

CITY COUNCIL MEETING
MINUTES
September 7, 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 6:01 p.m. and led the Pledge of Allegiance.

2. LAND ACKNOWLEDGEMENT

Before we begin, we would like to acknowledge the Ohlone people, who are the traditional custodians of this land. We pay our respects to the Ohlone elders, past, present and future, who call this place, Ohlone Land, the land that Pinole sits upon, their home. We are proud to continue their tradition of coming together and growing as a community. We thank the Ohlone community for their stewardship and support, and we look forward to strengthening our ties as we continue our relationship of mutual respect and understanding.

3. 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
Heather Iopu, City Clerk
Eric Casher, City Attorney
Hector De La Rosa, Assistant City Manager
David Hanham, Planning Manager
Markisha Guillory, Finance Director
Kathleen Gallagher, Sustainability Consultant, CSG

City Clerk Iopu announced the agenda had been posted on Thursday, September 2, 2021, at 4:00 p.m. All legally required notice was provided with written comments received for Items 6 and 11A. Comments had been posted to the agenda page of the City website and distributed to the City Council in advance of the meeting.

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

4. 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.

- A. CONFERENCE WITH LABOR NEGOTIATORS
Gov. Code § 54957.6
Agency designated representatives: City Manager Andrew Murray, Assistant City Manager Hector De La Rosa, City Attorney Eric Casher
Employee organizations: AFSCME, LOCAL 1, IAFF
- B. CONFERENCE WITH LABOR NEGOTIATORS
Gov. Code § 54957.6
Agency designated representatives: City Manager Andrew Murray, Assistant City Manager De La Rosa, Assistant City Attorney Alex Mog
Employee organizations: PPEA

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

At 7:31 p.m. Mayor Martinez-Rubin reconvened the meeting to open session and announced there was no reportable action from the Closed Session.

6. 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.

Alexander Jason, Pinole, asked the City Attorney to opine if a City Council member had contributed financially to the non-profit 501 (C)(3) Pinole History Museum whether it would be a conflict of interest for that member to vote in favor of allocating improvements to the City-owned Faria House; if a City Council member had contributed financially to the same non-profit whether it would be a conflict of interest for that member to vote in favor of the City's funding and/or support the establishment of a Pinole History Museum; and if a City Council member had a question about an official potential conflict of interest whether that member should consult the City Attorney or rely upon the opinion of a random citizen.

David Rupert, Pinole, emphasized freedom of speech was the right of the general public, guaranteed by the Constitution through the First Amendment, and everyone had the right to express their thoughts without fear of government suppression and/or retaliation. He suggested this inalienable right was not absolute with the Citizens to be Heard portion of the meeting agenda, a well-established forum where citizens may express his/her opinions to City government, but those opinions were not unbridled and subject to scrutiny when they were inaccurate and/or false. He found that a small number of people had opted to use this forum as a personal playground to spew bombastic diatribes at elected and non-elected officials. While he was not suggesting such language should be prohibited, the veracity of these statements should be challenged when the truth indicated something to the contrary.

Mr. Rupert stated over the past few months former elected officials and Council members Debbie Long and Roy Swearingen, and more recently Pinole citizen Alexander Jason, a member of the Pinole History Museum Board of Directors, had decided to question whether City Council member Murphy and Mayor Pro Tem Salimi had the capacity to perform the duties of their elected offices.

These former City Council members disagreed with Council member Murphy's constitutional and protected right not to cite the Pledge of Allegiance. Mr. Jason had challenged the concept of a common-law conflict of interest and had questioned Mayor Pro Tem Salimi's use of the doctrine to recuse himself from further participation in the Faria House Museum project. During prior City Council meetings, the City Attorney and Council member Murphy addressed the contentions, provided adequate and accurate information to dispute the comments, and invitations had been extended to those individuals to discuss the matter further but with no response. During the August 17, 2021, City Council meeting, Mr. Jason stated during Citizens to be Heard that common-law conflicts did not exist. He asked that Mr. Jason contact him directly since such conflicts did exist and there were cases that could be cited to the contrary.

Rafael Menis, Pinole, commented on the amount of discussion during this meeting and prior City Council meetings regarding conflicts of interest. He found a document the State of California had posted online regarding conflicts of interest and read into the record an extensive segment on the common-law doctrine. Given that information, common-law interest did exist, had been called out by the State about the types of conflict that existed and may apply to public officials, and was more specific than information previously provided by the City Attorney. On another matter, he asked whether there was a prohibition on accepting free or discounted transportation services such as the discounts being offered by WestCAT and BART for the month of September and whether that would apply to public officials.

Jane Cole, Pinole, spoke to her personal experience working with the Tuolumne County History Museum located in the City of Sonoma. As a long-time resident of Pinole, the Faria House had been a wonderful landmark and she questioned why the City was delaying pursuit of the resource the Faria family had made available to the City. She emphasized this was the time to maintain, and when possible, develop the property. She found the infighting distressing and urged everyone to consider the common interest.

Debbie Long, Pinole, read into the record the names of 14 members of the military who had recently lost their lives serving their country in Afghanistan. She stated the deaths of those 14 people were why Council member Murphy should be standing for the Pledge of Allegiance, and reported there were many other service men and women still in the hospital that deserved everyone's prayers as well as many Americans who had been left behind in Afghanistan, not to mention the Afghani's who had worked besides American military that had been left to face the unknown. While it was clear that Council member Murphy would not stand for the Pledge of Allegiance or say why he would not stand, which she acknowledged was his right, she found his actions and response, or lack thereof had been shielded by the pandemic and at some time he would have to face the people and explain his actions.

