

## PINOLE CITY COUNCIL MINUTES

JUNE 20, 2017

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

Mayor Long called the meeting to order at 5:45 p.m. and led the Pledge of Allegiance.

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

#### A. COUNCIL MEMBERS PRESENT

Mayor Debbie Long  
Mayor Pro Tem Tim Banuelos (arrived at 6:50 p.m.)  
Council Member Peter Murray  
Council Member Roy Swearingen  
Council Member Maureen Toms

#### B. STAFF PRESENT

Michelle Fitzer, City Manager  
Ben Reyes, City Attorney  
Hector De La Rosa, Assistant City Manager  
Neil Gang, Police Chief  
Tamara Miller, Development Services Director

City Clerk Acosta announced the Agenda was posted on June 15, 2017 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.

City Clerk Acosta 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 – Planning Commission approved minutes of April 24, 2017 meeting and draft minutes of May 22, 2017 meeting.
- Power point presentation by East Bay Regional Park District.

### 3. CONVENE TO A CLOSED SESSION

At 5:50 p.m., Mayor Long convened to a Noticed Closed Session to discuss the following items:

- A. CONFERENCE WITH LABOR NEGOTIATOR - Pursuant to Gov. Code §54597.6  
City Labor Negotiators: Bruce Heid and Hector De La Rosa, Assistant City Manager  
Employee Organizations: Fire Local 1230  
PPEA
- B. CONFERENCE WITH LEGAL COUNSEL—ANTICIPATED LITIGATION  
Gov. Code § 54956.9(d)(4) (Initiation of Litigation)  
Number of Potential Cases: One

C. CONFERENCE WITH LEGAL COUNCIL - ANTICIPATED LITIGATION

Gov. Code §54956.9(d)(2)

Number of Potential Cases: One

D. PUBLIC EMPLOYEE PERFORMANCE EVALUATION

Gov. Code § 54957

Title: City Clerk

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

At 7:13 p.m., Mayor Long reconvened the meeting in open session and announced there were NO REPORTABLE ACTIONS.

5. RECOGNITIONS / PRESENTATIONS / COMMUNITY EVENTS

Due to Assembly member Thurmond's schedule, Mayor Long moved Presentation Item C and D to Appoint Eric S. Casher as City Attorney and Administer Oath of Office by Assembly member Tony Thurmond.

C. Adopt Resolution Appointing Eric S. Casher as City Attorney

**ACTION: Motion by Council Members Swearingen /Toms, to appoint Eric S. Casher as City Attorney for the City of Pinole.**

<b>Vote:</b>	<b>Passed</b>	<b>5-0</b>
	<b>Ayes:</b>	<b>Banuelos, Long, Murray, Swearingen, Toms</b>
	<b>Noes:</b>	<b>None</b>
	<b>Abstain:</b>	<b>None</b>
	<b>Absent:</b>	<b>None</b>

D. Administer Oath of Office to City Attorney - Assembly Member Tony Thurmond

Assemblymember Thurmond administered the Oath of Office to City Attorney Casher. City Attorney Casher thanked the Council for the opportunity and his colleagues for their support. He introduced his wife Susana and his children Nico and Mateo to the community.

A. Proclamations

A. Proclamation for Tim Harless

Mayor Long presented a proclamation to Tim Harless, Water Pollution Control Plant Supervisor, for his 29 years of service. Community Development Director/City Engineer Tamara Miller accepted the proclamation and thanked Council.

B. Proclamation for Benjamin T. Reyes II

Mayor Long presented a plaque and proclamation to City Attorney Reyes for his years of service and dedication to the City of Pinole. City Attorney Reyes graciously accepted the gifts and thanked the Council and the staff for working with him during the past year. Council expressed their appreciation for his support, integrity and dedication to the community. They wished him well on his well deserved appointment as Superior Court Judge of Contra Costa County.

**FIFTEEN MINUTE RECESS – RECEPTION IN CITY HALL FOYER**

At 7:35 pm, Mayor Long called a recess for a brief reception in the foyer.

At 7:57 p.m., Mayor Long reconvened the Council meeting.

B. Presentations / Recognitions

A. East Bay Regional Park District (EBRPD) Bay Trail Project Information Presentation by Sean Dougan

East Bay Regional Board member Colin Coffey, representing District Ward 7, addressed Council and introduced Sean Dougan, Trails Development Program Manager. Mr. Dougan provided an update on the Pinole Shores to Bayfront Park Bay Trail project to Council. He stated the project was advertised and only one bid was received. The cost of the project exceeds projected budget. Union Pacific approved final design with a requirement to install a 10 foot fence for the length of the rail up to the park; this change will be reflected in a change order. The project will begin on June 21, 2017. Council thanked Mr. Dougan and Mr. Coffey for their efforts in completing the project and serving the community of Pinole.

