

**PINOLE CITY COUNCIL  
MINUTES  
August 16, 2016**

**1. CALL TO ORDER & PLEDGE OF ALLEGIANCE**

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 6:05 PM and Councilmember Murray led the Pledge of Allegiance.

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

*An official who has a conflict must, prior to consideration of the decision: (1) publicly identify in detail the financial interest that causes the conflict; (2) recuse himself /herself from discussing and voting on the matter; and (3) leave the room until after the decision has been made, Cal. Gov't Code § 87105.*

A. COUNCIL MEMBERS PRESENT

Mayor Roy Swearingen (**Excused Absent**)  
Mayor Pro Tem Debbie Long  
Council Member Tim Banuelos (**Arrived at 7:00 pm**)  
Council Member Peter Murray  
Council Member Maureen Toms

B. STAFF PRESENT

Michelle Fitzer, City Manager  
Hector De La Rosa, Assistant City Manager  
Ben Reyes, City Attorney  
Steve Akre, Acting Fire Chief  
Tamara Miller, Development Services Director/City Engineer  
Andrea Miller, Finance Director

Assistant City Manager/Deputy City Clerk De La Rosa announced the Agenda was posted on August 11, 2016 at 4:00 P.M. All legally required notices were provided. The Council stating there were no conflicts with any items on the agenda.

At 6:07 pm, Mayor Pro Tem Long accepted comments from the public.

**Scott Lee**, informed the City Council he was the developer of the Eye Surgery Center on Henry Street. He requested that the City Council consider his request to buy the property.

**3. CONVENE TO A CLOSED SESSION**

At 6:10 p.m., Mayor Pro Tem Long convened the Noticed Closed Session to discuss the following item(s).

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

- B. **CONFERENCE WITH REAL PROPERTY NEGOTIATOR** - Gov. Code §54956.8  
Property Locations: 2279 Park Street/APN: 401-142-010 & 1289 Pinole Valley Road/401-211-033  
City Negotiator: Michelle Fitzer, City Manager & Hector De La Rosa, Assistant City Manager  
Negotiating Parties: Dale Moore and Jim Rilley & Scott Lee  
Under Negotiation: Price & Terms
- C. **CONFERENCE WITH LABOR NEGOTIATOR** - Pursuant to GC §54597.6  
City Labor Negotiators: Michelle Fitzer, City Manager  
Employee Organizations: Fire Local 1230

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

At 7:15 p.m., Mayor Pro Tem Long reconvened the meeting in open session and announced there were NO REPORTABLE ACTIONS.

#### 5. **RECOGNITIONS / PRESENTATIONS / COMMUNITY EVENTS**

- A. Proclamations
- B. Presentations / Recognitions
  - a. Pinole Valley High School Project Status Update –

Luis Freese, WCCUSD District Engineering Officer, introduced Marsha Perry, Taras Roebbelen Construction Management, who provided the City Council with an update on the Pinole Valley High School construction project.

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

The following speaker addressed the City Council:

**Ayana Young**, stated that she is a candidate seeking a seat on the West Contra Costa Unified School Board and would appreciate the City's endorsement. She asked that for Council's consideration to place the matter on the next agenda for action.

**Kent Moriarty**, stated that at the July 19<sup>th</sup> City Council meeting the Council expressed concerns about sharrows which he would like to address. Mr. Moriarty provided examples of the benefits of sharrows and stated that the City's General Plan and Specific Plan specifically call for sharrows. He requested reconsideration of sharrows.

**Bob Kopp**, mentioned Coastal Cleanup is set for Sept. 17<sup>th</sup>, Dumpster Day is Sept. 24<sup>th</sup> and that the net proceeds (\$1,800) from a recent fundraiser would be used to purchase equipment for PCTV.

**Laurelle Martin**, President of the Pinole Youth Foundation, stated that the foundation supports the youth center through fundraising contributions. She stated that it is critical to hire Recreation Leaders to support the program and that the hourly rate is too low. She asked that the Council reevaluate the Reorganization Plan.

**Gary Miner**, expressed concern that the City only has two class B drivers in the Recreation Department to transport the afterschool registrants. He stated that class B drivers are currently making \$19 hour and questioned why they would work for the City for \$12.86 an hour.

**Maureen Powers**, member of the Pinole Youth Foundation, expressed concern that the City Council may not recognize the importance that the Pinole Youth Center plays in the community. She stated that currently there are 3-4 Recreation Leader who can only serve 28 registrants which is down from 80 and the Coordinator said that they have filled all the spots.