Eric Payne, a member of the California Pan-Ethnic Health Network, supported greater investment in public greening efforts and expansion of outdoor education and recreational opportunities to integrate public and cultural arts, provide greater investment in multi-modal transportation options to reduce Greenhouse Gas (GHG) emissions, and mitigate community beautification efforts as the City utilized its COVID-19 recovery dollars to build the public health infrastructure. In terms of standing for the American flag and what it represented, and as an African-American male in this country, Mr. Payne emphasized the level of work needed as a community to push back on the narratives of discrimination. He urged Council member Murphy to continue to serve, lead with integrity, and stand on principle.

Jackie Garcia-Mann, the daughter of a Mexican-American immigrant and a Jewish Holocaust survivor understood why some people did not stand for the flag but asked that the matter rest. She urged the City to do more about climate change. She emphasized there was a lot that could be done at the local level, what was done in California trickled up, California could be a leader for the entire country, and she urged consideration of declaring a climate emergency with tracking and measuring of the climate goals in the General Plan. Some of the ideas to address climate change included increasing solar installations, requiring electrification in all new construction, and establishing an Environmental Justice Team.

Irma Ruport, Pinole, thanked Council member Murphy and Mayor Pro Tem Salimi for voting their conscience and staying true to themselves. In terms of the discussion surrounding the Faria House, she pointed out that prior Council members and staff had made commitments regarding the property which could not be fulfilled during the best of times. She emphasized the City needed to address more urgent matters before expending funds on the Faria House, particularly absent community involvement. She added the history of the decisions about funding for the Faria House had been documented in writing, the truth should be told, and possibly a vote of the people was necessary on this issue.

City Attorney Eric Casher provided an overview of the conflict-of-interest rules, which consisted of three standards, two of which were statutory including the Political Reform Act and Government Code § 1090. The final word on such conflicts was the Fair Political Practices Commission (FPPC). He also walked through Item 3 on the meeting agenda which included the Statement of Conflict, whereby each Council member was asked to identify whether or not they had a conflict of interest with any items on the agenda. Council members also had the opportunity to reach out to him after the distribution of the meeting agenda to discuss whether or not there was a potential conflict of interest on an item on the agenda.

City Attorney Casher explained that oftentimes an advice letter was submitted to the FPPC on potential conflicts of interest and when the FPPC provided an advice letter it provided a Council member with immunity from enforcement action that related to the Political Reform Act and Government Code § 1090. Common-law conflicts were not statutory but a function of the courts. There had been lawsuits filed against public officials alleging violations of the common-law doctrine, but the enforcement body was the courts and the FPPC did not provide advice letters on common-law doctrine.

In response to the public comment as to whether or not there was a conflict of interest with contributions made to a 501(C) 3) non-profit such as the Pinole History Museum, City Attorney Casher stated if it was an allocation of funds or the establishment of a museum, he could not provide an analysis at this time since it would depend on the amount of the contribution and a number of other factors. If the City Council so directed, he could provide an opinion on that issue and would be happy to do so but short of that he could not provide an answer at this time. There could also be legal opinions already rendered for Council members, and there was an attorney client privilege protecting any advice given. He would have to be authorized by those Council members to offer that information publicly.

7. RECOGNITIONS / PRESENTATIONS / COMMUNITY EVENTS

A. Proclamations

None

B. Presentations / Recognitions

None

8. 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 applauded the increased level of detail provided for Item 8A, particularly the July 6, 2021, Meeting Minutes. He found it worthwhile to see the comments from the public.

Irma Ruport referenced Item 8D and asked the City Manager to clarify whether American Rescue Plan Act (ARPA) funds would be placed in a separate account or be part of the General Fund since she understood the use of the funds involved restrictions. To avoid any confusion or issues, she suggested the funds be placed in a separate account. She also asked that citizens be provided air filters and purifiers as part of the allocation of ARPA funds. As to Item 8E, she asked whether the Request for Proposal (RFP) had been issued to any consultants from Northern California or East Bay contractors given that the contractors shown in the staff report were all from Southern California with no knowledge of the City of Pinole. She also asked that regardless of the contractor chosen, there be monitoring to ensure the contractor complied with the scope of work, with an update to the public.

PUBLIC COMMENTS CLOSED

City Manager Murray clarified the use of ARPA funds would have a separate tracking mechanism as required for the receipt of funds and governmental accounting standards, with a report on the receipt and expenditure of the funds to be provided. As to item 8E, there would be a quarterly reporting process on the progress of the completion of the strategies in the Economic Development Strategy, and there would be many public engagement opportunities as part of the development of the Strategy. He added the City had received a number of proposals from well-qualified firms, the majority of which had a presence in Northern California, including the recommended firm.

- A. Approve the Minutes of the Meetings of June 29, 2021 and July 6, 2021
- B. Receive the August 14, 2021 – September 3, 2021 List of Warrants in the Amount of \$890,175.86, the August 20, 2021 Payroll in the Amount of \$459,780.15 and the September 3, 2021 Payroll in the Amount of \$501,375.28
- C. Letter of Support for Assembly Bill (AB) 570 Regarding Dependent Parent Health Care Coverage **[Action: Consider Approval of Letter per Staff Recommendation (Murray)]**

- D. Accept American Rescue Plan Act (ARPA) Funds **[Action: Adopt Resolution per Staff Recommendation {Guillory}]**
- E. Resolution Authorizing the City Manager to Execute an Agreement With The Natelson Dale Group (TNDG) to Create an Economic Development Strategy **[Action: Adopt Resolution per Staff Recommendation (Murray)]**

ACTION: Motion by Council member Murphy/Mayor Pro Tem Salimi to Approve Consent Calendar Items A through E.

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

9. 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

10. OLD BUSINESS

- A. Review Status of COVID-19 Local Emergency Declaration and Consider Resolution Confirming Continued Existence of Local Emergency **[Action: Review and Consider Adoption of Resolution per Staff Recommendation (Casher)]**

City Attorney Casher provided a PowerPoint presentation and asked the City Council to consider approving terminating, or adopt a resolution confirming, the continued existence of local emergency and welcomed any questions from the City Council.

PUBLIC COMMENTS OPENED

City Clerk Iopu reported there were no public comments for this item.

PUBLIC COMMENTS CLOSED

Responding to the Council, City Attorney Casher explained that if the Local Emergency Declaration was terminated Urgency Ordinances that had been adopted and which allowed temporary permits in short order, particularly for outdoor dining, would expire by function of time since 90 days was the time period when the temporary permits had initially been issued. There was the opportunity for an extension beyond that time at the staff level. If the Local Emergency Declaration were to be terminated, no streamlined permits could be issued and any outdoor dining operation, as an example, would have to go through the typical planning process. For those businesses that had temporary permits for outdoor dining, staff would work with them on the application process in the event they wanted to continue with outdoor operations, with applications to be processed through the typical planning process.

City Attorney Casher also clarified that if the Local Emergency Declaration was allowed to terminate, it would have no practical impact on existing temporary permits that had been issued. Some of those permits had expired and staff would have to work with those local businesses to determine if they wanted to consider a permanent structure, and would then have to go through the typical planning application process.

City Manager Murray added that staff had not encouraged businesses to dismantle the outdoor spaces given the increases in COVID-19 cases. The permits for outdoor dining had been approved under temporary conditions to address a significant economic need in the community. He was uncertain the structures would meet the standards for permanent structures, and there was not a well-defined program for parklets. Before communicating with a business, more information was needed on what was considered to be a permanent structure and a new scheme related to that, which was more oriented towards parklets, which the City currently did not have. That would have to be added to the work plan and given the surge in COVID-19 cases, it made sense to allow the temporary structures to continue and allow staff the opportunity to figure out a permanent solution.

Council member Toms suggested the Local Emergency Declaration continue.

Council member Murphy suggested the Planning Commission be tasked to consider guidelines for a parklet option for outdoor dining. He also asked for clarification as to how the City's eviction moratorium would fit into this discussion in terms of who was or was not protected. He agreed the Local Emergency Declaration should continue and not be terminated.

Planning Manager David Hanham explained that the Planning Commission could review what other cities had done in terms of allowing parklets for outdoor dining and they would also need to consider potential impacts on parking in the area.

City Attorney Casher advised that direction to the Planning Commission would be staff generated initially and depending on what would be required, such as amendments to the Zoning Code, would require Planning Commission consideration prior to the City Council taking action. The City Council may provide that level of direction if appropriate. He was unaware of the intricacies of the County's Eviction Moratorium and directed residents with concerns to visit the County website where information could be provided. The County's Eviction Moratorium applied to the City of Pinole and there were also State and federal actions related to moratoriums on evictions. Anyone who had concerns should start with the County website. The State and federal governments also had information for tenants and landlords.

Mayor Martinez-Rubin suggested the City's website could also be updated as it related to this topic with links to current information.

City Manager Murray confirmed that staff could report out at a future City Council meeting, and acknowledged the City website was lean on affordable housing resources and the County's website had more information. Basic housing protections and resources could be provided at a future City Council meeting.

In response to Council member Tave, City Manager Murray commented on the various changes to the City organization to ensure safety and in response to COVID-19. He reiterated the main action the City and City Council had taken was permitting temporary outdoor dining. Employee

telecommuting and improving the automation and access to online services were within the normal authority of City government. If the Local Emergency Declaration was terminated, he could not see that anything needed to be changed or undone.

Council member Tave suggested that until the State and the County terminated their emergency declarations due to COVID-19, the City's Local Emergency Declaration must continue, which would also allow staff the opportunity to figure out any impacts if the emergency declaration were to be terminated.

Mayor Martinez-Rubin supported the continuation of the City's Local Emergency Declaration due to COVID-19 for all of the reasons stated. She also wanted to continue support for local businesses and continue to permit outdoor dining.

City Attorney Casher advised the published agenda included hyper-links to City updates on the Coronavirus advisory information and links to the County website. Attachment A, included in the September 7, 2021 staff report, also included a resolution confirming the Continued Existence of Local Emergency which should be included in the motion.

ACTION: Motion by Mayor Martinez-Rubin/Council member Toms to Adopt a Resolution Confirming the Continued Existence of a Local Emergency Declaration Due to COVID-19.

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

11. NEW BUSINESS

- A. Presentation on City Activities Related to Climate Change, and Discussion and Possible Direction on Additional City Action to Address Climate Change **[Action: Receive Presentation (Laughlin/Gallagher)]**

City Manager Murray reported that in 2020 the Contra Costa County Board of Supervisors had approved a resolution declaring a climate emergency, committing the County to a number of specific actions, and called upon cities in the County to adopt their own resolutions declaring a climate emergency. This agenda item had been requested as a future agenda item, and over time the City Council had discussed a number of ideas and issues related to climate change. As a result, the future agenda item had grown to include a discussion of the Sustainability Element of the General Plan and other issues. The responsibility for guiding the community and City operations to achieve climate goals rested primarily with the Public Works Department in its operations work and in the Community Development Department related to future land use planning.

City Manager Murray recognized the City of Pinole had been a leader on climate issues and was the first city in Contra Costa County to voluntarily adopt a Sustainability Element of the General Plan in 2010, but the City had not done a good job tracking its accomplishments and reporting out. This was an opportunity for the City Council and staff to reengage on this topic and discuss next steps to advance the City's work on this effort.

City Manager Murray reported that due to the recent retirement of the former Development Services Director, the City had hired the consultant firm of CSG to provide expertise in bandwidth community development, with a presentation to update the City Council on City activities related to climate change, and with staff asking that the City Council provide direction on certain items such as a thorough update on the goals, objectives, and tasks outlined in the Sustainability Element. He also asked that the Council direct staff to bring back a resolution to identify the City's current status on GHG and a Climate Action Plan (CAP), and appropriate funding to create a GHG Inventory, a precursor to taking steps to reduce GHG emissions and create a targeted CAP.

Kathleen Gallagher, Sustainability Manager, CSG, provided a PowerPoint presentation on the City of Pinole's Actions and Addressing Climate Change, which included an overview of the climate change background, GHG emission reduction targets and State actions, jurisdictions taking action on GHG inventory and CAPs and Pinole's 2010 Sustainability Element Goals.

Recommendations for consideration included:

- Complete analysis of Sustainability Element Programs/Policies that were implemented and provide report to Council at a future meeting.
- Prepare a GHG Inventory.
- Prepare a Focused CAP for High Impact GHG Reduction Program.
- Direct staff to include in the mid-year adjustment (FY 21/22) Operating and Capital Budgets for funding contract to complete the GHG Inventory and CAP.
- Review Climate Emergency Resolutions examples and provide direction to staff on resolution content for future Council meeting.

PUBLIC COMMENTS OPENED

Floyd Andrews was excited Pinole would be taking climate seriously; wildfires in the State had resulted in unbreathable air, there has been an increase in homelessness and the Wildfire Prevention and Vegetation Management Joint Powers Agency (JPA) opportunity would go hand-in-hand with the climate emergency. If higher institutions were unwilling to step forward local institutions must engage on this important topic and do what they could to address the climate emergency for current and future generations. There was confidence the City Council would be able to identify what actions were appropriate for Pinole and the City Council was urged to take immediate action.

Rafael Menis thanked Contra Costa County Climate Leaders (4CL) for the written correspondence that had been provided and which had been accessible on the City website. He agreed with the six policy items that had been outlined in the correspondence and understood based on the information provided by 4CL that the State had created a GHG Inventory Plan. Pursuant to the language in the City's Sustainability Element, pursuant to Action SE3.1.1, a GHG Inventory had already been done; however, the staff report stated a GHG Inventory had not been prepared and he asked staff to provide clarification. He also found that numerous worthwhile points had been identified under Action SE3, which had not been implemented. He suggested

that many of those items could be completed without having to prepare a full GHG Inventory and before a full CAP had been created.

Ms. Gallagher clarified that ,along with the former Contract Community Development Manager, they had discussed the GHG Inventory Plan and after research of the archives staff was only able to find a start of a GHG Inventory, which was around 30 percent complete and had only identified municipal operations.

Fred Bialy, El Cerrito, pointed out that what happened in Pinole affected those around Pinole. He reported in 2018, the United Nations Intergovernmental Panel on Climate Change released a report, which made it clear it was imperative that global temperature rise be limited to no more than 1.5 degrees centigrade. An IPCC Sixth Assessment Report released in August 2021 had shown it was now Code Red for the planet in achieving the 1.5 degree centigrade goal. He supported the recommendations for the City to prepare an updated GHG Inventory and update its Sustainability Element to be more ambitious, enough to achieve the GHG emissions reduction targets to limit global warming to 1.5 degrees centigrade. He supported a climate emergency resolution. As to the goal of reducing GHG emissions by 40 percent by the year 2030, recent analysis had shown how to implement the goal of 1.5 degree centigrade and actually reduce GHG emissions by 50 percent. He urged the City to be ambitious in whatever was implemented.

Marti Roach, representing 350 Contra Costa, a countywide group focusing on advocating to and partnering with local governments in Contra Costa County to address the climate emergency, commended Pinole for having the foresight in 2010 to have a Sustainability Element, but it had fallen short on capacity and being able to implement the plans. Given that the climate emergency continued at a pace that limited the window for action, she hoped the City would use this moment to step up. She emphasized four elements which were key including leadership from the top; i.e. the City Council with regular reports on progress; a plan with equity at the center focused on GHG emissions and on goals, strategies and climate resilience; commitment to financing and capacity; and strong community engagement. She thanked the City Council for prioritizing this issue and expressed the willingness to watch the City's progress and provide support as possible.

Lynda Deschambault, a retired Environmental Scientist from the U.S. Environmental Protection Agency (EPA), a former Mayor, and Director of 4CL, explained that the City Council had been provided a comment letter which included six policy items. She reported the City of Pinole had been involved in 2007, along with all cities in Contra Costa County (with the exception of two) and had received a complete GHG Inventory both for municipal operations and for the County. 4CL had partnered with the San Francisco Foundation and ICLEI, Local Governments for Sustainability, received a grant and the information had been completed for the City of Pinole, but the report had been shelved and had never become policy. She emphasized the Code Red and asked the City Council to direct staff to move forward and not backward and declare a climate emergency, which would guide the process, and join the County and other cities that had passed climate emergency resolutions, create a GHG Inventory, and create a CAP that could be put in place. She hoped to see the item on a future agenda and future discussions to fine tune a climate emergency resolution.

PUBLIC COMMENTS CLOSED

Responding to the Council, Ms. Gallagher provided clarification to some of the points in her PowerPoint presentation.

Council member Toms recognized that 4CL and 350 Contra Costa had attended many different workshops and she thanked them for their advocacy. As to the resolutions declaring a climate emergency and the resolutions provided in Attachments C and D to the staff report from Contra Costa County and 4CL, she pointed out that Pinole did not have some of the industry that the unincorporated areas of Contra Costa County had and would not have to address issues of transition. Also, Pinole did not meet the threshold of SB 1000, Land use; general plans: safety and environmental justice, but there were some parts of the City that were at risk more than others, and she was uncertain how that would be addressed.

City Manager Murray explained that staff did not have a recommendation on which of the resolutions should be considered for Pinole. Staff would like to research similar resolutions in peer communities and the City Council may direct staff to return with a resolution that included parts that were relevant to Pinole and which could be further modified.

Council member Tave asked staff whether grants were available for this effort and asked how to leverage the funds the City had to ensure it was meeting greater goals. He stated the City was fighting on multiple fronts with limited resources to address the climate emergency and suggested there was a larger discussion on what the CAP looked like outside of a resolution. He asked how far away the City was from an actionable CAP.

Ms. Gallagher advised that typically the completion of a GHG Inventory tended to open doors to grants and grant applications and signaled to the grantor the seriousness of addressing climate change. Funding and grant opportunities had and would continue to be investigated. She noted that a GHG Inventory typically required six to seven months to complete due to the need to obtain data from PG&E related to natural gas and Vehicles Miles Traveled (VMTs), and she described the methodology used to calculate the data. A CAP would review the critical pieces and quantify what the individual program would actually result in GHG emissions reduction and estimated costs, with all elements reviewed to ensure a successful plan. She anticipated a CAP would take eight to nine months to complete and if the City Council and the City Manager were agreeable a concurrent community outreach effort would be important given the resources and options for residents and businesses.

Council member Murphy emphasized the importance of this issue and to start the sustainability conversation. He asked for clarification of the term “super pollutant” which had been used in the PowerPoint presentation, and Ms. Gallagher explained that the super pollutants were hydro fluorocarbons, methane and refrigerants which had a much accelerated ability for global warming capacity, with methane one of the strategies the State was focusing on, particularly related to SB 1383, which required the reduction of organic waste disposed in landfills, with the goal for organics and food waste to not be dumped in landfills but to composting and other facilities so avoid producing methane. She recognized the City of Pinole had organics collection.

Council member Murphy spoke to his experience as an environmental activist and his understanding Pinole had not been deemed as a disadvantaged community and unable to apply to that qualifier. He referenced the 2019 NuStar Refinery Explosion where traffic and air in Pinole had been impacted, and impacts to air quality in 2020 due to wildfires in the State. He asked how communities made CAPs and moved forward absent that qualifier.

Ms. Gallagher emphasized that environmental justice was big now with some of the focus on pushing funding, rebates, and electric vehicle (EV) infrastructure funding towards lower income opportunities. She added that Marin Clean Energy (MCE) had been funding a lot of programs for lower incomes, and they just had to make the case to move the funding into Pinole.

Council member Murphy commented that the PowerPoint presentation had not included any information on sea level rise, particularly since Pinole was a bay front community. He asked for additional input on that issue, and Ms. Gallagher advised that resiliency and adaptation would be part of the CAP and would provide the necessary steps. Various maps had shown the potential impacts from sea level rise in the next 10 and 20 years if remaining on the same trajectory. She suggested that section of the CAP would be robust for Pinole given projections for intense rainfall in a short period of time and impacts on infrastructure.

Council member Murphy found that besides the work force conversation, youth activists had not been included in the planning for the CAP and had not been identified in the PowerPoint presentation.

Ms. Gallagher confirmed that youth would be a big part of the CAP and presenting and getting feedback from the youth population would be important. She would have to work with City staff to understand the inroads on how to get that communication open as part of outreach and communication, which would likely be a robust section of the CAP to ensure solid communication to the youth population and future generations. Shared information and shared best practices would be necessary, and more time would be needed to see what had worked. She suggested there would be more to come on that topic.

Mayor Martinez-Rubin appreciated all of the assessments that had been prepared thus far and recognized this was a matter of urgency. Of the recommendations staff had asked the City Council to consider, while she would like to direct staff to proceed with all of the recommendations, she was concerned with another plan sitting on a shelf. Concurrent with the high level of activity, she would also like to see goals that were reachable such as some of the activities identified in the Sustainability Element of the General Plan. She would also like to see concurrently some of the tasks that may have been started and for which the City had the capacity to complete.

Council member Tave agreed this was not a new conversation, some efforts had been underway but had stopped somewhere and he wanted assurance the process would move forward and not result in another report with no action. He asked staff to provide clarification if they were starting from scratch and then pulling in the appropriate agencies.

City Manager Murray referenced the many plans that the City Council had directed staff to prepare such as the CAP, Economic Development Strategy engagement, safety and the like, with projects and initiatives that could touch on many things. To make the workload manageable, the planning had been broken down into issue areas. He described the process to address the many initiatives that were underway or had been delayed prior to his arrival as the City Manager. In this case, he suggested they would not be starting over or creating something new in that it had already been budgeted for and scheduled. He noted the City did not have the bandwidth at this time to begin working on even a fraction of the things in the Sustainability Element and he was unaware of the reasons for delays after the adoption of the document in 2010. He agreed with the need to move ahead with a GHG Inventory and then work on the CAP which must dovetail with the Sustainability Element. In the meantime, they needed to look at what was done, ideas not done, and implement

the top ideas in the Sustainability Element. A good CAP would prioritize the actions needed to be taken but involve a narrower scope of activities than the Sustainability Element, which would mean that other plans would not go away since they must be well integrated.

Council member Tave asked how the City would fund the project to be in a good position to accelerate some of the ideas when opportunities presented themselves, and City Manager Murray suggested the analyses would identify the best opportunities and best return on the City's limited resources. Staff was excited to identify how to move forward, but they could not do so strategically without the necessary underlying analyses, some of which must be done concurrently.

Council member Murphy commended the efforts of the City Manager and Finance Director Guillory for keeping things moving and for all of the updates that had been provided. He identified the top topics of conversation with residents which included investment in green school yards including Collins Elementary as a priority; outdoor educational and recreational opportunities; finding ways to reduce plastic waste possibly via an ordinance banning plastic bags, Styrofoam and food ware; embracing indigenous land acknowledgment practices; using signage as an opportunity for citywide education and creating spaces for public art; city services used to support the creek and parks cleanup; potentially building a community garden at Pinole Valley High School and making community farming a priority; increased annual cleanups for green waste; and continuing to advocate for COVID-19 social safety measures with young people a critical part of the effort.

Council member Murphy also referenced the Pinole Environment and Sustainability Task Force (PEST) and suggested this was an opportunity to bring in those people most affected by climate change within the City and how to engage the public in conversations around climate action. He emphasized the importance to act on this issue and agreed with the recommendations offered by staff but would also like to see staff invest in people resources as well, with the budget to include the types of people needed in the City to build more sustainability and climate action.

Council member Murphy wanted to empower the people, staff and the public, and moved to direct staff to include a mid-year budget adjustment and bring about a recommendation to complete a contract to prepare a GHG Inventory and CAP, which was seconded by Mayor Pro Tem Salimi

Council member Toms agreed with the direction offered by Council member Murphy but also wanted to direct staff to explore getting a Climate Core Fellow (college students working on a Master's Degree) who knew the trends about climate action, and to locate the GHG baseline inventory that had been done in 2007.

Council member Murphy accepted the amendment to his motion.

Mayor Martinez-Rubin commented that the Strategic Growth Council was a public agency which had in the past several years provided assistance to cities that had not met the criteria of defined vulnerability based on income, but since Pinole was a low resourced agency and since attention had been given to low resourced cities, the Strategic Growth Council had provided consultants in the past specifically to develop plans. She asked staff to look into what the Strategic Growth Council could provide for cities like Pinole.

ACTION: Motion by Council member Murphy/Mayor Pro Tem Salimi to Direct staff to include in the Mid-Year Budget Adjustment a Recommendation to Complete a Contract to

Prepare a GHG Inventory and CAP; Explore Getting a Climate Core Fellow; and Locate the GHG Baseline Inventory Prepared in 2007.

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

City Manager Murray asked for a motion to complete the analysis of the Sustainability Element Programs/Policies that had been implemented and provide a report to the City Council at a future meeting. Based on the discussions, the City Council was interested in a Climate Emergency Resolution and he would work with staff on a draft that could be brought back to the City Council for discussion at a future meeting.

Council member Toms offered a motion, seconded by Mayor Martinez-Rubin to direct staff to complete the analysis of the Sustainability Element Programs/Policies that had been implemented and provide a report to Council at a future meeting and with staff directed to prepare a draft Climate Emergency Resolution that could be brought back to the City Council for discussion at a future meeting.

On the motion, Council member Murphy sought additional discussion on incentivizing solar installation and that it be embedded into the Sustainability Element conversation and ideas from staff that could be included in an ordinance.

City Manager Murray advised that solar incentives for installation had been listed in the Sustainability Element. Staff could return with a progress report on the status and while the State had rigid requirements for streamlining solar applications, which the City adhered to, the City did not offer any other incentives, although MCE may have more information. Staff could return with more information at the time a progress report was made on the Sustainability Element.

Mayor Martinez-Rubin added that during a recent Mayors' Conference, it had been reported the County Permit related to the National Pollutant Discharge Elimination System (NPDES) Municipal Stormwater Permit had expired in 2020. She asked what areas of the permitting process may pose an economic hardship on residents of the City when discussing GHG emissions and other initiatives and asked staff to also return with additional information on the NPDES permit process.

City Manager Murray understood the City Council would be required to take future action on the Municipal Regional Stormwater NPDES Permit (MRP3.0) or may provide a perspective and advocacy on that permitting process, which would be brought to the City Council at the appropriate time

ACTION: Motion by Council member Toms/Mayor Martinez-Rubin to Direct staff to Complete the Analysis of the Sustainability Element Programs/Policies that had been Implemented and Provide Report to Council at a Future Meeting and with Staff Directed to Prepare a Draft Climate Emergency Resolution that Could be Brought back to the City Council for Discussion at a Future Meeting.

Vote: **Passed** **5-0**
 Ayes: **Martinez-Rubin, Salimi, Tave, Murphy, Toms**

Noes: None
Abstain: None
Absent: None

12. REPORTS & COMMUNICATIONS

A. Mayor Report

1. Announcements

Mayor Martinez-Rubin announced her attendance at the Mayors' Conference with a discussion of the NPDES MRP3.0 permit with more information to follow; and Mayors' and Supervisors' Association with an update on the current status of COVID-19 infections and vaccination rates in the County with Pinole having a high rate of completed vaccinations, and with vaccination and testing sites still available in Contra Costa County. She encouraged everyone to continue to abide by the County Health Officer's Orders regarding COVID-19 restrictions and social distancing requirements, particularly with upcoming public events in Pinole including the Coastal Clean-up scheduled for September 18, 2021 and the Classic Car Show on September 19, 2021.

B. Mayoral & Council Appointments

1. Planning Commission **[Action: Consider Recommendation and Appoint by Minute Order (lopu)]**

Ms. Iopu presented the staff report and asked the City Council to consider the Interview Subcommittee's recommendation to appoint Rafael Menis to fill the vacancy on the Planning Commission.

Council member Toms, a member of the Interview Committee, expressed her appreciation to all of the candidates and explained that Mr. Menis had stood out based on his knowledge of the General Plan and its policies. The other two candidates were encouraged to reapply and consider vacancies on other City Commissions/Committees.

ACTION: Motion by Mayor Pro Tem Salimi/Council member Toms to Appoint Rafael Menis to the City of Pinole Planning Commission.

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

2. East Bay Wildfire and Vegetation Management JPA. **[Action: Discuss and Appoint by Minute Order (lopu)]**

Ms. Iopu presented the staff report and stated that during the August 17, 2021 City Council meeting there had been a discussion of a resolution proposed by the East Bay Wildfire Prevention and Vegetation Management Joint Powers Authority (JPA), committing City personnel to participate in discussions regarding the formation of the JPA. The City Council discussed

identifying a single Council member to be the primary City official to participate in the discussions. At this time, the City Council was asked to nominate and appoint a Council member.

Council member Murphy expressed interest in being appointed as the primary Council member to participate in the discussions of the JPA.

Council member Toms also expressed interest and identified her involvement in multiple bodies in the County and her familiarity with different committees in the region.

Mayor Martinez-Rubin was inclined to defer to Council member Toms as the Council's primary representative regarding the formation of the JPA, given her experience and background.

PUBLIC COMMENTS OPENED

David Ruport, speaking to Item B1, concurred with the Interview Subcommittee's recommendation for Rafael Menis' appointment to the Planning Commission, acknowledged the other candidates as excellent choices, but stated Mr. Menis had proven himself as truly involved with the City Council and City politics and would be a great addition to the Planning Commission.

PUBLIC COMMENTS CLOSED

City Manager Murray explained for the subject item that a formation and exploratory committee had been formed. He was uncertain whether the committee was asking for new members, and clarified that the item under consideration was a resolution which committed City staff and its officials to engage in dialogue to discuss the possibility of the formation of a JPA. The City Council's action was not the appointment of a Council member to a committee but the appointment of Council member(s) to be the lead participant on the Council's behalf in different dialogues with different stakeholders in the organic process to consider the options for the JPA. There would be different staff members involved and there was no reason multiple Council members could not be involved but it was up to the City Council to decide.

Council member Tave suggested both Council members Murphy and Toms be appointed.

City Clerk Iopu pointed out that Committee Appointments were revisited annually each December and there was opportunity for rotation.

ACTION: Motion by Mayor Pro Tem Salimi/Council member Tave to Appoint Council members Murphy and Toms as the Two Representatives from the City of Pinole to be the Lead Participants on the City Council's Behalf in Different Dialogues with Different Stakeholders in the Organic Process to Consider the Options for the East Bay Wildfire and Vegetation Management Joint Powers (JPA) Agency and Report Back to the City Council.

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

C. City Council Committee Reports & Communications

Council member Murphy reported the next MCE Executive Board meeting had been scheduled for September 16; due to extreme heat and high electricity demands, the California Independent System Operator (Cal ISO) had issued a Statewide Flex Alert with energy conservation called on September 8, 2021 between 4:00 and 9:00 p.m., with additional information available on flexalert.org; the MCE Board of Directors had recently approved a \$2.5 million budget for the MCE Cares Credit Program that had been extended to March 2022. Information on the program was available on the MCE website. In addition, he invited everyone to attend his next coffee and conversation via Zoom scheduled for Sunday, September 19, 2021 at 9:00 a.m.

Council member Toms reported she had a lengthy discussion with a Pinole resident who had concerns with Pinole Valley Park, Adobe Road and the dog park. She asked whether the City Council would be provided an update on park issues on an upcoming agenda, or whether she should reach out to a member of the Public Works Department to address the items of concern,

City Manager Murray stated there were no plans to make a presentation on park issues but he would be happy to learn of the resident's concerns to foster a dialogue.

D. Council Requests for Future Agenda Items

Council member Murphy requested a future agenda item for staff direction on the options for parklets and outdoor dining.

Ms. Iopu advised she had public comment at this time.

PUBLIC COMMENTS OPENED

Irma Ruport agreed with the appointment of Rafael Menis to the Planning Commission and stated he would be a great asset to the City and to the Planning Commission. She encouraged consideration of new candidates to serve on City Commissions/Committees to provide new ideas. She also asked that former Planning Commissioner Sarah Flashman be sent a thank you letter for her service on the Planning Commission.

PUBLIC COMMENTS CLOSED

Council member Toms asked whether a future agenda item to consider rehabilitation of the Faria House had been requested recently and City Manager Murray recalled it was a Capital Improvement Plan (CIP) item but it could be made as a request for a future agenda item depending whether it had already been included in the CIP.

Council member Toms requested a future agenda item strictly for the rehabilitation of the Faria House, not a lease with a particular entity or use, but what it would take to reuse the building and the options for reuse. If nothing was to be done, she suggested the City's continued ownership could be part of the discussion.

Mayor Martinez-Rubin supported the request and consensus was given.

Council member Murphy supported the request as long as the discussion was more than construction of the building but included a discussion on possible uses and a workshop with public engagement on the uses of the Faria House

City Manager Murray commented that the Faria House had been discussed a couple of ways as part of the budget process and the CIP, and it was left with the need for a more detailed assessment and identification of costs for potential use. The City Council had not provided direction to proceed nor appropriate funding. He suggested the Faria House could be agendized for discussion as to use and cost, and if staff had received prior direction regarding an assessment of the cost for different uses that would be mentioned in the staff report to support the discussion.

After consensus was given for Council member Toms’ request, there was confusion on the request and staff and the Mayor attempted to provide clarification. City Manager Murray recommended a roll call vote to consider the request as a future agenda item.

On the question of Council member Toms’ request for a future agenda item and in the midst of the roll call vote, City Attorney Casher stated if this was a general discussion of the use given Mayor Pro Tem Salimi’s proximity to the Faria House, he recommended the Mayor Pro Tem abstain from the vote at this time.

Vote:	Failed:	2-2-1
	Ayes:	Martinez-Rubin, Toms
	Noes:	Murphy, Tave
	Abstain:	Salimi
	Absent:	None

Council member Toms commented that Council member Murphy had indicated support for the future agenda item if certain discussions occurred and she understood he was in agreement. She requested clarification.

Council member Murphy asked the City Attorney to explain, and City Attorney Casher acknowledged there was some confusion. A vote had been taken on the proposed item and he explained it was okay with this level of discussion on what the future agenda item may be.

Council member Murphy suggested a future workshop with public engagement on uses of the Faria House was appropriate. He had understood Council member Toms’ request for a future agenda item involved construction and rehabilitation but the Council needed to discuss all possible uses and then construction.

Council member Toms suggested moving forward to ensure that the Faria House would not become a dilapidated structure in Old Town Pinole. She sought a workshop with discussion of future uses, and possibly the level of improvements required for different uses.

Mayor Martinez-Rubin was open to a workshop format and supported a future discussion.

Council member Murphy suggested bringing the item up at the next meeting.

E. City Manager Report / Department Staff

City Manager Murray reported the City was experiencing a construction boom which had started during the onset of COVID-19 where there had been a 20 percent increase in the number of building permit applications. The City Offices had remained open during the COVID-19 pandemic with the use of online tools for processing applications, and appointments for building and planning applications. While the City had been short staffed, it was now fully staffed with two new Permit Technicians and additional temporary staff. He acknowledged a backlog processing permits had been accumulated due to the staffing shortage, but staff was working through that and hoped to be caught up by November. If members of the City Council or members of the public had any concerns with the processing of applications, they were encouraged to contact him. He confirmed, when asked, that the City website included the latest information related to his report and he would ensure it provided as much information as possible.

Council member Murphy suggested the same language to be posted on the City website be shared so that it could be posted on Facebook, and City Manager Murray confirmed he could provide that information in writing.

F. City Attorney Report

City Attorney Casher provided an overview of the requirements of the Brown Act and stated the City Council was currently operating under the Governor's Executive Order N-29-20, which allowed the meeting to be held virtually due to COVID-19. The Executive Order had been extended to allow the meetings to be held virtually, which extension would expire on September 30, 2021. As of October 1, 2021, the City would have to allow for publicly accessible meetings in-person. Staff was preparing for that eventuality, and he was monitoring further extensions from the Governor's Office. He clarified that the meetings after October 1, 2021 may allow a hybrid format for remote participation but a quorum of the City Council must be present in-person. The first regularly scheduled meeting for the month of October had been scheduled for October 19, 2021, with a Special City Council Workshop scheduled for Saturday, October 9, 2021, to discuss the ARPA funds, both in hybrid format.

City Clerk Iopu added that any information for connecting to the hybrid or Zoom formats would be detailed on the cover sheet of the meeting agendas. She thanked the public for its patience and looked forward to in-person meetings.

As to the contentious public comment that had been received during the past several City Council meetings, which included comments about members of the public, Council member Toms asked whether a time out could be considered when comments were determined to be inappropriate, to which City Attorney Casher stated that was something he could look into. There were rules around decorum within City Council meetings and within the Brown Act, but there were challenges with enforcement. He would review whether or not any regulations could be imposed at the staff level but it would have to be balanced against First Amendment Rights.

13. ADJOURNMENT to a Regular City Council Meeting of September 21, 2021 in Remembrance of Amber Swartz.

At 10:56 p.m. Mayor Martinez-Rubin adjourned the meeting to the Regular City Council Meeting of September 21, 2021 in Remembrance of Amber Swartz.

Submitted by:



**Heather Iopu, CMC
City Clerk**

Approved by City Council: October 19, 2021