B. Community Service Day presentation by Debbie Ojeda

Darin Clarke, member of the Pinole Community Services Commission, provided an update to Council on the 7<sup>th</sup> Annual Community Service Day and the projects. Council extended their appreciation for the projects completed and their dedication to the beautification of the community.

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

The following members addressed the Council,

**Jon Lachapelle**, Arborist at Mack Tree Company, stated his concern with the permit process for Pine Tree removals and requested that Council re-evaluate the process. Mayor Long stated that the item will be added for review by the Ordinance Committee. Mr. Lachapelle will be notified of the upcoming meeting.

**Richard Wuerth**, resident of Pinole, stated his concern with litter and trash throughout the City. He suggested that Council discuss placing anti-litter signs and raise awareness by hosting Community Litter Awareness campaigns. Planning Manager Rhodes stated that the City currently has a Preservation Ordinance that addresses litter compliance with enforcement. The Mayor will add item to a future agenda for Council discussion.

**Jeff Rubin**, a resident of Pinole, inquired as to the redesign of the City website. Assistant City Manager De La Rosa stated that the City has received eight proposals, will interview three and will bring to the City Council award of contract at the August 15, 2017 meeting.

**7. CONSENT CALENDAR**

A. Approved the Minutes of the Meeting of May 30, 2017 and June 6, 2017

B. Received the June 3 – 16, 2017 List of Warrants

C. Approved Placement Of Liens For Delinquent Unpaid Waste Collection Charges Falling Delinquent Between January & April 2017, Considered At An Administrative Hearing On June 1, 2017

**[Action: Adopt Resolution Per Staff Recommendation (R. Acosta)]**

D. Adopted a Resolution Establishing the FY 2017-18 Appropriations Limit

**[Action: Approve Resolution Per Staff Recommendation (A. Miller)]**

- E. Adopted a Resolution Approving Amendment to the Residential Health and Safety Rental Inspection Program Master Fee Schedule Amendments in Conjunction with Municipal Code Chapter 8.30 Balcony Inspection Text Amendment  
[Action: Adopt Resolution Per Staff Recommendation (W. Rhodes)]
- F. Conducted Second Reading and Adoption of Ordinance Approving the Marin Clean Energy Joint Powers Agreement and Authorizing the Implementation of a Community Choice Aggregation Program in the City of Pinole  
[Action: Adopt Ordinance Per Staff Recommendation (E. Casher)]
- G. Adopted a Resolution Accepting the Resignation of City Attorney Benjamin T. Reyes II  
[Action: Adopt Resolution Per Staff Recommendation (B. Reyes)]

**ACTION: Motion by Council Members Swearingen /Murray, the Council Approved the Consent Calendar Items A-G.**

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

**8. PUBLIC HEARINGS**

- A. Conducted Public Hearing and Adopted a Resolution Confirming the Assessments and Ordering the Levy for the Pinole Valley Road Landscape and Lighting Assessment District for Fiscal Year 2017/18  
[Action: Approve Resolution Per Staff Recommendation (T. Miller)]

Community Development Director/City Engineer Tamara Miller presented the report and provided an overview of the Pinole Valley Road Landscape and Lighting Assessment District.

At 8:40 pm, Mayor Long opened the Public Hearing, and having no speakers, at 8:40 pm, Mayor Long closed the Public Hearing.

**ACTION: Motion by Council Members Swearingen/Banuelos to adopt a resolution confirming the assessment and diagram as is described in the Annual Assessment Report, levying an assessment for the fiscal year commencing July 1, 2017 and ending June 30, 2018 and ordering our consultant, Harris & Associates to prepare and submit the assessments to the Contra Costa County Assessor's office for placement onto the Fiscal year 2017/2018 secured property tax roll.**

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

- B. Introduced Ordinance and conducted first reading of an Ordinance Amending Chapters 17.20, 17.22, 17.70, and 17.98 of the Pinole Municipal Code regulating the Development of Accessory Dwelling Units with the City of Pinole.  
[Action: Approve 1st Reading Per Staff Recommendation (Rhodes/Casher)]

Planning Manager Winston Rhodes presented the report and updated Council on changes to the Accessory Dwelling Unit (ADU) Zoning Code Amendment.

