

**PINOLE CITY COUNCIL  
MINUTES  
October 17, 2017**

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

Mayor Long called the meeting to order in honor of the US military at 5:30 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 6:15 p.m.)  
Council Member Peter Murray  
Council Member Roy Swearingen  
Council Member Maureen Toms

**B. STAFF PRESENT**

Michelle Fitzer, City Manager  
Eric Casher, City Attorney  
Hector De La Rosa, Assistant City Manager  
Tamara Miller, Development Services Director  
Neil Gang, Police Chief  
Rosa Acosta, City Clerk

City Clerk Acosta announced the agenda was posted on October 12, 2017 at 4:00 p.m. All legally required notices were 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 5 BC – Contra Costa Animal Control power point presentation

**3. CONVENE TO A CLOSED SESSION**

At 5:35 p.m., Mayor Long convened to a Noticed Closed Session to discuss the following items:

**A. CONFERENCE WITH LEGAL COUNSEL—ANTICIPATED LITIGATION**

Gov. Code § 54956.9(d)(2)  
Number of Potential Cases: One

**B. CONFERENCE WITH REAL PROPERTY NEGOTIATORS**

Pursuant to Gov. Code §54956.8  
Property: 2301 San Pablo Avenue (APN: 401-162-001)  
Negotiator: City Manager, Michelle Fitzer and Assistant City Manager, Hector De La Rosa

Negotiating Parties: Thomas Properties, Developer  
Under Negotiation: Terms

C. CONFERENCE WITH REAL PROPERTY NEGOTIATORS- Pursuant to Gov. Code §54956.8

Property: 2850 Estates Ave., Pinole, CA 94564 (APN #360-010-017-0)  
Agency negotiator: City Manager Michelle Fitzer  
Negotiating parties: Pinole Assisted Living Community ("PALC")  
Under negotiation: Price and Terms

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

At 6:51 p.m., Mayor Long reconvened the meeting in open session and announced there were NO REPORTABLE ACTIONS

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

- A. Proclamations
  - a. Shelter in Place Education Day Proclamation

Mayor Long acknowledged the Shelter in Place Education Day Proclamation and stated that the proclamation would be mailed on behalf of the City Council.

- B. Presentations / Recognitions
  - a. Administer Oath of Office to Fire Chief Scott Kouns

City Manager Fitzer introduced Fire Chief Scott Kouns to the City Council and the community. The oath of office was delivered by City Clerk Acosta, and the badge was pinned by his wife, Janet Kouns. Chief Kouns thanked the City Council and staff for the opportunity to be part of the Pinole community. He introduced and thanked his family and friends for their support.

- b. Introduction of Melanie Fornes, Civicspark Fellow

Senior Project Manager Amelia Timbers introduced Melanie Fornes, Civicspark Fellow assigned to work on energy efficiency projects on a one year assignment. Civicspark is a program administered by the local government commission to add workforce capacity to local government agencies for their continued work on environmental issues.

- c. Contra Costa Animal Control presentation by Community & Media Relations Manager Steve Burdo

Community and Media Relations Manager Steve Burdo presented an update on Contra Costa Animal Services. He provided an overview of staffing and operations with a highlight of services provided to the City of Pinole. The center has closed night deposit boxes; increased staff for deceased animal pickups; hired Chief of Shelter Medicine and updated the Barking Dog Ordinance. The Ordinance is intended to address community complaints and concerns. The center encourages adopting from local shelter; ensuring pets are licensed and micro chipped; volunteering at the Martinez or Pinole Shelters; touring the Martinez or Pinole shelters and Council ride along with officers.

Councilmember Toms inquired about the process of the barking dog hearings and officers assigned. Community and Media Relations Manager Burdo stated that at this time the hearings will take place in the City of Martinez, the center continues to work with other jurisdictions to

make the process more accessible to the public. The hearings will be heard by the Animal Service Director or designee (Captain or Lieutenant).

Councilmember Murray inquired about the timing of barking dog ordinance and stated his concern addressing the neighbor disputes due to disclosure of reporting party name. Community and Media Relations Manager Burdo stated that the process grants residents a 15 day response time, after 15 days reporting party can file a second complaint. He stated that the hearing process is an attempt to allow community members to meet in person and resolve their concerns. He thanked them for their services to the community.

Mayor Pro Tem Banuelos expressed his appreciation for the updated Dog Barking Ordinance and expressed his concern about an incident with staff in the dispatch team and suggested additional training to better serve the community.

Councilmember Swearingen inquired about the leash law. Community and Media Relations Manager Burdo stated that the leash law is an ordinance found within the City of Pinole ordinance.

Mayor Long inquired about costs with the process mediation. Community and Media Relations Manager Burdo stated there is no cost to file a complaint, there is only a cost to the party that is cited and unresponsive, all cases are assessed individually. The center continues to partner with local organizations to offer affordable services.

The following speaker addressed the Council,

**James Tillman**, resident of Pinole, addressed the Council and stated his support for the shelter and encouraged residents to adopt from the shelter. He thanked Community and Media Relations Manager Steve Burdo for his presentation and the update.

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

The following speaker addressed the Council,

**James Tillman**, resident of Pinole, addressed the Council and expressed his concern about the Caltrans lighting system on Appian Way during the hours of 7:30 – 8:00 a.m. and 3:30 p.m. to 6:00 p.m. for community members traveling on I-80. He inquired about maintenance of fire hydrants and scheduled flush outs. He solicited a workshop on possible reopening of Fire Station 74.

**Jack Meehan**, resident of Pinole, addressed the Council and inquired about public utility easements in the City of Pinole and possible assessment of citywide construction. Planning Manager Rhodes will follow up with Council and Mr. Meehan.

**Bok Kopp**, resident of Pinole, addressed the Council and informed the community of the outcome of various community events. He requested that Amelia Timbers be kept as the City Liaison on the Community Service Committee. He stated his concern about residents using the community dog park as a training field. City Attorney Casher stated that the use of the field for dog training is a violation of the municipal code and community members can be cited. Mr. Kopp thanked Councilmember Murray and Dave Snell and his family for their support with the fundraising BBQ held last weekend to raise funds for first responders assisting with the Tubbs fire.

## 7. CONSENT CALENDAR

- A. Approved the Minutes of the Meeting of October 3, 2017
- B. Received the September 30, 2017 – October 13, 2017 Lists of Warrants and the October 6, 2017 Payroll in the Amount of \$361,094.42
- C. Placement of Liens for Delinquent Unpaid Waste Collection Charges falling Delinquent between February and July 2017, considered at an Administrative Hearing on October 5, 2017  
**[Action: Approve Resolution Per Staff Recommendation (R. Acosta)]**
- D. Considered Letter of Support for Grant Application by West Contra Costa Transportation Advisory Committee (WCCTAC), WestCAT and AC Transit  
**[Action: Approve Letter of Support, by Minute Order (T. Miller)]**

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

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

## 8. PUBLIC HEARINGS

- A. Introduction and First Reading of two Ordinances Amending Chapters 5.64, 8.33, 8.44, 17.20 and 17.90 of the Pinole Municipal Code Regarding Marijuana Dispensaries, Personal and Commercial Marijuana Cultivation, and Other Marijuana uses. The proposed ordinances address medical and nonmedical marijuana  
**[Action: Approve First Reading Per Staff Recommendation (E. Casher)]**

City Attorney Casher presented the report and provided an update to Council. He stated that the proposed ordinance expands prohibition on medical marijuana delivery, cultivation and dispensaries to apply to non-medical marijuana, and expands the definition of dispensary to prohibit all commercial marijuana businesses. The proposed ordinance amends the municipal code to allow the personal cultivation of up to six marijuana plants indoors at a private residence by resident 21 years of age or older in a secured location, prohibit outdoor personal cultivation and indoor personal cultivation with several regulations. Council asked questions and received responses. Council requested a modification to Chapter 8.33 Section 3, I...adding "smoke detector" to this clause.

At 8:37 pm, Mayor Long opened the Public Hearing, and having no speakers, at 8:37 pm, Mayor Long closed the Public Hearing.

**ACTION: Motion by Council Members Banuelos/Toms, to introduce and conduct a first reading of the proposed ordinances amending Chapters 17.20 and 17.90 of the Zoning Code, and Chapters 5.64, Chapter 8.33 and 8.34 of the Municipal Code.**

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

- B. Adopt a resolution approving a Determination of Public Convenience or Necessity (PCN) for Shell Gas Station proposed alcohol sales (off-site sales of beer and wine to be located at 1401 Fitzgerald Drive (CUP 17-09)  
**[Action: Approve Resolution Per Staff Recommendation (W. Rhodes)]**

Planning Manager Rhodes presented the report and provided an update to Council. He stated that the project meets the eligibility requirements of CEQA Guidelines Section 15301 that exempts existing facilities in that the proposed use involves the operation of an existing approximately 2,667 square feet convenience store at an existing gas station with no physical expansion. Council asked questions and received responses.

At 9:09 pm, Mayor Long opened the Public Hearing; the following speakers addressed the City Council:

**Applicant Ryan Kroll**, of Hollins Management Group answered Council concerns and stated that the expected revenue increase is approximately 25% with sales of beer and wine.

**Toshia Harrison**, employee of Shell Gas Station, addressed the City Council and stated that the gas station locks its doors at 10:00 p.m. and provides window service up to 5:00 a.m., when they re-open their doors to the public.

With no additional speakers, Mayor Long closed the Public Hearing at 9:17 p.m.

**ACTION: Motion by Council Members Swearingen/Banuelos, to adopt a resolution approving a determination of Public Convenience or Necessity for proposed off site beer and wine sales at the existing Shell Gas Station located at 1401 Fitzgerald Drive, was not approved.**

**Vote:**           **Motion Failed:**       **2-3**  
**Ayes:**           **Swearingen, Banuelos**  
**Noes:**           **Long, Murray, Swearingen**  
**Abstain:**       **None**  
**Absent:**       **None**

**ACTION: Motion by Council Members Long/Toms, to deny a resolution to approve a determination of Public Convenience or Necessity for proposed off site beer and wine sales at the existing Shell Gas Station located at 1401 Fitzgerald Drive, based on failure to support all five findings requirements.**

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

## 9. OLD BUSINESS

None

## 10. NEW BUSINESS

- A. Discussion of Pinole Community Television (PCTV)  
[Action: Council Discussion and Direction to Staff (M. Fitzer)]

City Manager Fitzer presented the report and provided an update to Council. PCTV provides recording and broadcasting services for the City of Pinole and other agencies via contract. PCTV has been providing services to the City of Hercules. The City Council of the City of Hercules voted to terminate their contract for services with PCTV at their October 10, 2017 meeting. City Manager Fitzer stated that the City of Hercules was informed in 2009 that the City was evaluating their current fee structure of \$25k and that the cost would be increasing to \$44k a year; Hercules City Council determined that the fees were too expensive to continue. Mayor Long stated that the City of Pinole was implementing the contract as drafted 10 years ago and the increase of cost was unavoidable. Council asked questions and received responses. Mayor Long requested that the subcommittee review this item and return to Council for direction.

## 11. REPORTS & COMMUNICATIONS

- A. Mayor Report  
1. Announcements

Mayor Long acknowledged the members of those communities affected by the Northern Bay area fires that have lost their homes, and have been affected by the fires. She thanked several members of the Pinole community and first responders from several agencies for their contributions and assistance during these difficult times. She informed the community that the City of Pinole sent the following members of the Police Department: Officer Lew, Officer Porter and Officer Fernandez as well as Sergeant Lopez, Sergeant Takacs and Sergeant Palmigni; she thanked them for their service. She requested staff to follow up with Caltrans on a need for lighting at the crosswalk on Pinole Valley Road (WB) near the bowling alley.

- B. Mayoral & Council Appointments

None

- C. City Council Committee Reports & Communications

Councilmember Toms attended the Pinole Police Department Pets on Patrol event and complimented staff on the great program, attendance was low due to active fires. She recognized Congressman Thompson's efforts to keep members of the North Bay fire community well informed during the times of distress.

Councilmember Murray attended the West Contra Costa Integrated Waste Management Authority meeting and provided an update to Council.

- D. Council Requests for Future Agenda Items

Emergency Services presentation (5-0)

Planning Commission workshop in reference to recently adopted housing bills (5-0)

- E. City Manager Report / Department Staff

City Manger Fitzer updated the community and City Council on Governor Brown's recent veto of SB 649 regarding Small Cell Bill and his approval of SB 231 regarding Stormwater Fees, which allows stormwater to be treated as sewer water under Proposition 218. She thanked Police Chief Gang for his service as Acting Fire Chief for a period of seven months.

Assistant City Manager De La Rosa informed the City Council that the website design continues to move forward and the timeline of completion has been extended to June or July 2018; the extended timeline does not increase the cost.

F. City Attorney Report

City Attorney Casher informed Council of the upcoming staff training on Code Enforcement issues on November 8, 2017 and stated that he will be scheduling a Municipal Code Update Subcommittee meeting in the next few weeks.

**12. ADJOURNMENT** to the Regular City Council Meeting of November 7, 2017 In Remembrance of Amber Swartz.

At 10:35 p.m., Mayor Long adjourned the Regular City Council Meeting of October 17, 2017, in Remembrance of Amber Swartz, all victims of recent fires, and military personnel all around the world.

**Submitted by:**

---

**Rosa G. Acosta**  
**City Clerk**

**Approved by City Council: November 7, 2017**