## 7. CONSENT CALENDAR

The following items were removed for discussion:

Councilmember Toms requested Item 7A be pulled by for clarification. Councilmember Toms requested that the minutes for July 19, 2016 item 10B reflect the following language "These issues should be reviewed by staff once specific projects are proposed".

**ACTION: Motion by Council Members Toms/Banuelos the Council Approved the Consent Calendar Items 7A-H with the amendments to item 7A.**

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

- A. Approve the Minutes of the Regular and Special Meeting of July 19, 2016.
- B. Receive the July 16, 2016 – August 12, 2016 Lists of Warrants and the July 29, 2016 and August 12, 2016 Payrolls in the Amount of \$309,661.13 and \$326,585.62 respectively.
- C. Approve the Response Letter to Grand Jury Report 1605, Caring for the Victims **[Action: Approve by Minute Order (N. Gang)]**
- D. Approve an Amendment to the Employment Agreement with the City Manager to provide a Three Percent Merit Based Salary Adjustment **[Action: Approve Resolution Per Staff Recommendation (M. Fitzer)]**
- E. Receive the 4<sup>th</sup> Quarter Investment Report ending June 30, 2016 **[Action: Receive Report (A. Miller)]**
- F. Authorizing the City Manager to Execute an Amendment to the Standard Contract with Contra Costa County Emergency Medical Services Agency for the Pinole Fire Department to Provide EMS Services from July 1, 2016 to June 30, 2019 for Receipt of \$49,437.00 Annually **[Action: Approve Resolution Per Staff Recommendation (S. Akre)]**
- G. Approve an Amendment to the Consulting Services Contract with Robert Half Technology for Interim Informational Technology Services in the amount of \$162,656 **[Action: Approve Resolution Per Staff Recommendation (H. De La Rosa)]**
- H. Approving the Memorandum of Understanding (MOU) with Contra Costa County and Participating Cities Regarding a Technical Study to Evaluate Alternatives for Potentially Implementing Community Choice Energy Within the Jurisdictions Included in the Study, and Authorizing the City Manager to Execute Said MOU **[Action: Approve Resolution Per Staff Recommendation (M. Fitzer)]**

## 8. PUBLIC HEARINGS

- A. Conduct the Utility User Tax Annual Review and Set the Exemption Rates for Fiscal Year 2016/2017 **[Action: Conduct Public Hearing & Adopt Resolution Per Staff Recommendation (A. Miller)]**

Finance Director Andrea Miller presented the report providing a review of the FY 2015-16 Utility Users Tax (UUT) collected and requesting approval of the Utility Users Tax exemption limits for FY 2016-17.

At 8:12 p.m., Mayor Pro Tem Long opened the Public Hearing. Having no speakers the Mayor Pro Tem Long closed the Public Hearing at 8:13 pm.

**ACTION: Motion by Council Members Murray/Toms, approving Resolution No. 2016-XX.**

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

## 9. OLD BUSINESS

- A. Verbal Discussion and Direction on Con-Fire Administrative Service Draft Contract **[Action: Receive and provide Staff with Direction (M. Fitzer)]**

City Manager Fitzer presented an update of the Administrative Working Groups negotiation. She stated that the group has completed a final Scope of services outlining the services to be provided by Con-Fire as part of the overall Fire Chief Services contract. Fitzer mentioned that the scope of services reflects the City's interest and the added services which can be provided to the City, at a cost.

City Manger Fitzer introduced Deputy Chief Lewis Brochard who spoke to the services the City would receive under the agreement.

- B. Pinole Creek Enhancements Associated With The Gateway Project **[Action: Receive and provide Staff with Direction (T. Miller)]**

Community Development Director/City Engineer Tamara Miller presented the report citing concerns raised by the Contra Costa County Flood Control District on the required improvements (Trees) proposed by the City along the Creek area.

Staff stated that Thomas Gateway has expressed concerns that delaying any permits until such time as they complete the Army Corp permitting process may have a negative impact of their project. Staff noted options for the City Council to consider including continuing to require Thomas to make the enhancements or proposing payment of a mitigation fee in lieu of constructing the Creek enhancements.

Councilmembers expressed concerns with eliminating the need for placement of the creek enhancements, having the Developer pay mitigation fees, and/or the City taking on the responsibility of installing the enhancements to the creek and maintaining the enhancements.

Councilmember Long stated if the enhancements proposed at the Creek may not be installed, the City should reevaluate the fencing to be more appropriate as an example we should look at the style of fencing installed on the Bay Trail Overpass.

**At 8:15 pm, Councilmember Pete Murray excused himself and left the dais for the evening.**

At 8:15 p.m., Mayor Pro Tem Long allowed public comment.

