

**CITY COUNCIL MEETING
MINUTES
AUGUST 17, 2021**

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

The City Council Meeting was held via Zoom videoconference and broadcast from the Pinole Council Chambers, 2131 Pear Street, Pinole, California. Mayor Martínez-Rubin called the Regular Meeting of the City Council to order at 6:02 p.m. and led the Pledge of Allegiance.

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

A. COUNCILMEMBERS PRESENT

Norma Martínez-Rubin, Mayor
Vincent Salimi, Mayor Pro Tem
Devin Murphy, Council Member
Anthony Tave, Council Member
Maureen Toms, Council Member

B. STAFF PRESENT

Andrew Murray, City Manager
Eric Casher, City Attorney
Hector De La Rosa, Assistant City Manager/Deputy City Clerk
Markisha Guillory, Finance Director
Misha Kaur, Senior Project Manager
David Hanham, Planning Manager
Roxanne Stone, Management Analyst
Chris Wynkoop, Fire Chief
Neil Gang, Police Chief
Michael Laughlin, Contract Community Development Manager

Assistant City Manager/Deputy City Clerk Hector De La Rosa announced the agenda had been posted on Thursday, August 12, 2021, at 5:00 p.m. All legally required notice was provided. The City Council had been provided revisions to Item 7A which had been posted on the City website after the posting of the meeting agenda.

Following an inquiry to the Council, the Council reported there were no conflicts with any items on the agenda.

3. CONVENE TO A CLOSED SESSION

Citizens may address the Council regarding a Closed Session item prior to the Council adjourning into the Closed Session, by first providing a speaker card to the City Clerk.

NO CLOSED SESSION

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

NONE

5. CITIZENS TO BE HEARD (Public Comments)

Citizens may speak under any item not listed on the Agenda. The time limit is 3 minutes and is subject to modification by the Mayor. Individuals may not share or offer time to another speaker. Pursuant to provisions of the Brown Act, no action may be taken on a matter unless it is listed on the agenda, or unless certain emergency or special circumstances exist. The City Council may direct staff to investigate and/or schedule certain matters for consideration at a future Council meeting.

Rafael Menis, Pinole, thanked the Pinole Police Department, specifically Officer Jason Dean, for the transparency related to a recent Officer involved shooting and the fact the Police Department had posted a video on Facebook demonstrating the way the Officer had handled the situation with limited force. He otherwise encouraged everyone to vote in the upcoming Governor's Recall Election.

Debbie Long, Pinole, expressed her sadness for all of the families in Afghanistan still in the throes of evacuation and read into the record a statement from an individual whose comments echoed her own sentiments on the situation. She also directed the comments to Council member Murphy, explaining that was the reason people stood for the Pledge of Allegiance, to give thanks for the military and their families who continued to fight for those at home and abroad. She offered her respectful thanks to those who had kept everyone safe without regards to politics.

Alexander Jason, Pinole, referenced the fact Mayor Pro Tem Salimi had changed his vote at a prior City Council meeting regarding his support for the funding of improvements to the Faria House, which the Mayor Pro Tem had described as a common-law conflict of interest. He stated that common-law conflict of interest did not exist but had been fabricated as a political payoff to people who had threatened to withdraw support for Mayor Pro Tem Salimi's reelection. He read into the record a lengthy quote Mayor Pro Tem Salimi had made in November 2019 and asked that the comments not be forgotten. He suggested Mayor Pro Tem Salimi had betrayed the citizens and founding members of the City of Pinole, in particular the Faria sisters, who had been promised their childhood home would become a history museum to honor their past and other founders of the City of Pinole. The City had also agreed to move the home to its original location for this purpose.

Cordell Hindler noted that he was disappointed the budget process had taken much longer than anticipated since the City Council had held discussions into the early morning hours during City Council meetings. He hoped the City Council would prioritize items when staff was more refreshed. He also referenced a report from Management Partners, which included a presentation on budget priorities for 2021, and suggested the consultant firm of Koff & Associates be chosen as the firm to prepare a class and comp study given the priorities for this fiscal year which he hoped would be considered as a future agenda item. He looked forward to in-person meetings in the future.

6. RECOGNITIONS / PRESENTATIONS / COMMUNITY EVENTS

A. Proclamations

1. Friends of the Pinole Creek Watershed 20th Anniversary

City Council members read into the record the proclamation recognizing Friends of Pinole Creek Watershed on its 20th Anniversary.

PUBLIC COMMENTS OPENED

Carol Arnold, Co-Founder, Friends of Pinole Creek Watershed, thanked the City Council for the proclamation, the former Pinole City Council 20 years ago which had provided assistance to the non-profit to become recognized, and the hardworking volunteers and Board members who had served for 20 years. Friends of Pinole Creek Watershed served as the community partner working with many agencies implementing restoration projects, particularly the Pinole Creek Demonstration Project.

Melissa Lawton, echoed the comments made by Ms. Arnold and stated it had been a pleasure working with the City of Pinole.

Mayor Martinez-Rubin thanked the members of the Pinole Creek Watershed, particularly Ms. Arnold for her stewardship.

PUBLIC COMMENTS CLOSED

B. Presentations / Recognitions

1. West Contra Costa Unified School District Presentation on Fall Reopening by Superintendent Dr. Hurst and School Board Trustee Jamela Smith-Folds

West Contra Costa Unified School District (WCCUSD) Board Trustee Jamela Smith-Folds introduced Superintendent Dr. Kenneth "Chris" Hurst, Chief Academic Officer LaResha Martin and Maintenance Operations Chief Luis Freese.

