

**CITY COUNCIL MEETING
MINUTES
September 20, 2022**

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

The City Council Meeting was held in a hybrid format (in-person and via Zoom videoconference and broadcast) from the Pinole Council Chambers, 2131 Pear Street, Pinole, California. Mayor Salimi called the Regular Meeting of the City Council to order at 6:16 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

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

B. STAFF PRESENT

Andrew Murray, City Manager
Heather Bell, City Clerk
Eric Casher, City Attorney
Sanjay Mishra, Public Works Director
Neil Gang, Police Chief
Roxane Stone, Deputy City Clerk

City Clerk Heather Bell announced the agenda had been posted on Friday, September 16, 2022 at 4:00 p.m. with all legally required written notices. No written comments had been received 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: None

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.

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

There were no Closed Session items.

Mayor Salimi modified the meeting agenda and moved forward to agenda Item 8. Recognitions / Presentations / Community Announcements, A. Proclamations (2) at this time.

8. RECOGNITIONS / PRESENTATIONS / COMMUNITY ANNOUNCEMENTS

A. Proclamations

1. In Support of Ukraine

The Town Council read into the record a proclamation in support of Ukraine.

Mayor Salimi welcomed the Consul General of Ukraine in San Francisco, Dmytro Kushneruk to the City of Pinole and asked him to provide comments.

General Consul Dmytro Kushneruk, thanked the Mayor for the invitation to address the Pinole City Council and the residents of the City of Pinole. He thanked the City Council for the proclamation recognizing the war in Ukraine and reported it had been six months since Russia had started the war on February 24, 2022, with Ukraine having faced 208 days against brutal Russian aggression and with Ukraine fighting for independence and the right to live freely in the world. Over the past six months, Ukraine had changed the world, history and itself. He was pleased the City of Pinole was considered a friend.

General Consul Kushneruk spoke to the United States' fight for its own independence, with Ukraine having proclaimed its independence peacefully in 1991. To date, he reported that 362 innocent children had been killed in the violence and 13,000 civilians had been casualties of the war, not including Ukrainian soldiers. He commented on the successful efforts to regain some of the Ukrainian territory from Russian forces, although the Russian government had changed the course of the war and it was expected that Russian President Vladimir Putin planned to announce a new wave of aggression and threats to the west. Ukraine was appreciative of America and its citizens for assistance in allowing Ukraine to fight against the Russian aggression.

General Consul Kushneruk hoped that a Sister City could be established between a Ukrainian city that had been liberated and the City of Pinole, which would provide a great example of local cooperation between the two nations. He hoped the war would end soon allowing for the exchange of peoples from Ukraine and the City of Pinole.

The City Council and members of the public present in the Council Chambers held a Moment of Silence in memory of those who had lost their lives in the Russian and Ukrainian conflict. The City Council presented the proclamation to General Consul Kushneruk at this time.

The City Council welcomed General Consul Kushneruk to the City of Pinole, recognized his work for the Ukrainian people, thanked him for his leadership, hoped the City's collaboration and partnership with Ukraine would continue and hoped for a peaceful end to the aggression. It was noted that Ukraine also had the support of the Contra Costa County Board of Supervisors (BOS) and other local leaders.

The City Council also recognized and thanked Pinole resident Rafael Menis for his request that the City Council consider this proclamation for Ukraine.

PUBLIC COMMENTS OPENED

Rafael Menis, Pinole, stated he had urged the City Council to consider this proclamation after the start of the war in Ukraine, and while many were of the opinion the events in Ukraine were irrelevant to Pinole, the unlawful invasion by Russian President Putin and the Russian government threatened the core values held dear in Pinole including democracy, an integrated community, values of justice and rule of law. He recognized the humanitarian aid provided by many countries and individuals throughout the world and urged Pinole citizens to do what they could to help. He urged everyone to understand that unlawful invasion, aggression and attempts to crush democracy would fail. He encouraged all citizens and residents of Pinole to support Ukraine to the best of their ability.

Cesar Zepeda, President, West County Wastewater District, reported the District Board of Directors stood in solidarity with the City of Pinole and anything that could be done to support this effort.

PUBLIC COMMENTS CLOSED

Mayor Salimi declared a recess at 6:40 p.m. The City Council meeting reconvened at 6:45 p.m. with all Council members present.

2. Recognizing National Service Dog Month

The Town Council read into the record a proclamation recognizing National Service Dog Month.

City Clerk Bell reported the proclamation had been requested by Dawn Abrahamson, Vice President, East Bay Chapter, Canine Companions for Independence (CCI), a mentor of hers, a resident of Pinole and a former City Clerk. She thanked Ms. Abrahamson for all of her work and recognized her service dog Every. She introduced Tara Ayres and her service dog Nella, a client of CCI who would be receiving the proclamation.

Tara Ayres thanked the City Council for the proclamation accepted on behalf of CCI and all of the graduates who benefitted from having a highly-trained service dog. She spoke to the work of CCI and emphasized they were grateful for those who raised the dogs for those in need. She explained that Nella had made a huge difference in her life, allowed her to retain her independence and live in the community, a gift beyond price, and had also brought her joy. The service dogs were highly trained and made a big difference in the lives in which they served. She appreciated the recognition to CCI and National Service Dog Month, described the various commands Nella followed, and when asked provided a demonstration of some of those commands.

Council member Toms provided details of a CCI event she had attended at the invitation of Ms. Abrahamson which she found to be inspiring, particularly since she had a son with a disability who may be in need of a canine companion during his life. She recognized the benefits canine companions provided to allow those to remain independent in life.

The City Council welcomed future presentations and ways the City could provide support; raise awareness of CCI; and recognized the benefits of the program which allowed an individual independence and the ability to remain in the community.

When asked, Ms. Ayres stated she had waited about two and a half years from the date of submittal of an application before she had received Nella, with two and a half to three years the normal wait period for canine companions. She confirmed there were other organizations in addition to CCI that provided service dogs and she detailed the traits a service dog must have to serve as a canine companion. CCI stated the dogs were worth around \$60,000 each due to the cost of training and that canine companions provided dogs free of charge to those in need.

Mayor Salimi added the Pinole Police Department had a service dog named Milo.

PUBLIC COMMENTS OPENED

Cordell Hindler, Richmond, thanked the City Council for the proclamation and appreciated the demonstration provided.

Ms. Ayres also reported that Dog Fest sponsored by CCI would be held in Jack London Square in the City of Oakland on the first weekend in October where anyone could meet the canine companions. More information was available on the CCI website.

PUBLIC COMMENTS CLOSED

B. Presentations: None

The City Council returned to Item 6, Citizens to be Heard.

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.

Rafael Menis, Pinole, updated the City Council on COVID-19 data for the City of Pinole from the Contra Costa County Health Department and reported that Pinole had the fourth highest rate in the County. He encouraged everyone to wear masks indoors, particularly in crowded spaces. He otherwise thanked everyone who had participated in Coastal Clean-Up Day and thanked the various members of City staff and members of the community who had helped to make the event a success.

Debbie Long, Pinole, referenced the traffic conditions at the top of Tara Hills Drive and Appian Way and stated while construction had been occurring in the area for some time, the traffic conditions had worsened and it had become unsafe, with lights out more often than on. She stated the project manager was not doing a proper job and no traffic control had been provided other than elevated stop signs east and westbound on Appian Way and at the top of Tara Hills and Canyon, and traffic had been backed up to Manor Drive on Appian Way/El Sobrante all the way to Doctors' Hospital late into the evening. She understood contracts for construction projects were to include traffic control and not from the Pinole Police Department. If for some reason traffic control had not been included in the contract, she suggested it should be immediately included in future construction contracts due to the anticipated construction of future projects along Appian Way and Fitzgerald Drive. She asked that the issue be addressed immediately.

Mayor Salimi asked City staff to get back to Ms. Long with a response.

Peter Murray, Pinole, thanked the City Council for the successful Coastal Clean-Up Day. He thanked all participants for their involvement, including Bear Claw Bakery, Starbucks, Republic Services, City staff, the Community Services Commission and community organizations who he thanked individually by name. He also thanked the Contra Costa Resource District for its contribution, local elected officials and local volunteers.

David Rupert, Pinole, referenced the Solano and Contra Costa County Food Bank where he had served as a volunteer for some time. He had received notice indicating a large portion of the Food Bank would no longer be able to provide food due to a lack of donations. The City of Pinole had partnered with the Food Bank in the past and he asked the City Council to agendaize this issue to determine whether or not the City could provide funds through Christmas. He also reported on the difficulty he had experienced obtaining public records through the City's automated system since June 27, 2022. He had submitted a letter to the City Council dated September 6, 2022, detailing the records he had requested which existed since the quantity of those records emanated out of a November 2020 hearing on the Faria House, although City staff stated those records did not exist. He had no response from his letter, leaving him to either file a writ as a private citizen or take the matter to the news media which he did not want to do. He suggested the information did exist and he hoped a member of the City Council would respond to his request.

Mayor Salimi advised a member of City staff would get back to Mr. Rupert.

Irma Rupert, Pinole, suggested that Council member Tave had been a voice for citizens over the last four years, was the people's Council member, had always voted in the best interests of the citizens of Pinole and never wavered for personal gain, special interests, promises made by others, and stood his ground when voting for important issues on financial stability and transparency. He had proven himself to be one of the best Council members the City had for some time and had come to the Council with a unique set of skills and professional experience which had made Pinole a better place to live. He had also listened, returned messages, communicated with the people and his voting record spoke for itself. He stood his ground when making important decisions for the betterment of Pinole citizens and was transparent, true to himself and to the people of Pinole, which was why she totally supported Council member Tave for the City Council in November. She also took the opportunity to introduce Cameron Sasai who was also interested in serving on the City Council, and who was energetic and would bring a lot of new ideas to Pinole. She encouraged everyone to view his website at www.sasai22.com.

Ms. Ruport added she would be submitting her comments in writing for the record to ensure they were part of the record as she had read them given issues in the past with comments she had made and which had not been transcribed as they should have been. She asked the City Council to be equal and fair to everyone and to be fair to the system, process and procedures.

Mayor Salimi advised in response to Ms. Ruport that City staff was equal and fair to everyone.

Mayor Salimi again modified the meeting agenda and moved onto Item 12A, New Business.

12. NEW BUSINESS

A. Overview of City-wide Project Labor Agreements [Action: Discuss and Provide Direction (Mishra)]

Public Works Director Sanjay Mishra provided a PowerPoint presentation entitled, Overview of Project Labor Agreements (PLA), a pre-hire collective bargaining agreement between a construction project sponsor/owner and one or more labor organizations that established terms and conditions of employment for a specific construction project or projects and was also known as a Community Workforce Agreement.

Mr. Mishra offered an overview of Public Contract Code 2500(a), which prohibited discrimination based on race, national origin, religion, sex, sexual orientation, political affiliation, or membership in a labor organization in hiring and dispatching workers for the project; permitted all qualified contractors and subcontractors to bid for and be awarded work on the project without regard to whether they were otherwise parties to collective bargaining agreements; contained an agreed-upon protocol concerning drug testing for workers who would be employed on the project; contained guarantees against work stoppages, strikes, lockouts, and similar disruptions of the project and provided that a neutral arbitrator shall resolve disputes arising from the agreement.

Mr. Mishra explained that PLAs helped with wage irregularities, local participation, promoted local hire and offered project stability related to labor disputes. Criticisms of PLAs indicated they could increase costs, were anti-competitive as non-union contractors may chose not to bid on the projects and were unnecessary as existing pre-qualification procedures screened contractors. He identified the many jurisdictions that utilized PLAs and those that had also established over-arching City-wide PLAs. The City of Pinole had signed a PLA on individual construction projects in the recent past including for the Water Pollution Control Plant Upgrade Project. He also highlighted the project thresholds, local hiring and the Disadvantaged Resident Project and spoke to the project thresholds of other jurisdictions including that of the City of Martinez. Steps taken by local agencies related to the formation of PLAs included an Ad-Hoc Council Subcommittee to study the item in further detail; presentations and study sessions to the City Council; meetings between senior staff members of the City and local union groups where specific terms were negotiated and preparation of a draft PLA for the Council to consider at a publicly held City Council meeting.

City Manager Andrew Murray clarified that the over-arching City-wide labor agreements that different cities instituted had different nuances and this item had been presented to the City Council as an informational item for the City Council and the community. Staff was seeking City Council direction on the steps that could be taken as described.

PUBLIC COMMENTS OPENED

Jason Gallia, Business Manager, Iron Workers (IW), Local 378, stated he had been a product of PLAs throughout the Bay Area and through the PLA process he had been able to purchase his own home and had been involved in an apprenticeship program obtaining experience in the building trades. He supported PLAs, which offered many benefits to those starting out in life and which had launched many citizens into the middle class. He noted that other cities and school districts had also successfully used PLAs. He suggested PLAs would result in a better product, involve local hires, and offer a pathway to a good life. PLAs also offered camaraderie with fellow employees and lifetime friendships and he hoped the City Council would adopt PLAs.

Tom Hansen, Business Manager, International Brotherhood of Electrical Workers, (IBEW) Local 302, thanked the City Council for considering PLAs as they had been considered by other cities and school districts, providing quality projects, on-time and on budget. PLAs also offered lifetime apprenticeships run under the state school system and accredited with college credits allowed one to move on to junior college, universities and a four-year college. PLAs invested in the community and in the middle class and he suggested with more PLAs there would be fewer problems in society. A PLA insured the highest skilled people available worked on a project, making money that kept families whole, providing health care and a positive influence in a community, and PLAs would attract people from Contra Costa and West County working on local projects allowing the ability to earn a real living.

