenour, City Clerk, presented Council Report 2016-47 into the record. She advised Council that the vacancy was posted, advertised and closed on March 24, 2016. Written addendums were received both from applications, Eric Carlson and Ruskin Hartley that their applications were still current and they wished to be considered for this recruitment. No other applications were received.

The Council determined due to the recent interviews with the two candidates, a second interview was unnecessary. The Council directed the Interview Subcommittee to meet with the two incumbents seeking reappointment to received input on their experiences over the past year. The Subcommittee, comprised of Council Member Toms and Banuelos, set April 18th at 6 PM to meet with Commissioners Brooks and Tave. City Clerk Athenour confirmed she would make the necessary outreach to schedule those appointments.

Ms. Athenour also reported receipt of an application for the Contra Costa Advisory Council on Aging. The application had been previously submitted to the Council. The Council indicated interest in making that recommendation to the Board of Supervisors at the April 19th meeting.

Planning Commission appointments and the recommendation for appointment of a Pinole representative to the Contra Costa Advisory Council on Aging was to be agendaized at the April 19th City Council meeting.

C. City Council Committee Reports & Communications

Council Member Murray provided an update on the West Contra Costa Integrated Management Authority meeting, where the board discussed changes to the language regarding withdrawing from the Authority, changing the voting membership procedure, and whether to allow the County as a voting member.

Council Member Banuelos had no report.

Mayor Pro Tem Long reported, as part of an Adhoc Subcommittee, she met with Contra Costa Consolidated Fire Chief and Deputy Chief. A full presentation will be made to Council at the April 19th Council meeting.

Council Member Toms reported that she planning to register for the ABAG General Assembly Meeting and would be working with the City Clerk or City Manager on registration.

D. Council Requests For Future Agenda Items

1. Update on the Senior Center Roof in the Weekly Report
2. Policy on Board / Committee protocol as raised by Ms. Bucholz under Citizens To Be Heard. (Long)

Mayor Pro Tem Long suggested adopting policy for the TAPS, committee based on the occurrence described by the speaker.

City Attorney Reyes advised against establishment of strict procedures for this advisory committee in order to allow for flexibility and free flow of discussion. He said his office had drafted the Bylaws for this body, and did not recommend adoption of formal rules as a free flowing process is necessary for this type of committee, and this committee is advisory only, making recommendations to Council.

E. City Manager Report / Department Staff

City Manager Fitzer asked the Council to consider formation of an Ad hoc Subcommittee to discuss Dispatch services.

Mayor Pro Tem Long volunteered to participate and suggested Mayor Swearingen as the second member. The Council directed staff to place the matter on the April 19th meeting under Council Appointments to appoint two members.

F. City Attorney Report

City Attorney Reyes recognized City Clerk Athenour for her service as the first appointed City the Clerk.

The Council also thanked Ms. Athenour and recognized her accomplishments to the City. This was her last official Council meeting; although her last day in the office would be April 12, 2016.

12. ADJOURNMENT

At 9:05 PM, Mayor Pro Tem Long adjourned the Regular City Council meeting to the Regular City Council Meeting of April 19, 2016.

Submitted by:

Patricia Athenour, MMC
City Clerk

APPROVED BY CITY COUNCIL: