

**CITY COUNCIL MEETING
MINUTES
March 22, 2022**

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

The Special City Council Meeting was held via a hybrid meeting format live in-person and Zoom videoconference and broadcast from the Pinole Council Chambers, 2131 Pear Street, Pinole, California. Mayor Pro Tem Murphy called the Special 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

An official who has a conflict must, prior to consideration of the decision; (1) publicly identify in detail the financial interest that causes the conflict; (2) recuse himself/herself from discussing and voting on the matter; and (3) leave the room until after the decision has been made, Cal. Gov. Code § 87105.

A. COUNCILMEMBERS PRESENT

Devin Murphy, Mayor Pro Tem
Norma Martinez-Rubin, Council Member
Anthony Tave, Council Member (Zoom teleconference)
Maureen Toms, Council Member

COUNCILMEMBERS ABSENT

Vincent Salimi, Mayor

B. STAFF PRESENT

Andrew Murray, City Manager
Heather Bell, City Clerk
Eric Casher, City Attorney
Lilly Whalen, Community Development Director

City Clerk Heather Bell announced the agenda had been posted on Thursday, March 17, 2022 at 4:00 p.m. with all legally required written notice. A written comment had been received and distributed to the City Council and posted online in advance of the meeting.

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

4. 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.

Jack Meehan, Pinole, described his experience 23 years ago when he had died on the freeway but his wife had been able to bring their vehicle to a stop, a number of Good Samaritans had also stopped and lent first aid, and firefighters had responded with a defibrillator and after much work had saved his life. He expressed his appreciation to those firefighters for saving his life.

5. STUDY SESSION ITEM

A. Introduction and Discussion of the “Land Use Planning for Pinole” Project [Action: Receive Report, Discuss and Provide Direction]

Community Development Director Lilly Whalen introduced the consultant team with Michael Baker International that would provide a PowerPoint presentation on the “Land Use Planning for Pinole” project, which consisted of updates to two existing elements of the City’s General Plan; the Housing Element and the Health and Safety Element. As a part of the project, the City would also consider either adoption of a standalone Environmental Justice Element or addressing issues of environmental justice within other elements. The team from Michael Baker International was to provide the City Council with a comprehensive overview of the Project and the regulatory framework behind it and the extensive background and experience of the Michael Baker International consultant team to accomplish it.

Emily Elliott, Michael Baker International, provided a PowerPoint presentation which included an overview of the purpose of the meeting to review the requirements of the 2023 to 2031 Housing Element, requirements of the Environmental Justice and Health and Safety Elements, recent housing legislation, project schedule and to respond to any questions from the City Council and the public.

Ms. Elliott highlighted the purpose, background and contents of the Housing Element and the key recent Housing Element legislation which included Assembly Bill (AB) 1398, to rezone in 1 year versus 3 years if the Housing Element was not certified by the State Department of Housing and Community Development (HCD) by May 31, 2023; AB 215, a 4.5 month mandatory HCD and public review period; AB 1397, more stringent requirements for eligible Regional Housing Needs Allocation (RHNA) sites; and Senate Bill (SB) 166 “No Net Loss,” which required cities to maintain adequate capacity for all income levels through the Housing Element cycle.

Dan Wery, Michael Baker International, provided the background and purpose of the RHNA as mandated by the Association of Bay Area Governments (ABAG) and its Housing Methodology Committee (HMC), which required every city and county to plan to accommodate its fair share of regional housing needs. The City of Pinole’s RHNA was identified at 500 units.

Mr. Wery presented the following tables and described them at length that compared the RHNA to previous RHNA's, the RHNA buffer and SB 166 "No Net Loss," comparing the City's upcoming (2023-2031) RHNA allocation to the 5th Cycle (2015-2023) RHNA allocation, a breakdown of the RHNA and the City's obligation to provide sufficient land zoned appropriately to accommodate the RHNA, income levels and minimum density sites, inventory requirements including the requirements of Affirmatively Furthering Fair Housing (AFFH), and constraints to site capacity and selection.

Mr. Wery explained that the Housing Element would require evaluation under the California Environmental Quality Act (CEQA), with the CEQA process to be defined by the RHNA strategy in the summer of 2022. He also highlighted examples of the housing program areas which included adequate sites and zoning for the RHNA compliance, Accessory Dwelling Units (ADUs), education, constraint removal and the AFFH. Consequences of non-compliance with the RHNA were also detailed and may include disqualification from state funding, carryover of the RHNA to the next Housing Element cycle, fines and penalties, court receivership/loss of control and the inability to deny new projects.

Ms. Elliott provided further details on the community outreach strategies which would include a project website currently in development, an online housing needs survey and the proposed schedule for stakeholder focus groups/interviews and community workshops. She also highlighted the proposed schedule for a joint Planning Commission and City Council Study Session, Housing Element preparation, public and HCD review, CEQA and the adoption and certification of the Housing Element, which included a 120-day grace period.

Surabhi Barbhaya, Project Manager and Safety Element Lead, Michael Baker International, provided an overview of the required Health and Safety Element Updates, to also include updates to seismic and geologic hazards, evacuation routes, military installations, peak-load water supply requirements, minimum road widths and clearances around structures, flood and fire hazards.

Noelle Steele, Environmental Justice Lead, Michael Baker International, provided an overview of the required components for the Environmental Justice Element, a new regulatory requirement for cities in California, designed to address systemic inequalities and injustices which stem from land use decisions that disproportionately burden disadvantaged communities. She walked through the primary tool that would be used to identify disproportionately burdened disadvantaged communities through CalEnviroScreen, a data mapping tool developed and maintained by the California Office of Environmental Health and Hazard Assessment that would include information regarding pollution burden, environmental effects, sensitive populations and socio-economic factors aggregated into a percentile score.

Ms. Steele explained that the City of Pinole had a unique Environmental Justice Element scenario in that the census tract majority was located in the neighboring City of Richmond with small areas within Pinole, although some of the burden impacts did not respect the boundaries of the census tract. Further research would be conducted into the data in coordination with the AFFH investigation.

The Environmental Justice Element would be comprised of the following topics including Pollution Exposure: Air quality, water contamination, toxic waste and hazardous materials; public facilities; safe and sanitary homes; food access and physical activity.

Ms. Elliott reiterated the community outreach strategies and detailed the effort for outreach: efforts to include social media, public hearings, videos and online surveys. The online survey would be widely distributed once completed and be offered in four languages, but in the meantime any questions for the consultant team could be provided to a dedicated member of the consultant team identified as Courtney.Long@bakerintl.com.

Responding to the Council, the consultants and staff clarified the following:

- The constraints analysis was again highlighted with HCD looking for the City to respond to each and every constraint identified and with the consultants to work with City staff to find solutions, with examples provided. Anything identified as a significant constraint would have some corresponding program aimed at addressing the constraint. For non-governmental constraints and while out of the City's control, HCD would still look at creative thinking as to how to address it such as having City staff help connect developers with available grant resources, as an example. Each program would be required to have an objective criteria or standard by which it was measured with a timeline and responsible agency identified.
- The proposed joint Planning Commission and City Council meeting would provide feedback on the RHNA strategy and allow the consultants to present its analysis on the community needs and identified constraints. Many cities shared common constraints and many common programs had already been proposed to alleviate those constraints which could be considered as part of the process.
- A Climate Change Vulnerability Assessment would be prepared by Michael Baker International.
- The CalEnviroScreen tool would comprehensively evaluate the pollution burden, environmental effects, sensitive populations and socio-economic factors, and its data base included information on exactly what had been included in the composite score. The consultants acknowledged a request that the evaluation include the Pinole Creek Watershed.
- As part of the Fair Housing Assessment and AFFH, HCD was looking for cities to make improvements, such as improvements to sidewalks in underserved areas with some cross sections between the Housing Element and the Environmental Justice Element. The consultants acknowledged concerns with walkable neighborhoods including street light infrastructure given that some areas of the City were quite old and would be more walkable with adequate amounts of light. Concerns were expressed for the condition of the City's sidewalks with some sidewalks uneven and not walkable, particularly by seniors.
- The Environmental Justice Element would also look at access in terms of walkability, bicycle ability, connection to retail and employment centers among others. The Health and Safety Element may also have crossover sections with the Environmental Justice Element, with local knowledge important to identify areas of need that were underserved or differently served to be able to improve the overall housing situation and livability. It was noted that tree canopies may also address climate change concerns as well.

- In addition to the CalEnviroScreen tool, the consultants had overlaid different resources that were available. The Healthy Places Index developed by the Public Health Alliance of Southern California was recognized as a top resource.
- Income levels and density were again highlighted with the state using density as a proxy for affordability, with areas zoned for 20 units or more than 30 units per acre that would count towards meeting the RHNA in the Housing Element, which did not mean it was affordable housing. What was actually built or regulated as affordable housing actually counted and HCD would look at what had actually been built. It was noted that affordable housing was generally high density since multifamily was more efficient and the units were smaller and less costly. For the more affluent areas, Accessory Dwelling Units (ADUs) were a tool that allowed creation of affordable housing in low density areas.
- Density bonus units were clarified but it could not be assumed they could be counted on the front end or part of the original RHNA since all of the trends had to be demonstrated and all of the assumptions documented. In some cases where the density bonus had been used trends had been shown but the yield versus the maximum zoning potential varied by city. If strong trends were shown yield assumptions could be increased and that would be evaluated by City staff to ensure there were sound, reasoned and documented assumptions.
- The most recent CAL FIRE maps, as depicted on its website, would be used as part of the process and the consultants would work with the Fire Chief to ensure the accuracy of the maps.
- In terms of data collection for the needs assessment, publicly available data from a variety of sources would be utilized, some from ABAG, the American Community Survey, U.S. Census and the City's fair housing provider. Local knowledge was also important with vital feedback from the online survey and community workshops.
- The online survey would include a variety of questions including open-ended questions that could be analyzed.
- The first community workshop would include an introduction to the Housing Element, Health and Safety and Environmental Justice Elements with an effort to keep the presentation in layman's terms as much as possible. The online surveys would be anonymous and the dedicated website would include a wealth of information in layman's terms with links to additional resources. All online sessions would be recorded, as would this meeting, providing future opportunity for review and convenience to the public, with the survey questions targeted but easy and not requiring any special knowledge of this topic.
- The City was not responsible to build any of the housing but create an environment for housing with the private sector, affordable housing or non-profits to actually build the housing. Actual construction design would not be addressed in the Housing Element but through the City's Development Standards or Design Guidelines. The Health and Safety Element would address any deficiencies which would become an implementation strategy in the Health and Safety Element.

- The Health and Safety Element would include a number of maps with overlaid parcel maps which would be clear to the reader the location of a property and the potential hazard related to that parcel would be part of the conditions assessment report.
- The purpose of this meeting was a study session for the City Council to provide the background needed to work through the process.
- A Frequently Asked Questions (FAQ) glossary and key terms had been prepared for the focus groups and stakeholders and could be made available to the public.
- The consultant did not anticipate a carryover from the 5th RHNA Cycle to the 6th RHNA Cycle but it was a possibility if the RHNA capacity was not maintained throughout the entire period. Staff would have to verify that the balance of units that had not been built for various reasons through 2023 would not be part of the new RHNA cycle. Staff did not anticipate any carryover.

PUBLIC COMMENTS OPENED

Rafael Menis, Pinole, questioned whether there would be a carryover from the 5th Cycle Housing Element. He referred to an item on the March 15, 2022 City Council agenda which had identified a deficit of Very Low income category units. He also spoke to density versus equity, and commented that some of the higher density developments in Pinole, citing Appian Village as an example, was a high density development with mostly Above Moderate Income units. He understood if the City did not meet its RHNA in the next cycle it may trigger penalties and he was unsure it would happen for this cycle. He commented that the equity categories identified in the PowerPoint presentation had not been included in the agenda packet and it would be helpful if included for future presentations. He questioned whether the Environmental Justice Element and the CalEnviroScreen tool would address the potential future impacts of climate change and the current environmental impacts from existing pollution sources.

Mr. Menis commented that the Planning Commission had flagged an area of sidewalk as an issue of importance in one of the yellow zones as shown in the CalEnviroScreen analysis as part of the PowerPoint presentation. He also referred to a recent Planning Commission Academy presentation by CAL FIRE and noted that the new CAL FIRE maps included wind data that was not part of their current maps. Since wind and potential wildfire was a significant part of the Pinole climate, it was important that the new CAL FIRE maps be used in the Health and Safety Element, particularly related to evacuation routes.

Mr. Menis asked that the online housing needs survey be distributed to as broad a group of people as possible. In terms of the AFFH, he suggested it would tie into the Environmental Justice Element being limited on what it could track since it was based on census level data. He asked whether more narrow scale breakdowns of the City as a whole would be done for both the Environmental Justice Element tracking and the purposes of the AFFH.

PUBLIC COMMENTS CLOSED

City Clerk Bell advised that there was a revised PowerPoint presentation that would be posted on the City's webpage.

Council member Toms referenced the Environmental Justice Disadvantaged Communities census tracts adjacent to unincorporated communities that were also environmental justice communities. She reported that Contra Costa County had a planned process underway and after community input, the community members from those areas had requested they not be referred to as "disadvantaged communities," and had created the term *impacted communities*. For those communities in unincorporated areas that shared a census track, she recommended use of the term *impacted communities*.

Council member Toms also understood that CAL FIRE was updating its maps. She identified a community of single-family homes on Galbreth Road surrounded by areas located in the High Fire Hazard Severity Zone with one way in and out. She commented that SB 99 required an evaluation of those areas and if any area were to change its designation it was likely that neighborhood would. The unincorporated side of that boundary was all within a Very High Fire Hazard Severity Zone as were parts of the City but not in that neighborhood. She expressed concern the updated CAL FIRE maps could come out after the adoption of the City's Housing Element and that issue may have to be revisited soon as a result.

Council member Toms also suggested the City consider pre-planning ADUs and providing both approved design and construction level drawings for two sizes of ADUs, which may help residents to decide whether or not to consider that investment. She understood that some of the SB 2 monies could be used for that purpose. As to the identification of housing sites, she cautioned against identifying any housing sites in the Regional Commercial areas given the community concern for that area. She suggested once the City Council had reached the stage of discussing the zoning update, there be consideration of designating housing in the Regional Commercial areas as a permitted, not a conditional use, particularly since the City lacked the local control to keep that up. She otherwise looked forward to going through this process.

Council member Martinez-Rubin agreed with Council member Toms' comments and noted the City's major sources of income were from sales taxes which largely contributed to the General Fund, and it was not farfetched to keep in mind the relevance of the Commercial areas which were important for the City since Pinole was not currently a job center. She also wanted to see respect for and maintenance of open space as part of this process, particularly where there was open space and parks, areas that were important to the ecosystem beyond humans contributing to the health of the environment.

Council member Tave thanked the consultants for the presentation. He looked forward to additional conversations.

Mayor Pro Tem Murphy suggested a health and land use dictionary would be an asset to the dedicated website and he looked forward to its launch. He thanked the consultants for the Gantt Chart and asked that it be shared in print rather than online.

Mayor Pro Tem Murphy suggested the data collection process would be very important. He understood there were numerous resources and studies available and wanted as much data for this process as possible for Pinole residents and visitors, which would help in the decision process and for a broader General Plan process. He asked that there be more discussion and decision points where the City Council may play a part in that data collection.

Mayor Pro Tem Murphy agreed a joint Planning Commission and City Council meeting be held in the future, hopefully sooner than July 2022. He supported more than one joint meeting as part of the schedule since it would benefit the Planning Commission and City Council to have a discussion in one place.

In terms of building equitable housing through the climate lens, Mayor Pro Tem Murphy reported the Greenbelt Alliance had launched a Resilience Playbook, which resource would be helpful and allow thinking ahead on the housing crisis and the identified issues such as wildfire and sea rise. He suggested that engagement with the Greenbelt Alliance as part of the community engagement program should also be considered.

Mayor Pro Tem Murphy also sought a better effort to get the most feedback in all ways possible. He was curious about the video option and suggested possibly an online video survey could be considered, would be beneficial, and how data from that process would be compiled would be interesting to learn. He asked that those ideas be explored. He thanked staff and the consultants for the presentation.

Mayor Pro Tem Murphy clarified, when asked by Council member Martinez-Rubin, that Pinole had been impacted by wildfires either by fires in other communities or from poor air quality from wildfires in neighboring communities and he suggested that should be considered through the climate action lens.

City Manager Murray thanked the City Council for the comments which had been documented and advised that staff would follow up with the consultants.

Community Development Director Whalen also thanked the City Council and the public for the feedback.

Mayor Pro Tem Murphy again thanked everyone for their comments and participation.

6. ADJOURNMENT to the Special City Council Meeting of March 29, 2022 in Remembrance of Amber Swartz.

At 8:08 p.m., Mayor Pro Tem Murphy adjourned the meeting to the Special City Council Meeting of March 29, 2022 in Remembrance of Amber Swartz.

Submitted by:



Heather Bell, CMC
City Clerk

Approved by City Council: April 5, 2022