Jason Lindsey, President, Business Agent, IW, Local 378, thanked the City Council for possibly partnering with the labor trades and considering a PLA, which would provide an investment for the youth of the community and allow them to be part of the middle class. The American Dream was to buy a home and raise a family in the community where everyone grew up. He stated that union apprenticeship programs spent \$2 billion annually across the country to give apprentices world class training. He encouraged the City Council to start negotiating for a PLA.

Bill Whitney, Chief Executive Officer (CEO) Contra Costa Building and Construction Trades Council, supported City Council direction to staff to begin negotiations on a City-wide PLA. He noted that the Contra Costa Building and Construction Trades Council was comprised of approximately 35,000 middle class workers in Contra Costa County with 65 percent of those workers men and women of color and indigenous people. The Trades Council was committed to making sure career paths were offered to everyone. He emphasized that local hires who would spend locally were important to the community and that PLAs were a big factor in the local economy. He added that each building trade council had different PLAs that were pre-hiring agreements designed to put local men and women and apprentices to work, creating a pathway to the middle class with projects built on time, on budget and right the first time. He added the cities of Richmond, El Cerrito, Martinez, Concord, Pittsburg, and Antioch all had city-wide PLAs and it was hoped the City of Pinole would have a City-wide PLA as well. In addition, Contra Costa County, Contra Costa County Community College District, West Contra Costa Unified School District (WCCUSD), John Swett Unified School District (JSUSD), and the Martinez Unified School District (MUSD) all had PLAs. He looked forward to working with the City on a City-wide PLA.

Rafael Menis, Pinole, understood the City had PLAs in the past, such as for the Water Pollution Control Plant Upgrade Project. Given the benefits of a PLA, as earlier described, he suggested that would have been broadly supported over a long period of time, but had only been considered for one large project and possibly some smaller projects.

Mr. Menis spoke to his understanding that PLAs would lock in union-based wages. He asked about the cost to the City if adopting prevailing wages as part of a PLA in terms of project levels and whether or not it made a difference in terms of the size of a project. As to the nature of the local hiring requirements, pursuant to information for the City of Hayward as shown on Page 685 of the agenda packet, there had been a discussion about specific new hiring requirements per project price in addition to the broader local hiring requirements. He requested that a PLA for the City of Pinole include more specific new hires than a percentage basis for new hires.

City Attorney Eric Casher advised that Labor Code Section 1720 defined the requirements around prevailing wages. Any public project funded in whole or in part with public funds required a prevailing wage and was a term in a PLA and would be part of any public works project. Staff would have to review further the actual cost impacts of a PLA with prevailing wages to the rate to be applied to any public works project.

Public Works Director Mishra confirmed the City Attorney's comments and noted that current public works projects abided by the prevailing wage law whether there was a PLA or not. Local hire requirements must be researched more and staff had to determine what would be appropriate for the City of Pinole. As to the City of Hayward, that community had prepared a specific program to add veterans to a PLA. The City of Pinole's needs had yet to be researched.

City Attorney Casher clarified the City of Pinole had a local hire preference in its procurement policy and a PLA would enhance that policy. As part of negotiations with the Building and Construction Trades Council as to what skilled labor looked like in Pinole would be discussed to be able to tailor and focus on the skilled labor in Pinole. He clarified however that the City could not have local hires for projects funded with local, federal or state funds given that some public works projects that received federal and state funding prohibited the use of local hires, exceptions that would be built into a PLA, and which would not prevent the City from entering into a PLA. He was unaware of any mechanism requiring a PLA for a wholly private project but there were some private developments built on property leased from the City, or a private project that may receive funds from the City, which would be another way to negotiate the use of a PLA on such project, and which could be researched further by staff with options provided to the City Council.

Debbie Long, Pinole, commented that eight years ago she had been a member of the City Council when the then City Council had vetted the Water Pollution Control Plant Upgrade Project. She suggested if the City Council went back to October 7, 2014, November 18, 2014, and after the first of the next year, the contract was ready for signature and would answer many of the questions regarding local hires. She suggested they did not have to reinvent the wheel but adapt to a City-wide PLA as opposed to a unique PLA. She also spoke to the skilled and trained labor force and promoting youth, and noted that apprentices must have a ratio with a journeyman on the job, with the apprentices watched over to ensure they were doing what they had been trained to do in the classroom, and which could include years of training depending on the trade. She otherwise commented that she had viewed the Ironworker's Local Training Center, which was incredible.

Ms. Long also commented the Water Pollution Control Plant Upgrade Project had a great record when it came to safety and did not have overrun costs other than PG&E costs. She noted that prevailing wages versus PLA were not the same in that a PLA would incorporate some kind of prevailing wage, but prevailing wage jobs were nice to have and a PLA City-wide would not be comparable.

Ms. Long suggested a PLA would be less expensive since they would have to audit the prevailing wage jobs and ensure that those hired as laborers were not being underpaid for the expertise they were required to have. She suggested a PLA would offer the “biggest bang for your buck,” they had already paved the way for everyone and she hoped the City Council was on board for a City-wide PLA.

James Ashcroft, Organizer for IW Local 378, representing the members in the City of Pinole and bordering cities, suggested a PLA should not bring over-costs since a prevailing wage was based on the union wage. If everyone was playing fairly there should be no increased costs. If someone did not pay the proper wage and paid lower there was oversight from the building trades to ensure the workers were being paid proper wages. PLAs also mandated some kind of health care for a worker and the worker’s family. He hoped the City Council would support a City-wide PLA.

Eric Haynes, Business Representative for Sheet Metal Workers (SMW), Local 104, with members in Contra Costa County, commented that a PLA was a partnership and what the City would gain in that partnership was the building trades’ investment in training, the best there was, a guarantee the City would be getting what it paid for on a prevailing wage project. He clarified if a worker was not a registered apprentice that worker would have to be paid as a journeyperson, which also guaranteed that training, and which was not provided as part of a non-union job. Non-union jobs were required to request apprentices by the certified apprenticeship that served the area, and once done with the job apprentices were not used outside of public works. A PLA would ensure the City got what it paid for and not just following public works law. He urged the City Council to close the deal now.

Peter Murray, Pinole, provided the history of a small building near City Hall that involved very contentious discussions whereas projects with a PLA were very organized. He also detailed the process for the Water Pollution Control Plant Upgrade Project which involved a PLA and where issues were resolved allowing the project to be brought in on-time, on budget and as one of the safest projects in Pinole. Projects with a PLA generally provided a solidly built project, and he cited the high school as another example of a successful PLA project. He added that after the completion of the Water Pollution Control Plant Upgrade Project, City staff was highly supportive of the PLA process. He urged the City Council to give serious consideration for a City-wide PLA.

Vincent Wells, President, International Firefighters’ Association (IFFA) 1230, stood with his fellow brothers and sisters in the building trades as he had with other projects in Contra Costa County and with the City’s Water Pollution Control Plant Upgrade Project in support of PLAs. He concurred with all of the comments why a PLA was good for the City of Pinole, the community and labor workers and advised that Local 1230 was supportive of the PLA.

Irma Ruport, Pinole, agreed with the PLA, and as a former government employee and union representative, she stated doing things the right way meant getting the PLA approved. She commented that the Water Pollution Control Plant Upgrade Project involved a lot of meetings back and forth. She requested that the PLA include high school seniors in Pinole and Hercules to be trained in some of the trades to see what their future could be. She supported local hires, families and children and encouraged some type of mentoring in the PLA for children in local schools. She too agreed a PLA should be approved at this time and include some type of mentoring as discussed.

Cesar Zepeda, President, West County Wastewater District, reported the Board of Directors had established a PLA a year ago and their projects had been on-schedule. He supported a City-wide PLA for the City of Pinole. He also served on the Board of the Contra Costa Community College District Foundation where students were looking for opportunities outside of a four-year college. He suggested a PLA would offer an opportunity for a career outside of college. He otherwise commented that prevailing wages uplifted communities, particularly for local hires and recommended a timeline be considered on when information should be brought back for Council consideration.

PUBLIC COMMENTS CLOSED

Council member Toms commented that from a staff standpoint, she understood the compliance/monitoring/wage compliance was difficult for staff particularly when state funding was involved, which was incredibly important for prevailing wage projects. A PLA included partnerships to ensure compliance which helped staff to move forward with a project. Public works projects with public money were already prevailing wage projects and had the benefit of having the compliance through the PLA, which would not involve a massive increase in cost.

Council member Toms stated she and Council member Martinez-Rubin had been members of the Citizen Bond Oversight Board with the WCCUSD, and had received presentations on their PLAs and local hires, and when moving forward she supported an Ad-Hoc Subcommittee to revisit the definition of local hires. She also proposed an identification of what City-wide meant, if for a public project or if it meant any City project which the Ad-Hoc Subcommittee should also take into consideration. Given the major infrastructure as part of the San Pablo Avenue Bridge Project, it would be good to have this matter resolved before that project happened along with other infrastructure projects that may come along.

Mayor Salimi understood that contractors would have to submit certified payrolls as part of compliance through specific systems to be reported to City staff and then verified to ensure wages and benefits were accurate, and as such the issue of local hires would come back to the City Council. As to the definition of City-wide, he suggested that would have to be discussed further for public and private projects as part of the Ad-Hoc Subcommittee discussions.

Council member Martinez-Rubin asked about women in the trades as part of local hires and the City's assessment of local talent overall. She recalled as a member of the public it had been difficult to obtain the skills to be a qualified contractor or subcontractor and she wanted a better understanding of that and how to move towards a partnership that worked.

In terms of construction project sponsor/owner, Council member Martinez-Rubin asked to what extent a PLA would apply. As to the topic of project specific labor agreements and City-wide labor agreements, she remained unclear of the advantages between one and the other and asked for a better understanding of those agreements.

Public Works Director Mishra explained that most of the PLAs that staff had researched had a project value threshold and most local agencies had adopted a policy of a million to half a million dollars depending on the size of the city. For the City of Pinole that threshold analysis had not been done.

Council member Martinez-Rubin clarified with Mr. Whitney that local hire provisions with youth involved an age limit of 18 years with specific requirements for each craft for the apprenticeship programs to be filed with the state, all processes set up through the state while the Building and Construction Trades Council provided assistance through pre-apprenticeship programs written by the North American Building Trades Union, which program training component was at campuses in the Contra Costa Community College District, Richmond Build, Future Build, Juvenile Detention Facility and various other locations. All participants must be clean and sober and drug-free and were provided various training practices.

The Building and Construction Trades Council had also formed a non-profit CTWI which sought grants and Senate Bill (SB) 2 funds, the brain child of a number of Building Trades Councils in the Bay Area which met on a regular basis and which promoted career opportunities in the middle and high schools. He also clarified the Building Trades and Construction Council PLA was for public works projects only and did not cross over into private projects. The Building and Construction Trades Council recently had a PLA approved with the City of El Cerrito and a copy of the PLA could be shared with the City of Pinole. He added that all PLAs between the Building and Construction Trades Council and Contra Costa County included a million dollar threshold and a specific term of five years.

Mr. Whitney further commented in response to Council member Martinez-Rubin that most if not all candidates for the apprenticeship programs were interviewed, ranked and then selected (all local representatives had their own procedures) with most apprenticeship programs a five-year program free of charge with on-the-job training. The PLA created work opportunities for apprentices and all projects would be prevailing wage. Some pre-apprenticeship programs also had direct hires with various locals.

Public Works Director Mishra also clarified in response to Council member Martinez-Rubin that for most public works projects the qualifications of the contractors went through the Contractor's Licensing Board for the work to be performed.

Mr. Whitney added that contractors needed to get the best skilled and trained people to build a project on time and if built on time and on budget that would save lots of money. He also clarified the Building and Construction Trades Council contractors were signatory contractors and had signed a collectively bargained agreement with their specific locals, with each craft having a list of contractors they had a legal relationship with.

Council member Martinez-Rubin expressed a desire to know more about where women were in the process and in the training. She thanked everyone for providing clarification on how the building trades worked collaboratively.

Mayor Pro Tem Murphy thanked all members of the community for their input and for being part of this early process. He asked staff to clarify whether or not a PLA had been considered by the City Council earlier or by previous Councils, and City Manager Murray was uncertain why PLAs had not been considered by prior City Councils. Having looked at the record, he and the Public Works Director had found the Water Pollution Control Plant Upgrade Project was a project in which the City had a PLA but he was uncertain how many others there had been in the past decade. The City Council had requested this item some time ago, and it was now before the City Council for consideration.

Public Works Director Mishra stated he had reviewed past City Council meetings, including meetings one of the speakers had referenced and where the City Attorney had provided an update regarding the history of when Pinole had PLAs, but PLAs had fallen off of the radar until this item had been requested by the City Council.

Mayor Pro Tem Murphy was pleased to see the support for a PLA. His only experience with PLAs was with the Citizens Oversight Bond Committee for the high school. He hoped to focus on high-quality jobs and building on hard and soft skills in the work force in Pinole for both older and younger citizens of Pinole. He also hoped this effort would elevate the need and awareness to successfully complete green infrastructure and to also address the climate crisis in the City and the inequality crisis with the same set of policies where the PLA would be the center of the priorities of those challenges. He emphasized the need for full employment, recruitment of the best for City Departments, and the hope that full employment and economic security would be a central part of the PLA in addition to climate protection.

Mayor Pro Tem Murphy added that on February 4, 2022, President Biden restored an Executive Order from the Obama Administration that would require the use of PLAs on federal construction projects and was pleased they would be aligning with the national government on that issue if the City were to move forward with a PLA. He was also interested in a challenge to everyone as to how to support and protect minority, women-owned, and LGBTQ+, justice impacted and formally incarcerated contractors as part of this process and that a PLA would offer equal access for those communities.

City Attorney Casher clarified for federal contracts disadvantaged business enterprises (DBEs), included specific requirements for contracts but at the state level there were challenges due to Proposition 209 and restrictions about classifications for certain groups, which would be discussed as part of this process in developing a PLA.

Mayor Pro Tem Murphy commented he had reviewed the North American Building Trades Union which had a number of resources, guidelines and parameters around the creation of PLAs and which could be used as a resource. He wanted more data and more information on potential economies to the City, costs to current projects in the Capital Improvement Plan (CIP), the triggers for a PLA and the cost of inaction in terms of how much money the City may have lost since it did not have a PLA policy in place.

Mayor Pro Tem Murphy reported that Governor Newsom had recently signed Assembly Bill (AB) 2188, making it illegal for employers to discriminate against employees for cannabis use in their personal lives, which would become law on January 2023, and he asked about the impact of that bill when a PLA was created, although he understood that AB 2188 did not apply to construction jobs. He sought a legal opinion on that issue. He emphasized that public engagement would be important for this process and saw the potential for a task force or an Ad-Hoc Subcommittee being formed and would like to integrate a member of the Community Services Commission and a member of the Planning Commission on that Ad-Hoc Subcommittee. He requested a timeline for the development of the process for a PLA including any Ad-Hoc Subcommittee meetings that could be communicated to the public and looked forward to more discussion on the process.

City Attorney Casher clarified that when a PLA was created it could be approved at one time, would not require a first and second reading, but a lot of details remained to be flushed out with the Ad-Hoc Subcommittee.

Council member Tave supported PLAs since they were time tested, had been done for the Water Pollution Control Plant Upgrade Project, with a lot of time spent on project close-out with errors and gaps and loose ends that must be tied up. PLAs offered value and care up front, which mattered in the long term and which residents deserved. A PLA must be tailored to the City of Pinole and he would like to have conversations on what that meant for the smaller, critical projects and there should be some element of criticality involved. A PLA also kept dollars in Pinole which was a big priority for him, allowing residents to work where they lived and invest in the community which should be encouraged and weaved into a PLA.

Council member Tave understood PLAs were being done by most cities, skilled forces were retiring and the labor force needed to be built up and lead times were becoming longer and longer, meaning the projects in larger districts were coming to a head, and smaller cities could position themselves in getting larger projects done with a PLA. There was also a shift in the economy, green infrastructure was gaining traction, with federal and state funds ramping up for the larger projects and he suggested the City should position itself for that with a PLA. He encouraged staff and the City Council to have this conversation soon, there was a lot that needed to be negotiated, and he hoped to have those conversations with the labor groups soon to be able to accommodate upcoming projects that would need the labor.

Council member Tave also stated apprenticeships would be critical for the City as it moved forward in that with technology always changing keeping the specific crafts up to par with skilled labor was ever more important. He recognized staff had a lot of homework to do but looked forward to future discussions with all parties. He agreed a timeline needed to be identified to get the work done.

Mayor Salimi agreed there was a need for a timeline but wanted a discussion on a City-wide PLA for public projects first and then focus on all projects. He offered a motion, seconded by Mayor Pro Tem Murphy for a project-wide PLA for public projects over one million dollars.

On the motion, Council member Toms suggested there were a number of issues that could be included in the motion but the Mayor wanted the Council to consider the motion as stated first. He also clarified in response to the Mayor Pro Tem his reason for a one million threshold was that it had been used by other cities and was part of a standard labor agreement.

City Attorney Casher understood that most Contra Costa County PLAs included a million dollar threshold.

Mayor Salimi clarified his motion was for a City-wide PLA for all public projects at or above one million dollars, which motion was again seconded by Mayor Pro Tem Murphy.

Mr. Whitney clarified the County and the Contra Costa Community College District, County Wastewater District and all cities had a million dollar threshold with the exception of the City of Concord which had a \$750,000 threshold. He again explained why a million dollar threshold had been identified in a sense of being fair, but commented the Building and Construction Trades Council PLAs also included language that allowed the Council to add in any project it wanted along with the ability to combine projects.

Council member Martinez-Rubin offered a substitute motion for the City Council to provide direction to have staff to examine the PLA the trades had been using to allow for customization.

Mayor Salimi sought to provide general direction only at this time and then consider separate motions with more details. He understood that staff would have 60-days to form an Ad-Hoc Subcommittee since it would know how much, who, and when to come back with clear direction.

Council member Martinez-Rubin suggested the first motion was too narrow with a focus on the threshold and while an acceptable threshold there was a need for customization for Pinole. She preferred a broader discussion of a City-wide PLA for Pinole and a timeline to come back but did not want to have specifics on what they were voting on tonight given a lack of specifics from staff. She suggested more work needed to be done when deciding on a threshold, and while the million dollar threshold sounded reasonable there were other things related to that threshold.

Mayor Salimi restated his motion and noted that separate motions could be considered for other steps and direction to staff.

There was no second to the substitute motion.

City Attorney Casher clarified there was a motion on the table with a second and a substitute motion. If the moving party wanted to entertain the substitute motion that was an alternative that could be accepted. If not, there needed to be discussion and a vote on the original motion.

Council member Toms asked that the other steps the Mayor had alluded to be included in the original motion.

City Attorney Casher clarified if the Mayor desired to amend the original motion to add other aspects that could be done with a second.

Mayor Salimi withdrew his original motion.

Mayor Salimi offered a new motion, seconded by Council member Tave to authorize negotiation for a City-wide Project Labor Agreement for a period of five years for public projects at a threshold at or above one million dollars, the formation of an Ad-Hoc Subcommittee to come back to the City Council with all questions asked by the City Council to be answered within the next 60-days, and with City staff to return to the City Council by the November 15, 2022 City Council meeting for discussion of the contract.

City Manager Murray pointed out the City Council had not established an Ad-Hoc Subcommittee or appointed members which was not an agenda item and needed to be taken up at a future City Council meeting. If that were to take place at a future meeting, the Ad-Hoc Subcommittee would not have time to come back to the City Council with a proposed PLA in November. He suggested the PLA for the City of El Cerrito was a great starting point representing modern and current thinking that worked well but Council members sought a customized agreement. The first thing that needed to happen was the City Council needed to establish the Ad-Hoc Subcommittee, reach an agreement on the provisions, and have a discussion on the counter to that.

Mayor Salimi suggested the motion could stand and just move the November 15, 2022 date and consider the formation of the Ad-Hoc Subcommittee during a different City Council meeting, and City Manager Murray confirmed staff could be directed to come back with an agenda item to create an Ad-Hoc Subcommittee with the composition to be specified to include a member from the Community Services Commission and the Planning Commission.

Council member Toms pointed out the agenda item included next steps as outlined in the agenda packet and she understood that meant the Council could identify the members of the Ad-Hoc Subcommittee now, but City Attorney Casher agreed with the City Manager that direction should be considered at a future meeting to allow a formal appointment by the City Council of the Ad-Hoc Subcommittee members.

City Manager Murray suggested appointments to the Ad-Hoc Subcommittee would need to be done at the next City Council meeting. A return with a proposed recommendation from the Ad-Hoc Subcommittee on a proposed PLA was likely to occur in January 2023 due to potential changeover on the City Council among other issues but he noted that staff did not have to wait for the formation of the Ad-Hoc Subcommittee to start working on some of the issues raised.

City Clerk Bell restated the Mayor's motion to authorize negotiation towards a City-wide Project Labor Agreement with a term of five years for public projects, with a threshold of one million dollars at or above, the formation of an Ad-Hoc Subcommittee within 60-days and a return to the City Council for discussion on November 15, 2022.

Mayor Salimi restated his motion to authorize negotiation towards a City-wide Project Labor Agreement with a term of five years for public projects, a threshold of one million dollars at or above, the formation of an Ad-Hoc Subcommittee within 60-days comprised of two Council members, a member from the Community Services Commission and a member of the Planning Commission, with the Ad-Hoc Subcommittee to return to the City Council in January 2023. Council member Tave seconded the motion.

On the motion, Council member Martinez-Rubin asked about the relevance of a member from the Community Services Commission.

Mayor Pro Tem Murphy understood there was a community benefit and spoke to the mission of the Community Services Commission. In his opinion, having representation from the Community Services Commission would be a benefit given the scope of work and with other ways to engage the community, which could be done by those already serving the City.

Council member Martinez-Rubin asked about the scope of the Community Services Commission since she understood the Commission had been event driven and those who were Commissioners were event driven as well, and the service provided to the City was different from a discussion on a PLA and benefits to a community. She asked staff to provide the scope of the Community Services Commission to see if it would mesh.

City Manager Murray explained the Community Services Commission had a broad charge and was involved in various community services, with many activities civic and recreation events. He suggested there was a nexus in that all members of the Community Services Commission represented a cross section of the community and could add to this dialogue.

ACTION: Motion by Mayor Salimi/Council member Tave to authorize negotiation towards a City-wide Project Labor Agreement with a term of five years for public projects, with a threshold of one million dollars at or above, the formation of an Ad-Hoc Subcommittee within 60-days to be comprised of two Council members, and a member from the Community Services Commission and a member from the Planning Commission and with the Ad-Hoc Subcommittee to return to the City Council in January 2023.

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

Mayor Salimi declared a recess at 9:18 p.m. The City Council meeting reconvened at 9:33 p.m. with all Council members present.

The City Council returned to agenda Item 7, Reports & Communications.

7. REPORTS & COMMUNICATIONS

- A. Mayor Report
 1. Announcements

Mayor Salimi thanked all participants for the successful Coastal Clean-Up Day.

- B. Mayoral & Council Appointments: None

C. City Council Committee Reports & Communications

Mayor Pro Tem Murphy reported he had attended California for All, which elevated aging, disability and equity as part of a state-wide cross section planning effort to achieve Governor Newsom's mission of a California for All. He emphasized the importance of the City to be engaged in the process and uplift issues Pinole residents may be dealing with, with more information available at the website mpa.aging.ca.gov or via social media at #ca4all.

Mayor Pro Tem Murphy also reported Contra Costa County had hired a new Economic Development Director and he hoped once the City had its own Economic Development Director on board the two would be able to work together. He thanked the volunteers and organizations involved in the Coastal Clean-Up Day. As to concerns with the status of the Contra Costa and Solano Food Bank, he reported the City of Pinole had partnered with the Food Bank on the second Monday of each month and had provided families with non-perishable and canned foods at the Pinole Senior Center. He thanked all those involved and provided statistics related to the participants of the food drives and expressed his hope the program would continue. He also wished everyone a Happy Voter Registration Day and urged everyone to register to vote at registertovote.ca.gov.

Council member Toms reported on her attendance at the League of California Cities Annual Conference and briefed the City Council on the sessions attended; briefed the City Council on the Contra Costa County Fire Chiefs review of the new Fire Code; and had participated in Coastal Clean-Up Day and emphasized the need to address certain types of debris such as straws and wrappers.

City Attorney Casher reported there would be an item before the Municipal Code Update Subcommittee to adopt an ordinance that would regulate the use of single use plastics. A meeting had been scheduled for Monday, September 26, 2022 with the new Sustainability Fellow, who would help with the community engagement aspect of that ordinance.

Council member Martinez-Rubin reported she had participated in Coastal Clean-Up and she too thanked everyone involved in that event. She also announced upcoming events this coming weekend to honor the 75th Anniversary of St. Joseph's Parish and the Pinole History Museum Fundraising Dinner scheduled for Saturday September 24, with more information at pinolehistorymuseum.org. She was pleased to see there was interest in candidates running for City Council although there were some anonymous flyers in the community about particular candidates which included misinformation. She emphasized people should hear from the candidates themselves and that flyers were required to conform to Fair Political Practices regulations with identifying name, candidate and committee identification number.

Council member Martinez-Rubin also briefed the City Council on the sessions she had attended during the League of California Cities Annual Conference and she looked forward to somehow incorporating the tips and ideas into discussions related to the Economic Development Strategy (EDS) and support activities which complemented what staff could do to enhance the outreach to people that may not otherwise attend City Council meetings.

City Attorney Casher clarified the requirements for individual candidates had been included in the notification to a campaign committee and what could be included on campaign signs. He was unaware of the details behind the flyer referenced but it was being looked into and it was difficult to speak on that issue in terms of what laws may have been violated. Rules on what could be included on any campaign flyer had been outlined on the Fair Political Practices website.

Mayor Salimi encouraged residents to reach out to the individual candidates and not rely on third party information.

Council member Tave reported he had received an email which raised concerns about the portal being used on the City website regarding permitting, which had been forwarded to the Community Development Director and he encouraged residents to reach out to anyone in the City with any issues. He also announced that Ronin Tave scored his first goal on Saturday, September 17 at a soccer game and Reese Tave turned three on Sunday, September 18, 2022.

Mayor Salimi reported he had received a few telephone calls about the WCCUSD announcing restructuring of its schools that had occurred on day 23 of the school year. He had reached out to WCCUSD Board members to request that those issues be addressed.

D. Council Requests for Future Agenda Items

Mayor Pro Tem Murphy requested a future agenda item to invite the Contra Costa and Solano County Food Bank to provide a presentation to the City Council and that there be an action item on the agenda for the City Council to support a long-term strategy or partnership with the Contra Costa and Solano County Food Bank to continue existing programs.

City Manager Murray clarified it was true that the funding which supported the Food Bank program had ended but the Food Bank offered other programs free to the City and the City was enlisting their cooperation with no break in the City's support. The Food Bank was also moving from a once-monthly distribution to a twice-monthly distribution of dry goods for people 55 years and older, alternating every other week with a fresh produce truck that would commence in October so there would be no disruption in services. He suggested a presentation be received from the Food Bank and if the City wanted to do more than the City Council may take some action.

Mayor Pro Tem Murphy reiterated his request. Consensus given.

Mayor Pro Tem Murphy requested a future agenda item for staff to provide a report about what the City was doing to comply with Senate Bill (SB) 9, California Homes Act and engage in conversation of new ideas to implement and streamline SB 9 applications in the City.

City Attorney Casher confirmed that the Assistant City Attorney had previously provided a presentation to the City Council on a number of housing legislation, which had included SB 9.

Mayor Pro Tem Murphy commented the City of Milpitas had done a lot of work streamlining the application process for SB 9 applications and he wanted to have some engagement. The Assistant City Attorney had provided information on the law but now the community aspect to that law had to be developed with opportunities for the public to understand how to implement SB 9.

Council member Toms understood the City Council would be receiving a presentation on the Housing Element and perhaps the two subjects could be folded together, but City Manager Murray found the topics to be somewhat different and suggested if the City Council was interested in educating the public on SB 9 that would be beyond the discussion of the Housing Element. Consensus given.

Mayor Salimi requested the following future agenda items: proclamation recognizing Nowruz, Persian New Year, which occurred on the spring equinox, with the proclamation to occur on an annual basis; a proclamation recognizing Bastille Day on an annual basis; and a proclamation in support of women's rights, which could be tied to International Women's Day. Consensus given.

E. City Manager Report / Department Staff

City Manager Murray reported the Contra Costa County Board of Supervisors (BOE) had adopted a resolution formalizing the five years of Measure X funds with an escalator in support of fire services in Pinole, with City staff having received a modified draft of the contract with the County incorporating that commitment and with the contract still under review by staff. He also announced a Virtual Community Workshop would be held on Monday, September 26, 2022 on the Draft Community Engagement Plan, with information on the City website and on social media.

Upcoming events in Pinole included Dumpster Day on October 1, National Night out on October 4, and a final movie in the park for the season in October, and there would be a number of ways to recognize United Against Hate Week (UAHW) including events as part of UAHW.

City Manager Murray reported the tentative Special Meeting that had been scheduled for September 27, 2022 to discuss the final draft of the fire contract with the County had been canceled. Staff was hoping to have that final contract brought back to the City Council as soon as possible at an upcoming meeting. He added the City Council meeting of October 4, 2022 had been canceled to avoid competing with National Night Out, and he briefed the Council on a number of tentative agenda items to be included on the October 18, 2022 meeting agenda.

In response to the Mayor, City Manager Murray explained that staff was making a decision as to who could serve as an exhibitor at National Night Out and he hoped to have more information soon.

PUBLIC COMMENTS OPENED

Rafael Menis, Pinole, stated the Planning Commission had been provided a presentation on housing legislation including SB 9 and the City Council should be able to access that information.

Mayor Salimi reported the Assistant City Attorney had provided a presentation to the City Council on March 15, 2022 and that information was available to the public.

PUBLIC COMMENTS CLOSED

F. City Attorney Report

City Attorney Casher reiterated the Municipal Code Update Subcommittee would meet on September 26, 2022 at 4:00 p.m. and would discuss the tri-annual update to the Building and Fire Codes. The City Code of Ethics would be considered by the City Council at a meeting in November along with an ordinance related to Federal Bureau of Investigation (FBI) Fingerprinting.

PUBLIC COMMENTS OPENED

Cordell Hindler, Richmond, requested a future agenda item to invite the WCCUSD Superintendent and a school board member to provide an update on School Resource Officers (SROs). He also asked the City Council to consider CPS Consulting to provide diversity, equity and inclusion.

City Manager Murray reported the WCCUSD had been invited to make a presentation to the City Council at its November 1 meeting and the California Department of Insurance had been invited to provide a presentation on the same date.

Irma Ruport, Pinole, reported Hispanic Heritage Month was being celebrated from September 15 to October 15, 2022, with 2022 United for a Stronger Nation, and asked the City Council to consider some form of recognition either a proclamation or otherwise as a future agenda item.

At this time the Mayor asked Ms. Ruport to read into the record the following statement: *We are celebrating Hispanic Heritage Month September 15 to October 15 to recognize the achievements and contributions of Hispanic American champions who have inspired others to achieve success. The observation began in 1968 as Hispanic Heritage Week under President Lyndon Johnson and was extended by President Ronald Reagan in 1988 to cover a 30-day period. It was enacted into law on August 17, 1988.*

PUBLIC COMMENTS CLOSED

Mayor Salimi returned to agenda Item 7 (D) and requested the City Council consider a future agenda item to recognize Hispanic Heritage Month, to be considered on an annual basis. Consensus given.

Council member Martinez-Rubin requested the proclamation be remodified in title to read: Hispanic/Latino Heritage Month. Consensus given.

9. 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.

- A. Approve the Regular Meeting Minutes of September 6, 2022.
- B. Receive the September 3, 2022 – September 16, 2022 List of Warrants in the Amount of \$742,546.67 and the September 16, 2022 Payroll in the Amount of \$548,449.29
- C. Receive the Fiscal Year (FY) 2021/22 Fourth Quarter Financial Report **[Action: Receive Report & Adopt Resolution per Staff Recommendation (Guillory)]**
- D. Receive the Quarterly Investment Report for the Fourth Quarter (Ending June 30, 2022) **[Action: Receive Report & Adopt Resolution per Staff Recommendation (Guillory)]**
- E. Receive the Quarterly Report on Implementation of the Greenhouse Gas Inventory and Climate Action and Adaptation Plan for Fiscal Year (FY) 2021-22 Fourth Quarter **[Action: Receive Report (Whalen)]**
- F. Fiscal Year (FY) 2021/22 Fourth Quarter Report in Implementation of Capital Improvement Plan (CIP) Projects **[Action: Receive Report (Kaur)]**
- G. Receive the Quarterly Report on Implementation of the Strategic Plan for Fiscal Year (FY) 2021-22 Fourth Quarter **[Action: Receive Report (Murray)]**
- H. Amendment Memorandum of Understanding (MOU) With the City of Hercules for the San Pablo Avenue Bridge Replacement Project **[Action: Adopt Resolution per Staff Recommendation (Mishra)]**
- I. Approve a First Amendment to Disposition and Development Agreement Between the City of Pinole and GRP Shores, LLC Pinole Shores II and Approve a Reciprocal Easement Agreement with the Pinole Shores Owner's Association **[Action: Adopt Resolution per Staff Recommendation (Downs/Mishra)]**
- J. Approve an Amendment to the On-Call Contract with Metropolitan Planning Group (M-Group) and Issuing an Amendment to Task Order Four for Environmental Services for the Pinole Shores II Project (830-848 San Pablo Ave) **[Action: Adopt Resolution & Appropriate Funds per Staff Recommendation (Hanham)]**
- K. Adoption of Sanitary Sewer Master Plan 2022 Project **[Action: Adopt Resolution per Staff Recommendation (Mishra)]**

PUBLIC COMMENTS OPENED

Rafael Menis, Pinole, referenced Item 9C and the changes in the fourth quarter budget update and investment report, and stated he had noticed that Page 55, Fund 700, the interest and investment income revenue had shown a loss and net projected year end loss leaving the balance figure as shown in the agenda packet, but Page 60 of Item 9D of the agenda packet had shown a market value for the 115 Trust, and he asked which of the figures shown in the agenda packet were accurate since the values shown did not match.