An extensive PowerPoint presentation of the WCCUSD Fall Reopening was provided which highlighted the West County Mandarin School providing International Baccalaureate (IB) education with a global focus and dual language immersion program, Pinole Valley High School's IB Program and the enrollment data and ethnicity breakdown for the program, and an overview of the final phase to complete improvements to Pinole Valley High School. The scope of improvements included a new field house, resurfacing existing stadium field turf and track surface, new home bleachers and pressbox, a new baseball/softball complex, and new tennis/basketball courts with construction anticipated to be completed in the fall of 2022. More information was available via a monthly WCCUSD newsletter and the same information could be provided to Pinole TV that could be streamed. Additional facilities improvements were highlighted for Shannon and Collins Elementary Schools.

An overview of the process for getting WCCUSD facilities ready for the fall reopening was also highlighted including modifications to address COVID-19 social distancing and masking requirements pursuant to Contra Costa County Health Department recommendation. An overview of the safety guidelines was also provided with masking required in and outdoors on all WCCUSD facilities subject to specific exceptions and COVID-19 testing requirements for WCCUSD staff. In addition, the WCCUSD was committed to building and nurturing relationships of mutual support and high expectations among students, families and educators via home visits

(check-in on families as needed), phone calls/texts and family nights. Further, the WCCUSD had identified the unique social, emotional, mental health, language and academic needs of every student through the development of plans to address those needs; strengthening staffing and partnerships; and reimagining and rebuilding the systems, with all programs detailed at length.

Responding to the Council, WCCUSD staff again clarified the IB Program and curriculum requirements/courses for a student to be qualified to attend a University of California (UC) campus; staff was working on the policy for the Citizens Bond Oversight Committee with more changes anticipated; reiterated the social distancing requirements pursuant to current County Health Department guidelines for WCCUSD campuses, with a separation of three-feet required where possible; policy for COVID-19 contact tracing when there was a known case, and COVID-19 testing within the schools; and Wi-Fi hot spots provided to all students to ensure connectivity even during the distance learning period. More data information could be provided from the WCCUSD Chief Technology Officer who was not present but who could provide a written response, particularly related to a request for specific data information.

As to how the City Council could work with WCCUSD on its racial equity efforts and the possibility of a Youth Council, there was a concern for racial equity throughout the system and how to ensure schools were equitable in education. The school year had been divided into four stages including restoring through social and emotional learning and checking in with students and adults. The next phases would be assessing and determining the gaps and visioning. Between the October and January 2022 timeframe, conversations would be held with the students on what they needed to know to be able to graduate via a graduate profile, vision around equity, justice and instruction and conversations on core values and mission. After the assessment phase, a Gaps Analysis would be presented to the WCCUSD Board and the community and in the January timeframe everyone including the City Council may join in the conversation about equity issues, core values and how to define the vision. A Youth Council and anything involving youth would be supported by the WCCUSD.

The City Council encouraged any information from the WCCUSD to be provided to Pinole TV to ensure more investment in the community and thanked WCCUSD staff for the presentation.

Mayor Martinez-Rubin specifically acknowledged Pinole Valley High School Principal Kibby Kleiman, who had been extremely supportive. She was encouraged by the new programs as identified in the PowerPoint presentation and looked forward to future information on possible college pipelines for students throughout their academic years.

The City Council also looked forward to future presentations from the WCCUSD and expressed appreciation for all efforts to keep students and teachers safe.

WCCUSD Trustee Smith-Folds expressed the willingness to forward the additional information the City Council had requested on COVID-19 protocols and other information requested by the Chief Technology Officer, including any information that could be posted on Pinole TV.

7. CONSENT CALENDAR

All matters under the Consent Calendar are considered to be routine and noncontroversial. These items will be enacted by one motion and without discussion. If, however, any interested party or Council member(s) wishes to comment on an item, they may do so before action is taken on the Consent Calendar. Following comments, if a Council member wishes to discuss an item, it will be removed from the Consent Calendar and taken up in order after adoption of the Consent Calendar.

PUBLIC COMMENTS OPENED

Rafael Menis, Pinole, referenced Item 7F, which had identified \$200,000 spent in FY 2021 for the Hazel Street Renovation Project although it did not appear that any visible work had been done on the property. He asked whether the funds had been reallocated or whether the work done was not visible to the public. As to Item 7K, he had reviewed the responses to proposals and asked the City Manager to elaborate on the qualities that made the firm recommended for approval to be the best candidate. For Item 7L, he personally supported the item, as did the Pinole Progressive Alliance as a group, and emphasized the importance of recognizing the Ohlone people as the traditional custodians and occupants of this land and the need to strengthen ties with that community and continue the traditions brought forward.

Again speaking to Item 7L, Mr. Menis referenced the resolution contained in Attachment B, (page 408 of the agenda packet) and asked whether the regulation shown in subsection 2 was a new City Council policy or one that had not been implemented.

PUBLIC COMMENTS CLOSED

Mayor Martinez-Rubin clarified that several public comments had been received prior to the meeting deadline, would be part of the agenda packet, and had been posted on the City website.

Assistant City Manager/Deputy City Clerk De La Rosa added that the June 1, 2021, City Council Meeting minutes would have to be amended with the references to the Pinole Historical Museum as shown on Page 3 to be corrected to read *Pinole Historical Society*. On Page 4, the reference to Superintendent Murphy would be corrected to read *Superintendent Duffy*. And with respect to Item 7A for the minutes of June 15, 2021, Page 15, under Item A1, Mayor's Report the first sentence should be revised to read:

Mayor Martinez-Rubin announced her attendance at the Mayors' Conference with Contra Costa County Supervisor Diane Burgis having proposed an amendment to the County Ordinance related to fireworks; and participated in the Revenue Taxation Policy Committee sponsored by the League of California Cities with agreement on a study of the effects of temporary population shifts and how they may affect the dollar amount allocated by the State for road and street-related projects.