Councilmember Toms stated her concern on square footage of accessory dwellings and questioned the process of legalization for current illegal units. Planning Manager Rhodes stated that square footage can be restricted by Council and units will be reviewed on a case by case basis.

Councilmember Murray questioned setback requirements and his concern for potential impact on vehicle parking throughout the City. Planning Manager Rhodes stated that the legislation changes the setback requirement.

Mayor Pro Tem Banuelos stated his concern with illegal units and how the ADU will impact those units. Planning Manager Rhodes stated that the units will still be considered illegal, and will be addressed to assess safety of tenants.

Councilmember Swearingen stated his concern about future dwelling setback requirements.

Mayor Long asked for clarification of the intent of the state law. The accessory dwelling units will qualify towards the Regional Housing Need Allocation (RHNA) based on actual and anticipated value of units. Planning Manager Rhodes stated that the overall objective was to build affordable units. City Attorney Casher stated that restrictions placed by local agencies can't create any undue burden to ADU.

At 9:51 pm, Mayor Long opened the Public Hearing, and having no speakers, at 9:51 pm, Mayor Long closed the Public Hearing.

Council directed staff to provide additional information on the following items prior to the August 15<sup>th</sup> meeting: Sewer fees for detached units; Rental inspection status; Sprinkler requirements; review non-owner occupancy; propose minimize size of ADU to 600 square feet; review ADU unit sizes on larger property lots; propose to restrict number of bedrooms and requirement of primary residence to be owner occupied.

**ACTION: ~~Motion by Council Members Toms/Banuelos to continue public hearing to July 18, 2017.~~**

**ACTION: ~~Substitute motion by Council Members Toms/Swearingen to continue public hearing to August 15, 2017.~~**

<b>Vote:</b>	<b>Passed:</b>	<b>5-0</b>
	<b>Ayes:</b>	<b>Banuelos, Long, Murray, Swearingen, Toms</b>
	<b>Noes:</b>	<b>None</b>
	<b>Abstain:</b>	<b>None</b>
	<b>Absent:</b>	<b>None</b>

Due to time concerns, Council approved moving item 8E to be heard.

- E. Adopted a resolution approving a Determination of Public Convenience or Necessity (PCN) for East Bay Coffee Company at 2529 San Pablo Avenue (CUP 17-03)  
**[Action: Approve Resolution Per Staff Recommendation (W. Rhodes)]**

Planning Manager Rhodes presented the report and provided an overview of the site and application process. He stated that there are currently no parking requirements for the Café due to prior ordinance requirements that did not require it. Currently, the café has minimal calls for service and Chief Gang stated that at this time there is not a concern with police activity at this location. Planning Manager Rhodes stated that alcohol sale restrictions will be placed.

At 10:36 pm, Mayor Long opened the Public Hearing; the following members addressed the Council:

**Bill Ancira**, applicant, addressed the Council and answered questions pertaining to the submitted application. He stated that the use permit request is for outdoor seating area and alcohol sales at the request of customers. Maximum occupancy for the café is 120, hours of operation 7 days a week from 7 a.m. to 9 p.m.

Councilmember Swearingen expressed his concern about pedestrian safety. Lisa Ancira, co-applicant, addressed the council to respond to parking concerns and stated that the parking adjacent to the senior center has 24 unused spaces. The café will encourage customers to park in surrounding neighborhoods and encourage safety of crossing at pedestrian crosswalk.

**At 10:55 p.m. Mayor Long requested a motion to extend the public hearing and meeting past 11:00 p.m.; so moved by Banuelos/Murray and approved by Council (5-0).**

**Inga Lundegaard**, resident of Pinole, neighbor of the East Bay Coffee Co., addressed Council and requested an extension of the item to allow neighbors and the community to review the staff report and provide a detailed response for Council review.

**Tina Holtz Claw**, owner of Tina's Café, addressed Council to state her support of the project and requested that the City review current parking and crosswalks within the businesses and explore traffic calming measures.

With no additional speakers, Mayor Long closed the Public Hearing at 11:02 p.m.

Councilmember Toms stated that she received six requests from neighbors of the café to extend this item for further review. She suggested that staff reach out to the property owner and discuss the potential use of the existing lot.