**Maura Sullivan**, Friends of Pinole Creek agreed that the City should not hold up the development project due to Army Corp of Engineers and if the City accepts funds as mitigation from Developer for the creek improvements, the money should be dedication and used at the Creek.

**Ann Moriarty**, expressed her support of the City Councils decision and if mitigation fees are paid in lieu of the Creek improvements, the money should not be used on fencing

**Carol Thompson**, supports prior comments from speakers. Mentioned fencing is black tubular and was okay with proposed creek improvements but may need to be reevaluated. Stated Bay Trail fencing was black but planning commission requested it be greenish or bluish to blend in with scenery.

Mayor Pro Tem Long closed the public comment at 8:23 pm.

Councilmembers expressed concerns with eliminating the need for placement of the creek enhancements, having the Developer pay mitigation fees, and/or the City taking on the responsibility of installing the enhancements to the creek and maintaining the enhancements.

**ACTION: Motion by Council Members Toms/Banuelos, to change Condition of Approval 2015-22 #28G for the Gateway Project to require Developer to continue to put in the Enhancements to the Creek area but defer the timeframe to install the improvements until the issuance of the Certificate of Occupancy for the proposed medical facility.**

<b>Vote:</b>	<b>Passed:</b>	<b>3-0</b>
	<b>Ayes:</b>	<b>Banuelos, Long, Toms</b>
	<b>Noes:</b>	<b>None</b>
	<b>Abstain:</b>	<b>None</b>
	<b>Absent:</b>	<b>Swearingen, Murray,</b>

## 10. NEW BUSINESS

- A. Discussion and direction on Treasurer Position [**Action: Receive and provide Staff with Direction (B. Reyes)**]

City Attorney Ben Reyes cited that with the recent resignation by the City Treasurer, the City has two options of filling the Treasurer position including appointing a new Treasurer or leaving the position vacant until a new Treasurer is sworn in following the November 2016 election.

**ACTION: Motion by Council Members Toms/Banuelos, to leave the position vacant until the November elections.**

**Vote:            Passed:        3-0**  
**Ayes:            Banuelos, Long, Toms**  
**Noes:            None**  
**Abstain:        None**  
**Absent:         Swearingen, Murray**

B. Approve Conversion to LS2 Street Light Format [**Action: Approve Resolution Per Staff Recommendation (T. Miller)**]

Director of Development Services/City Engineer Tamara Miller stated that with the recent conversion of PG&E owned lights to LED lights, the City has an opportunity to convert additional street lights, owned by the City, to LED. Staff feels it is beneficial to continue to pursue cost savings by converting City street lights to LED.

**ACTION: Motion by Council Members Banuelos/Toms, approving Resolution No. 2016-XX.**

**Vote:            Passed:        3-0**  
**Ayes:            Banuelos, Long, Toms**  
**Noes:            None**  
**Abstain:        None**  
**Absent:         Swearingen, Murray**

## **11. REPORTS & COMMUNICATIONS**

- A. Mayor Report  
1. Announcements

Mayor Pro Tem Long stated she attended the Mayors and Wescat Meeting.

- B. Mayoral & Council Appointments

None

- C. City Council Committee Reports & Communications

Councilmember Toms stated she attended the Relay for Life and Rosie the Riveter event.

Mayor Pro Tem Long requested that a letter from City Manger and/or City Attorney be sent to Caltrans about picking up trash on their properties. Inquired if Wendy's was required to install a small wall to prevent trash from blowing from their property?

Mayor Pro Tem Long congratulated Councilmember Roy Swearingen and Councilmember Pete Murray for applying for another 4 year council term and also to Maureen Toms for her appointed to fill former Phil Greens seat.

D. Council Requests for Future Agenda Items

Councilmember Banuelos requested an update from Caltrans on the metering lights.

Councilmember Toms requested that Fire investigations be added to the list of Ordinance Updates.

E. City Manager Report / Department Staff

City Manager Fitzer informed the Council that the City awarded a Certificate of Achievement of Excellence from the Governmental Finance Officers Association (GFOA) for our FY 2014-15 CAFR and thanks the Finance Director. City Manager Fitzer informed the Council that she will be on vacation and during that time the Assistant City Manager will be the acting City Manager.

F. City Attorney Report

**12. ADJOURNMENT** to the regular City Council Meeting of September 6, 2016.

At 10:00 p.m., Mayor Pro Tem Long adjourned the Regular Meeting of August 16, 2016, in Remembrance of Amber Swartz and our Armed Services.

**Submitted by:**

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**Hector De La Rosa**  
**Assistant City Manager/Deputy City Clerk**

**Approved by City Council:**