City Attorney Eric Casher advised that Senate Bill 1436 required an oral report any time there was a compensation adjustment for an executive to a public agency. For Item 7J, he reported the City Manager's compensation change would be a five percent increase to the base salary of \$225,000.

Responding to Mr. Menis' comments, Senior Project Manager Misha Kaur clarified that in January 2020 the City had contracted with a consultant to prepare the preliminary design for storm drainage improvements on Hazel Street, which included the plan, profile, and pipe specifications.

City Manager Andrew Murray added that the staff report for Item 7K provided some of the explanation and rationale for the staff recommendation to approve a contract with Cerrell to create a Communication and Engagement Plan. While all the firms that had submitted bids were well qualified, Cerrell had the experience and scope the City desired for communications engagement, plan and branding for an organization, spent the most time investigating Pinole, offered ideas the

City may implement immediately and had offered approaches that would be easy to adopt and implement.

Speaking to Item 7L, City Attorney Casher explained that existing Council procedures included a 7:00 p.m. end time for Closed Session items. Attachment B to Item 7L provided all of the changes that had been recommended to the Council meeting procedures and the item was really just the addition of the land acknowledgement. While some Closed Session items had gone beyond the 7:00 p.m. deadline, staff endeavored to complete Closed Session items prior to the deadline and oftentimes Council meetings started earlier than normal.

Council member Tave asked that Item 7I be pulled from the Consent Calendar. He asked whether or not the East Bay Regional Park District (EBRPD) had been part of the discussion for the East Bay Wildfire Prevention and Vegetation Management Joint Powers Agency (JPA) since the EBRPD had the lion's share of the square footage for a JPA. He asked how the JPA would affect Measure X, Station No. 74 and many other concerns. He also asked the City Manager and Fire Chief to provide clarification why the item had been placed on the Consent Calendar.

Council member Murphy expressed appreciation to City Manager Murray for the work he had done to push the Strategic Plan forward, particularly given the comments from the public. He also thanked the City Attorney for his tremendous work around the indigenous land acknowledgement and work with other cities around this issue.

- A. Approve the Minutes of the Meeting of June 1, 2021 and June 15, 2021
- B. Receive the July 17, 2021 – August 13, 2021 List of Warrants in the Amount of \$2,476,134.46, the July 23, 2021 Payroll in the Amount of \$492,572.13 and the August 6, 2021 Payroll in the Amount of \$434,091.50
- C. Resolution Confirming Continued Existence of Local Emergency **[Action: Adopt Resolution per Staff Recommendation (Casher)]**
- D. Receive the Quarterly Investment Report for the Fourth Quarter Ending June 30, 2021 **[Action: Receive Report (Guillory)]**
- E. Receive the Quarterly Report on Implementation of the Strategic Plan for Fiscal Year (FY) 2020-21 Fourth Quarter **[Action: Receive Report (Murray)]**
- F. Fiscal Year (FY) 2021-22 Fourth Quarter Report on Implementation of Capital Improvement Plan (CIP) Projects **[Action: Receive Report (Kaur)]**
- G. Adopt a Resolution Approving an Amendment to the On-Call Contract with 4Leaf, Inc. to Add a Task Order, Increase the Budget for Building and Permit Technician Services to \$185,000 and Fire Prevention and Inspection Services to \$240,000, and Appropriate Funding **[Action: Adopt Resolution per Staff Recommendation (Laughlin/Wynkoop)]**
- H. Adopt a Resolution Declaring Six Police Vehicles and Two Pieces of Office Equipment as Surplus **[Action: Adopt Resolution per Staff Recommendation (Gang)]**

- I. Resolution to Participate in Discussions Regarding an East Bay Wildfire Prevention and Vegetation Management Joint Powers Agency **[Action: Adopt Resolution per Staff Recommendation (Wynkoop)]**
- J. Resolution Approving an Amendment to the City Manager's Employment Contract **[Action: Adopt Resolution per Staff Recommendation (Casher)]**
- K. Resolution Authorizing the City Manager to Execute an Agreement with Cerrell to Create a Communication and Engagement Plan **[Action: Adopt Resolution per Staff Recommendation (Murray)]**
- L. Resolution to Amend the City Council Meeting Procedures to Include an Indigenous Land Acknowledgement at the Beginning of City Council Meetings **[Action: Adopt Resolution per Staff Recommendation (Iopu)]**
- M. Adopt a Resolution Approving a Revised Management Compensation and Benefits Plan for Management and Confidential Employees **[Action: Adopt Resolution per Staff Recommendation (De La Rosa)]**

ACTION: Motion by Council members Tave/Murphy to Approve Consent Calendar Items A through M, with the exception of Item 7I and subject to modification to Item 7A.

Vote: **Passed** **5-0**
Ayes: **Martinez-Rubin, Salimi, Tave, Murphy, Toms**
Noes: **None**
Abstain: **None**
Absent: **None**

- I. Resolution to Participate in Discussions Regarding an East Bay Wildfire Prevention and Vegetation Management Joint Powers Agency **[Action: Adopt Resolution per Staff Recommendation (Wynkoop)]**

City Manager Murray explained that the item was on the Consent Calendar since the City Council had requested as a future agenda item a presentation from the organization/formation committee for the East Bay Wildfire Prevention and Vegetation Management JPA. A representative had made a presentation to the City Council at a prior meeting. At the conclusion of the presentation, the City Council had requested as a follow-up item a resolution to commit the City to engage in dialogue about the formation of the JPA based on the template the formation committee had provided. He suggested there was no natural or direct relationship between Measure X and the potential JPA since the JPA would serve both Contra Costa and Alameda Counties. The scope and funding sources for the JPA had yet to be determined and he could not recall any mention of the use of Measure X funds to support the activities of the JPA, although that was not to say that some Measure X funds may ultimately be devoted to wildfire prevention activities.

Fire Chief Chris Wynkoop added there would be no implications to Measure K, and while there were some wildfire mitigation proposals in the County Chiefs proposal for Measure X funds, that had to do with wildfire mitigation, and nothing to do with the JPA. He emphasized the JPA did not currently exist, it was a formation committee proposing a JPA, and it was now up to the Council

whether to consider the resolution. Whether or not the resolution was approved, he would be happy to represent the City of Pinole in any discussions regarding the JPA.

Council member Tave was uncertain a resolution was needed, and City Manager Murray reiterated the resolution had been provided by the formation committee to engage in dialogue and was not a formal commitment to anything. He and Fire Chief Wynkoop had discussed the fact that different levels of engagement by City staff would be required.

Fire Chief Wynkoop further clarified that the EBRPD had also been extended an invitation to adopt a resolution with an invitation to engage that had been extended to all fire agencies. He was unaware of the status of the EBRPD's response to the request.

Council member Murphy requested that the City Council formalize a process as to who would be representing the City of Pinole in this matter. He offered a motion that a Council member be appointed to represent the City and that it be defined in the resolution.

City Attorney Casher explained that the item before the City Council was the approval of the resolution and while there could be a friendly amendment to the resolution, the motion as proposed was to consider Council members to serve on sort of a subcommittee, which would require a discussion and could be a separate item at a subsequent City Council meeting.

Council member Toms offered a motion, seconded by Council member Tave to move the item, and if the Council needed to consider a future agenda item to consider a Council representative that could be so identified.

Mayor Martinez-Rubin asked for clarification from the City Attorney on the motion and City Attorney Casher read into the record the following clause as contained in Attachment A to the staff report for this item, as follows:

NOW, THEREFORE, BE IT RESOLVED THAT, the City Council of the City of Pinole does hereby agree to make staff and/or officials available to participate in negotiations and meetings convened by a coalition of local stakeholders to consider formation of a regional East Bay Wildfire Protection Vegetation Management Joint Powers Agency to address fire safety in the East Bay Area.

As a result, it was noted the resolution already anticipated and contemplated some level of participation by members of the City Council. A more robust discussion about who would be appointed and the scope would be more appropriate for a future meeting.

Council member Murphy interpreted the comments from the presenter who had made the initial presentation to the Council on the JPA that there would be a Steering Committee working to develop what would be the JPA. He recommended that someone on the City Council in addition to a staff member, be considered in that it would be valuable for those parties to be identified to avoid chaos in terms of who was or was not representing the City of Pinole. He would be happy to raise the issue as a request for a future agenda item but wanted the resolution to be more specific.

Council member Toms suggested the Now, Therefore be it Resolved Clause, as shown on Page 1, of Attachment A, be modified to read:

NOW, THEREFORE, BE IT RESOLVED THAT, the City Council of the City of Pinole does hereby agree to make staff and an official available to participate in negotiations and meetings convened by a coalition of local stakeholders to consider formation of a regional East Bay Wildfire Protection Vegetation Management Joint Powers Agency to address fire safety in the East Bay Area.

Council member Toms amended her motion, seconded by Mayor Martinez-Rubin to approve Item 7I, subject to the modification of the Now, Therefore be it Resolved Clause, as shown on Page 1, of Attachment A, as just read into the record.

Mayor Martinez-Rubin clarified with the City Attorney that a Roll Call vote was not required and the motion carried with no abstentions or no votes.

8. PUBLIC HEARINGS

Citizens wishing to speak regarding a Public Hearing item should fill out a speaker card prior to the completion of the presentation, by first providing a speaker card to the City Clerk. An official who engaged in an ex parte communication that is the subject of a Public Hearing must disclose the communication on the record prior to the start of the Public Hearing.

NONE

9. OLD BUSINESS

- A. Rescind and Reconsider Resolution 2021-35 Condemning Donald Trump [Action: Consider Adoption of Resolution per Staff Recommendation (Murray)]

City Manager Murray presented the staff report and asked the City Council to rescind and reconsider Resolution 2021-35 Condemning Donald Trump and adopt the new resolution contained in the staff report.

City Attorney Casher advised that a two-thirds vote of the City Council was required to rescind a previously adopted resolution and the vote on the new resolution required a majority vote.

Mayor Martinez-Rubin offered a motion, seconded by Mayor Pro Tem Salimi to rescind and reconsider Resolution 2021-35 Condemning Donald Trump and approving the new resolution contained in the staff report.

Council member Toms had previously abstained from the vote on the initial resolution and suggested the City Council did not have the purview nor was it within staff's tasks to put partisan judgmental resolutions together. While she had personally been disgusted by the actions of the former President leading up to and after January 6, 2021, it was not the place of the City Council to take this action. She pointed out that neither the Contra Costa County Board of Supervisors nor any school boards or any other cities had adopted similar resolutions. As a result, she would again abstain from the vote on this item.

PUBLIC COMMENTS OPENED

Rafael Menis, Pinole, thanked Mayor Pro Tem Salimi and Council member Toms who had spoken with him separately to offer their perspectives. He disagreed with Council member Toms that the City Council did not have the power to consider such a resolution and could in fact praise a

particular group or individuals for different reasons and may chose who to rebuke or condemn. The whereas clauses contained in the resolution led to the logical points and conclusions, he found the whereas clauses to be factual, and that former President Trump had attacked the Constitution the City Council had sworn to uphold. It was within the Council's collective purview to respond to our system of government and support our system of government, and when people took actions to undermine those sources of authority it was within the purview of the City Council to condemn and rebuke it.

Debbie Long questioned why staff time was being used to consider a resolution on Donald Trump since he had been out of office for over nine months. She suggested this was a national political agenda, old news, and the City Council was wasting staff time and taxpayer money revisiting this issue. She would rather hear how the City Council was doing on other issues such as working with State Assembly members and members of Congress to address drought conditions, explain how funds from 2014 Proposition 1 Water Bond had been spent, what steps were being taken to secure more money from the State, how Assembly members and Congress were addressing wildfires and how they were replacing fire volunteers from prisons, the steps being taken in deforestation and management of the forest, how new businesses were being attracted to the City of Pinole, and how the Disaster Preparedness Plan was developing, along with other important issues. Council members had been elected to do the business of the City and not waste time on national politics, particularly when it was old news. The City Council as stewards of the City should be spending staff time, and taxpayer money doing the business of Pinole and let the members of Congress and the Senate address national politics.

PUBLIC COMMENTS CLOSED

Council member Tave recognized there were other issues going on, but he appreciated that the resolution had been brought back for reconsideration. He urged the City Council to bear true faith, uphold the Constitution and consider supporting the new resolution. In his opinion, the resolution was a way for the City Council to bring the community together and illustrate the City Council was not in agreement with what had happened. He urged the City Council to support the resolution.

Mayor Martinez-Rubin found the initial resolution had not brought unity to the City and there were differing opinions. She condemned the actions of the former President and she did not see this as a partisan issue but a condemnation of behavior that was unacceptable on any level, particularly since a lot of the trending regarding governance came from the federal level down to the local level. She wanted the City Council to spend the time discussing local matters but they were in a time in history that this other matter had occurred. She supported the resolution condemning Donald Trump.

Mayor Martinez-Rubin restated her motion to Rescind and Reconsider Resolution 2021-35 Condemning Donald Trump and adopting the New Resolution as submitted.

City Attorney Casher asked the City Council to consider two motions; one to Rescind and Reconsider Resolution 2021-35 Condemning Donald Trump, and a second vote on the approval of the new resolution.

ACTION: Motion by Mayor Martinez-Rubin/Mayor Pro Tem Salimi to Rescind and Reconsider Resolution 2021-35 Condemning Donald Trump.

Vote:	Failed	3-1-1
	Ayes:	Martinez-Rubin, Salimi, Tave
	Noes:	Murphy
	Abstain:	Toms
	Absent:	None

City Attorney Casher advised that with only three votes in favor of the motion the motion failed. As a result, the prior resolution was still in effect and would remain in effect.

Council member Toms offered to change her vote to a yes vote to provide a majority vote, and City Attorney Casher confirmed four votes would be sufficient for the motion to pass.

ACTION: Motion by Mayor Martinez-Rubin/Mayor Pro Tem Salimi to Rescind and Reconsider Resolution 2021-35 Condemning Donald Trump.

Vote:	Passed	4-1
	Ayes:	Martinez-Rubin, Salimi, Tave, Toms
	Noes:	Murphy
	Abstain:	None
	Absent:	None

ACTION: Motion by Mayor Martinez-Rubin/Mayor Pro Tem Salimi to adopt the New Resolution submitted to the City Council as shown in the agenda packet.

Vote:	Passed	4-0-1
	Ayes:	Martinez-Rubin, Murphy, Salimi, Tave
	Noes:	None
	Abstain:	Toms
	Absent:	None

B. Effectiveness of Current Code Enforcement Program [Action: Receive Report (Laughlin)]

Contract Community Development Manager Michael Laughlin presented the staff report and Code Enforcement Officer Justine Sidie highlighted cases from 2021 to illustrate the effectiveness of the Code Enforcement Program.

Mayor Martinez-Rubin and the entire City Council welcomed Code Enforcement Officer Sidie, recognized that her work was not easy, and appreciated the information on due process and the time to address code enforcement complaints.

Fire Chief Wynkoop also expressed his appreciation to Code Enforcement Officer Sidie whose efforts also provided assistance to the Fire Department.

Responding to the Council, Code Enforcement Officer Sidie clarified the collaboration efforts between Code Enforcement and the Fire Department, particularly related to weed abatement and open spaces; the notification process of any code enforcement violations which sometimes involved a verbal warning or courtesy notice with a timeline identified for compliance and with

extensions oftentimes available; the process to address repeat offenders; and when citations or when a Notice and Order to Abate were issued, with voluntary compliance encouraged.

City Manager Murray commented that the code enforcement function was complicated and challenging and there was a need to strike the right balance. The intent was for residents to voluntarily reach compliance as it related to any code enforcement, with education a key factor. He was appreciative of the excellent staff and code enforcement program.

Council member Toms reported she had received a comment from a neighbor on Pinon Avenue after the vegetation abatement had been completed who had been pleased with the situation that had been brought into compliance. She also spoke to consistent code enforcement complaints she had received about people building fences aligned behind the sidewalk within the public utility easements and asked whether there was a way to educate the public on proper placement of a fence. She referred to a resident complaint about a neighbor who worked on cars in the garage and who parked vehicles on the street and asked the best way for residents to assist code enforcement to have that type of situation brought under control.

Officer Sidie explained that street parking was the responsibility of the Police Department, streets allowed for public parking, but inoperable vehicles or vehicles left on the street after a certain period of time could be tagged by the Police Department for removal. In terms of vehicle repairs at a residence, residents were allowed 72 hours to conduct minor repairs (maintenance of the vehicles) with major maintenance required behind closed doors. Education was important to educate the public on the proper placement of fences and that issue could be discussed internally.

Mayor Pro Tem Salimi asked whether Code Enforcement was proactive or reactive. He had received e-mails about code enforcement issues on the weekends and asked what was being done to address code enforcement during those times, to which Officer Sidie confirmed she was both proactive and reactive with code enforcement. While code enforcement was not available on the weekends, an emergency after-hours telephone number was available for building violations with 4Leaf called out for emergency cases. If a complaint was received for typical code enforcement items on weekends, they would be addressed the next business day.

Council member Tave asked how unkempt rental properties would be addressed, and Officer Sidie described the City's Rental Inspection Program, where all rental properties had to be listed, licensed, and subsequently inspected with any violations on the property identified. Inspections were required for rentals every three years, and although due to COVID-19 inspections had been delayed they were being addressed. Owners of rental properties were required to address any identified violations on a property with re-inspection to occur thereafter. Notification of any violations were provided via mail to the property owner in addition to a mailed notice to the occupant, with a second notice (if needed) posted on the front door of the property.

Mayor Martinez-Rubin asked for more detail on the relationship between Republic Services and the City's Code Enforcement Program, and Caltrans as related to homeless encampments and rising complaints about donation boxes on private property.

Officer Sidie explained that the Police Department had a contract with Republic Services for a free dumpster day for citizens and she had requested consideration of more dumpster days which would assist with illegal dumping, but illegal dumping would remain a problem regardless. Republic Services removed illegal dumping along City properties and public rights-of-way (ROW)

although items on private property were the responsibility of private property owners. Citations and abatement were the only tools to address those situations. She did not work closely with Caltrans as related to homeless encampments along the freeways. For homeless encampments on City property, it was the City's responsibility to remove trash and debris but there were certain regulations in place regarding the homeless and she would have to speak to the Police Chief further about the homeless community in Pinole.

As to the periodic pop-up of donation boxes on private properties, multiple complaints had been received by code enforcement with most of the property owners claiming they have not provided permission for the donation boxes to be placed, and removing those donation boxes had been a challenge. Donation boxes were permitted in Pinole on commercial properties subject to an approved Conditional Use Permit (CUP). It was also clarified that illegal dumping was a criminal violation addressed by the Police Department.

Police Chief Neil Gang commended the work of Code Enforcement Officer Sidie and confirmed the Police Department worked collaboratively with Code Enforcement and conducted investigations in the event of illegal dumping. He also confirmed that citations had been issued for illegal dumping involving individuals who lived outside of the Pinole community but noted the Police Department had no control over the District Attorney's Office prosecution of such criminal activities. There was no process in place to charge or bill an individual for illegal dumping since it may be part of the criminal prosecution.

City Manager Murray added there had been discussions between the Police Department and Code Enforcement on possibly hardening the illegal dumping hot spots but short of evidence to pursue a case, it was expensive to install surveillance in the more remote hot spots of the City. Additional security measures had been added to some of the access points to some of the hot spots and the City Council may want to consider in the future whether it was appropriate and affordable to invest in other hardening and video surveillance in the hot spot locations. He further added that illegal dumping on a sidewalk, as an example, was not a code enforcement issue. It was potentially criminal illegal dumping and adding resources to address some of those issues had been discussed.

Officer Sidie clarified that the property owner was responsible for illegal dumping on the sidewalk up to the face of the curb. Debris or trash had been removed by the Public Works Department on occasion for health and safety issues, or as a courtesy for a senior citizen, but was not something the City would typically do. In such cases, she would make contact with the property owner and explain the process of removal. Republic Services also offered pick-up for large bulky items, but it may take some time and the property owner would be responsible for clearing the public ROW either moving any items onto their property fully or removing it from view all together.

Police Chief Gang clarified even if a license plate was identified for anyone caught illegally dumping in the City, clear and convincing evidence was required and the person must match the description. A license plate alone would not equal prosecution or a criminal charge.

Contract Community Development Manager Laughlin further added that code enforcement brought revenue into the City but not enough to cover the position of the Code Enforcement Officer.

PUBLIC COMMENTS OPENED

Rafael Menis, Pinole, thanked Officer Sidie for her work to rehabilitate the area of Pinon Avenue. He otherwise understood the property owner of the Pinon Avenue property was presumably able to pay their property taxes and the County Assessor's Office had accurate information to reach the property owner if taxes were not being paid by the property owner.

PUBLIC COMMENTS CLOSED

As to whether or not the City was able to access the County Assessor's Office database to identify property owners and in response to the Mayor, City Attorney Casher understood that resource was available as long as the information was publicly available and it could be an option the City may pursue.

Mr. Laughlin commented, however, that if they had a property owner that lived out of town or used management companies that information may not be publicly available and it was very difficult to identify the management company. In the case of the Pinon Avenue property, it had been difficult to reach the property owner.

10. NEW BUSINESS

A. American Rescue Plan (ARPA) Funds and Additional Fiscal Year (FY) 2021-22 Appropriations Process [**Action: Consider Approval of Staff Recommendation (Guillory)**]

Finance Director Markisha Guillory provided a PowerPoint presentation on the American Rescue Plan Act (ARPA) funds and additional Fiscal Year (FY) 2021-22 appropriations process as outlined in the staff report, and clarified the agenda item was a recommendation on the process and not on specific appropriations where a discussion would occur during upcoming budget workshops.

As noted in the staff report, at its meeting on August 10, 2021, the Finance Subcommittee had met to discuss the appropriations process for the ARPA funds allocated to the City of Pinole, and for additional Fiscal Year (FY) 2021/22 appropriations. The Finance Subcommittee's recommendations were provided, as follows:

Engage an outside consultant to facilitate two budget workshops. The City had received a proposal from HdL Companies, the City's sales and property tax consultant to assist in facilitating the workshops.

In addition to electronic communication, send mailers to all households in Pinole to expand outreach and encourage participation.

Host two budget workshops outside of the normal City Council meetings, preferably on Saturdays: The first workshop would involve brainstorming ideas on allocating ARPA funds and additional FY 2021/22 appropriations, then narrow down the top ideas for further consideration and analysis. The second workshop would involve decision-making by the City Council on the top ideas identified during the first workshop; and

Consider using interactive technologies (with functionalities, such as polling and voting) in advance of or during workshops to enhance community engagement.

The recommendations had been presented to the City Council for its input and direction.

Responding to the Council, Finance Director Guillory advised the format of the budget workshops had yet to be determined whether they would be in the Zoom virtual format or in-person, and a hybrid format had been discussed. At this time, she anticipated the meetings would be in a Zoom format.

City Attorney Casher detailed the Governor's Executive Order regarding public meetings, with meetings to be conducted virtually until September 30, 2021. Unless the Executive Order changed, meetings after September 30 would be in-person or some sort of hybrid in-person/Zoom format.

City Manager Murray explained that the City had adequate funds to bring a consultant on-board depending on the scope and if the City Council supported the process as staff had outlined, staff would find a consultant and communicate the consultant's approach to the City Council. Unless the process was radically different from the staff outline, it would not come back to the City Council for approval. The City Council would be apprised of the consultant's plan via a memorandum. He asked for time, at least a month, between the first and second workshops to allow staff the opportunity to research the costs of some of the different ideas under consideration. He asked the City Council to provide direction to staff on the timeline when the first workshop should be considered.

In terms of mailing mailers to all households in Pinole to expand outreach and encourage participation, Mayor Martinez-Rubin suggested notices be posted in different locations around the City with the framing of the workshop goals to be clearly described to ensure people did not have different expectations on the use of the ARPA funds.

Council member Murphy suggested staff also reach out to local schools to provide announcements on the school's electronic billboards.

City Attorney Casher provided further clarification in the event that meetings were allowed to return to in-person format. If a Council member was unable to attend an in-person meeting, he clarified they may still participate virtually but their meeting location would have to be identified consistent with Brown Act regulations.

The City Council discussed potential dates for the two workshops and there was consensus for the first workshop to be held on Saturday, October 9, 2021, from 9:30 a.m. to around 1:00 p.m., with the second workshop scheduled for Saturday, November 6, 2021.

City Manager Murray advised that once he had the specifics including the facilitator, he would share the information with the City Council. He asked the City Council to formalize action via a motion approving the Finance Subcommittee's recommendations and the dates for the two workshops.

PUBLIC COMMENTS OPENED

Ms. Stone reported there were no public comments for this item.

PUBLIC COMMENTS CLOSED

ACTION: Motion by Mayor Pro Tem Salimi/Council member Murphy to Approve the Finance Subcommittee's Recommendations on the Appropriations Process and the dates for the two workshops, with the first workshop to be held on Saturday, October 9, 2021 and the second workshop scheduled for Saturday, November 6, 2021.

Vote: **Passed** **5-0**
 Ayes: **Martinez-Rubin, Murphy, Salimi, Tave, Toms**
 Noes: **None**
 Abstain: **None**
 Absent: **None**

- B. Appoint a Council Member and Up to Two (2) Alternates to Serve as Voting Delegates at the League of California Cities Annual Conference **[Action: By Minute Order Appoint Delegate and Alternates and Provide Direction on League Resolutions (De Las Rosa)]**

Assistant City Manager/Deputy City Clerk De La Rosa presented the staff report and asked the City Council to appoint a Council member and up to two Alternates to serve as Voting Delegates at the League of California Cities Annual Conference. He also provided an overview of the two resolutions to be considered at the Conference.

Mayor Martinez-Rubin planned to attend the League of California Cities Annual Conference, and Mayor Pro Tem Salimi was available to attend but had not registered and was willing to give the opportunity to another Council member.

Council members Tave and Murphy expressed the willingness to serve as Alternate delegates.

ACTION: Motion by Council member Toms/Mayor Pro Tem Salimi to Appoint Mayor Martinez-Rubin as the Delegate, Council member Tave as the first Alternate and Council member Murphy as the Second Alternate at the League of California Cities Annual Conference.

Vote: **Passed** **5-0**
 Ayes: **Martinez-Rubin, Murphy, Salimi, Tave, Toms**
 Noes: **None**
 Abstain: **None**
 Absent: **None**

PUBLIC COMMENTS OPENED

Ms. Stone reported there were no public comments for this item.

PUBLIC COMMENTS CLOSED

ACTION: Motion by Council members Toms/Tave for the Council Delegate and Alternates to the League of California Cities Annual Conference to Support Resolution #1, Fair and Equitable Distribution of the Bradley Burns 1% Local Sales Tax from In-State Online Purchases.

Vote: **Passed** **5-0**
 Ayes: **Martinez-Rubin, Murphy, Salimi, Tave, Toms**
 Noes: **None**
 Abstain: **None**
 Absent: **None**

ACTION: **Motion by Council members Toms/Murphy for the Council Delegate and Alternates to the League of California Cities Annual Conference to Support Resolution #2, Seeks appropriation of funding to the California Public Utilities Commission (CPUC) to inspect Railroad lines and ensure cleanliness and public safety of communities abutting the Railroad Right of Way.**

Vote: **Passed** **5-0**
 Ayes: **Martinez-Rubin, Murphy, Salimi, Tave, Toms**
 Noes: **None**
 Abstain: **None**
 Absent: **None**

11. REPORTS & COMMUNICATIONS

A. Mayor Report

1. Announcements

Mayor Martinez-Rubin reported the Historic Preservation Committee had met on July 27 with a presentation from the retired Director of the National Park Service, John Jarvis, on historic preservation, and who reported that the Committee had concluded its discussion on the overlay map associated with the ordinance and had begun discussions of the Old Town Design Guidelines. The next Historic Preservation Committee meeting had been scheduled for September 1, 2021 at 5:00 p.m., with members of the public encouraged to participate via Zoom.

A WestCAT Board meeting had been held on July 29, 2021, when WestCAT had voted to approve free fares throughout the month of September and on October 6, 2021 as part of California Clean Air Days; the August 5 Mayors' Conference included an update of the City Manager's Association (CMA) for Contra Costa County efforts on collaboration with County Behavioral Health staff to create a model for the crisis intervention response; and at the beginning of this month the Miles Hall Community Crisis Hub Pilot would be underway and be staffed by a multi-disciplinary team. She reported on the discussions during the August 10 Finance Subcommittee meeting with a presentation and discussion of ARPA funds and additional appropriation for this fiscal year.

B. Mayoral & Council Appointments

None

C. City Council Committee Reports & Communications

Council member Tave reported the Household Hazardous Waste Drop-off had been scheduled for August 28, 2021 at 3301 Morningside Drive, El Sobrante; he was working with the RecycleMore Director to discuss ways to increase Dumpster Days and bins for free composting

for the community; children had started school with information on the WCCUSD website; and he looked forward to the League of California Cities Conference.

Council member Murphy thanked the volunteers and members of the Recreation Department for the ongoing Food Bank Drive distribution held the second Monday of each month at 9:00 a.m. at the Senior Center. He also reported that most Marin Clean Energy (MCE) Board meetings for the month of August had been canceled for summer recess, with all information on MCE Board meetings for the month of September available on the MCE website. He encouraged business owners and residents to take advantage of the programs offered by MCE. In addition, he would be hosting his coffee chat via Zoom on Sunday, August 22 at 9:00 a.m. and on September 15 would participate in the Pinole for Fair Government Town Hall.

Council member Toms reported that the Bay Area Rapid Transit (BART) system would have reduced fares the same period as WestCAT throughout the month of September and on October 6, 2021 as part of California Clean Air Days. She had been following all of the Measure X Advisory Committee discussions, some of which related to services in the City of Pinole, and encouraged interested residents to participate in the Measure X meetings held each Wednesday at 5:00 p.m. via Zoom when public comment was welcome. Topics discussed by the committee included mental health issues, fire services, sustainability, library services and transportation for people with disabilities and seniors.

D. Council Requests for Future Agenda Items

Council member Tave requested a future agenda item for a presentation from the City Manager on the challenges the Permit Department was facing to explain to the public the process. Consensus given.

Council member Toms requested a future agenda item for a Climate Emergency Resolution.

City Manager Murray stated there had been a requested agenda item some time ago spurred by the adoption of Contra Costa County's climate emergency declaration resolution. An item had been tentatively scheduled for the next City Council meeting for a presentation on City activities to address climate change including in relation to the County's climate emergency resolution and the City's Sustainability Element, with the focus of the presentation not on the County's resolution itself. He suggested if the City Council desired a report on climate action and consideration of a resolution the same as the County's climate emergency declaration that could be agendaized and would not create additional staff work.

Council member Toms amended her request for a future agenda item for staff to present a report on climate action and consideration of a resolution the same as the County's climate emergency declaration. Consensus given.

Council member Toms requested a future agenda item for a Council member to be appointed as a delegate to join staff on the East Bay Wildfire Prevention and Vegetation Management JPA. Consensus given.

After consensus was given, City Manager Murray commented the resolution was to have staff and a selected City official participate in discussions, different from participation in a formation committee which assumed a position regarding how they feel about the JPA. The discussions

were not well defined at this time. Staff did not see its charge at this time as advocating for the JPA, which would come back to the City Council to obtain direction.

Council member Toms understood if they had a Council member involved in the early discussions they could report back, but if staff decided the City should not move forward with the JPA the Council would not be involved and the matter would be dropped.

City Manager Murray clarified it was fine for both staff and a Council member to participate in discussions, and any decision required a majority vote of the Council.

Mayor Martinez-Rubin requested a future agenda item to have a discussion about participating in the United Against Hate Week campaign to be held in November 2021 and asked that the Council consider Pinole specific activities in support of the campaign. Consensus given.

Council member Murphy requested a future agenda item to discuss how the City could support the Holiday Tree Lighting ceremony.

City Manager Murray reported the Holiday Tree Lighting Ceremony had been included in the budget, would take place, additional Council authorization was not needed, and there would be an additional agenda item at the next Council meeting to discuss the downtown tree lighting.

Council member Tave requested a future agenda item for a presentation on the Car Show.

City Manager Murray reported the Car Show had been scheduled for September 26, 2021. The City would be collaborating with the organizer to get the word out, information could be provided to the Council via regular communication channels, but a presentation could be made to the City Council as well.

Mayor Martinez-Rubin requested an extended update on the Car Show at the next meeting of the City Council.

Mayor Pro Tem Salimi requested a future agenda item to create a quarterly mailer to City residents providing an update on City matters.

Mayor Martinez-Rubin suggested that would be one of the tasks that would be part of the Communications and Engagement Plan with the consultant firm to provide ideas to the City Council for consideration. She suggested a separate agenda item was not needed.

E. City Manager Report / Department Staff

City Manager Murray reported that the Coastal Clean Up would be held on September 18, 2021, and the Pinole Car Show on September 26, with additional information on the City website.

F. City Attorney Report

None

12. ADJOURNMENT to the Regular City Council Meeting of September 7, 2021, in Remembrance of Amber Swartz.

At 10:14 p.m. Mayor Martinez-Rubin adjourned the meeting to the Regular City Council Meeting of September 7, 2021, in Remembrance of Amber Swartz.

Submitted by:



**Heather Iopu, CMC
City Clerk**

Approved by City Council: October 19, 2021