**ACTION: Motion by Council Members Swearingen/Banuelos to continue public hearing to July 18, 2017.**

<b>Vote:</b>	<b>Passed:</b>	<b>5-0</b>
	<b>Ayes:</b>	<b>Banuelos, Long, Murray, Swearingen, Toms</b>
	<b>Noes:</b>	<b>None</b>
	<b>Abstain:</b>	<b>None</b>
	<b>Absent:</b>	<b>None</b>

- C. Adopted the City of Pinole Proposed FY 2017-18 Budget, Approved Cost of Living Adjustments, and Approved a New Job Description for Records Specialist [Action: Approve Resolution Per Staff Recommendation (A. Miller)]

Finance Director Andrea Miller presented the FY 2017-18 budget revenue and expenditures based on prior comments from Council. Council asked questions and received responses.

Councilmember Swearingen questioned the CIP plan. He noted that expenditures will increase in the 5 year outlook with revenues decreasing. Finance Director Miller stated that the Council will receive the Capital Improvement Plan at the July 18<sup>th</sup> meeting.

At 11:41 pm, Mayor Long opened the Public Hearing, and having no speakers, at 11:41 pm, Mayor Long closed the Public Hearing.

**ACTION: Motion by Council Members Murray/Toms to adopt the proposed FY 2017-18 budget; approve cost of living adjustments (COLA) increases for executives, AFSCME, and Local 1; Approve new job description of Records Specialist.**

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

- D.     Conducted FY 2016-17 Annual Review of Utility Users Tax and Adoption of a Resolution Modifying Household Income Eligibility Thresholds for Utility Users Tax Exemptions for FY 2017-18  
      **[Action: Conduct Public Hearing & Approve Resolution Per Staff Recommendation (A. Miller)]**

Finance Director Miller presented the report and provided a review of the proposed tax.

At 11:49 pm, Mayor Long opened the Public Hearing, and having no speakers, at 11:49 pm, Mayor Long closed the Public Hearing.

**ACTION: Motion by Council Members Swearingen/Banuelos to adopt a resolution modifying the Household Income eligibility thresholds for exemptions from the Utility Users Tax for FY 2017-18.**

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

**9.     OLD BUSINESS**

None

**10.    NEW BUSINESS**

- A.     Approved Work Plan for Development of a Green Infrastructure Plan for Compliance with Municipal Stormwater Permit 2.0  
      **[Action: Receive Report and Approve Resolution Per Staff Recommendation (T. Miller)]**

Community Development Director/City Engineer Tamara Miller presented the report and provided an overview of the plan. She stated that the document is focused on the City's projects such as the bridge overpass and has a schedule on task coordination.

**ACTION: Motion by Council Members Murray/Toms, to approve a work plan for development of a Green Infrastructure Plan as part of the requirements of the Contra Costa County Municipal Stormwater Permit 2.0.**

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

## 11. REPORTS & COMMUNICATIONS

- A. Mayor Report
  - 1. Announcements

Mayor Long will be attending the West County Mayors and Supervisors Association meeting on June 22<sup>nd</sup>. Council received an invitation to attend a breakfast with Contra Costa County Supervisor John Gioia and California Attorney General Xavier Becerra, Councilmember Toms will attend and represent the City. Mayor Long stated that the Contra Costa Citizens Advisory Board is seeking applicants to represent the City of Pinole, she encouraged residents to apply. City Manager Fitzer stated that more information will be posted on the website. Mayor Long requested cooling centers where people can seek refuge from heat wave. City Manager Fitzer stated that in the past the Senior Center has been a designated cooling center and she will follow up with staff.

- B. Mayoral & Council Appointments – **None**
- C. City Council Committee Reports & Communications

Councilmember Toms attended the League of California Cities Policy Committee on Environmental Quality and provided an update to Council.

Councilmember Murray attended the WCCIWMA meeting and provided an update to Council

Councilmember Swearingen attended the Wine Tasting Fundraiser at the Youth Center and congratulated staff on a job well done.

- D. Council Requests for Future Agenda Items

Mayor Long requested discussion on City wide cleanup and litter ordinance. (5-0)

Council member Murray requested an update on weed abatement and Code Enforcement efforts. (5-0)

- E. City Manager Report / Department Staff

City Manger Fitzer provided an update on the status of the Pinole Seals Swim Club agreement with the City.

Police Chief Gang asked Council to support the League of Cities on AB 1408 (Calderon) Crimes: supervised release. Mayor Long will sign Letter of Support on behalf of the City Council. (5-0)

- F. City Attorney Report – None

## 12. ADJOURNMENT to the Special City Council Meeting of July 11, 2017.

At 12:15 p.m., Mayor Long adjourned the Regular City Council Meeting of June 20, 2017, in Remembrance of Amber Swartz and our Military personnel all around the world.

**Submitted by:**

---

**Rosa G. Acosta**  
City Clerk

**Approved by City Council:**