Mayor Salimi understood the discrepancy may be due to the dates of the reporting and asked staff to get back to Mr. Menis with a clarification.

Mr. Menis also commented the budget update had shown the American Rescue Plan Act (ARPA) fund balance but he understood those funds had been shifted to the General Fund Reserve as part of using the assumed loss calculations as part of ARPA law. He asked if ARPA was still its own fund and asked for clarification. The Mayor advised that staff would get back to clarify.

As to Page 38 of the budget update, Mr. Menis asked whether the City had been out-competed on the SB 2 Grant or whether there was some issue as to why the City had not received that grant. Also, as shown on Page 50 of the budget update, most of the investment and interest income had shown losses which he assumed had been due to the overall decline in the stock market, with the exception of Fund 207, which had shown a favorable variance in investment income and he asked how that had occurred as compared to the other losses in income.

Mr. Menis also spoke to the increased expenditures in road maintenance as compared to Fund 377 and other funds, which had carried forward capital funds, and noted for Item D it had been noted that the Local Agency Investment Fund (LAIF) had a higher yield than usual whereas the funds shown on Page 60 had shown a loss in market value. He questioned how there had been a gain in yield but a loss in market value.

Mr. Menis also spoke to Item 9E and the update on the Greenhouse Gas (GHG) Inventory being completed and asked whether the City had a timeline for the development of the Climate Action and Adaptation Plan. As to Item 9F, he noted the Storm Drain Master Plan was back on the CIP and had been programmed for this Fiscal Year but asked what had changed since it had been pushed off of this year's active project list. He had received a letter from staff explaining why it had been pushed off in the first place but it was back on the list and he sought clarification.

Speaking to Item 9K, Mr. Menis asked whether the requirement listed on Page 183 for the City to inspect the condition of all pipes from the Regional Water Quality Control Board (RWQCB) also included a requirement to inspect storm drain pipes or was just a requirement for sewer line pipes.

Mayor Salimi asked staff to get back to Mr. Menis with answers to his questions in writing. He also asked Mr. Menis to possibly outline his comments in writing to allow staff to respond prior to the meeting but Mayor Pro Tem Murphy wanted to challenge staff to provide answers to become part of the record for the meeting.

City Clerk Bell explained that the meeting minutes were a reflection of what took place at the meetings with the minutes to reflect the questions and with the answers to become part of the record as correspondence back to the requestor, and could also take shape sometimes as a memorandum to the City Council, also a part of the public record and tied to the meeting date.

Mayor Pro Tem Murphy understood that questions raised at the prior City Council meeting would be part of the meeting minutes but the answers were not recorded and he wanted to figure out a way to have those answers on the record.

City Manager Murray stated he would have to give that some thought. One option, and to the extent possible, would be for the questions to be provided in advance to allow staff to research and provide answers during the City Council meeting so that the answers would be part of the meeting minutes.

Mayor Pro Tem Murphy understood the challenge was the timing of the distribution of the agenda packet and he wanted to find a way to answer the questions even if during the meeting and even if it took more time during the meeting.

City Clerk Bell noted one of the important pieces was the approval of the meeting minutes by the City Council, and as much as they could have questions answered in advance of the meeting, that would be great for the City Council and the public but they could also think of ways to have responses be part of the record.

City Manager Murray added every year the City Council reviewed the meeting procedures and there could be a way to create a record of written responses where they could be documented and posted to a site where anyone may reference them. He agreed it would benefit everyone to have those documents somewhere.

Mayor Pro Tem Murphy sought answers to the questions in real time allowing them to be part of the public record.

Council member Tave wanted staff to have the time to answer questions appropriately and he understood there was a process for supplemental documents and the idea for a document or listing of supplemental memorandums would be helpful but to challenge staff to answer sometimes difficult questions during a meeting, which could result in follow-up questions on top of that, he preferred a thorough answer with more thorough details between that staff member and the member of the public via email. He did not want to challenge staff during a late hour to come up with very detailed answers that could be on the record.

Mayor Salimi asked staff to get back to the City Council with options for consideration.

Cordell Hindler, Richmond, referenced Item 9G and commented that when the City Council received a presentation from a consultant on the EDS, the Strategic Plan was intended to attract businesses to Pinole, but he questioned whether potential businesses would come to Pinole given the speed of traffic on Pinole Valley Road. He also commented that the City of Fremont had an Economic Development Director who reported to the Assistant City Manager. He suggested potential businesses would leave Pinole for other cities in the Bay Area given that Tennent Avenue was a danger zone for businesses.

Irma Rupert, Pinole, spoke to Page 60 of Item 9F and reported she had received an email this date from the Public Works Director who she thanked for the explanation for some of the CIP projects, but asked about the status of five projects that had been removed from the CIP list. She also asked the status of the renovation of the Faria House whether on target for the next quarter but noted that no funding had been identified.

Ms. Ruport questioned why some of the most important projects had been removed whereas the Faria House had been included in the CIP and was not a priority. She asked that the removal of the five CIP projects be agendaized for a future meeting and the CIP be brought back for discussion prior to the projects moving forward.

PUBLIC COMMENTS CLOSED

Mayor Pro Tem Murphy requested Items 9E, 9F and 9G be removed from the Consent Calendar for discussion.

ACTION: Motion by Mayor Pro Tem Murphy/ Council member Toms to approve Consent Calendar Items 9A through 9D and Items 9H through 9K, as shown.

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

- E. Receive the Quarterly Report on Implementation of the Greenhouse Gas Inventory and Climate Action and Adaptation Plan for Fiscal Year (FY) 2021-22 Fourth Quarter **[Action: Receive Report (Whalen)]**

Mayor Pro Tem Murphy had removed the item from the Consent Calendar to allow an opportunity to express his appreciation to the Community Development staff and all City staff who were pushing the City forward with the Climate Action and Adaptation Plan since the GHG Inventory had now been completed, which was a large step for cities in developing Climate Action Plans (CAPs).

Mayor Pro Tem Murphy recognized staff's incredible progress in such a short time frame, which was exciting. He also congratulated the City on its Sustainability Fellow, which intersected with the work around climate action and work with agencies to build on what made things happen and the Sustainability Fellow would help build the CAP and Adaptation Plan and would be working with the Municipal Code Update Subcommittee. He looked forward to the future.

- F. Fiscal Year (FY) 2021/22 Fourth Quarter Report in Implementation of Capital Improvement Plan (CIP) Projects **[Action: Receive Report (Kaur)]**
- G. Receive the Quarterly Report on Implementation of the Strategic Plan for Fiscal Year (FY) 2021-22 Fourth Quarter **[Action: Receive Report (Murray)]**

Mayor Pro Tem Murphy stated he had removed the items from the Consent Calendar to acknowledge the City Council had received a memorandum from the Capital Improvement and Environmental Program Manager on the CIP and wanted assurance the memorandum would be part of the record. He had been informed by the City Clerk the memorandum would be part of the agenda packet record as a supplemental item and would be posted on the City website.

Mayor Pro Tem Murphy also expressed concern with some of the projects that had been deferred in the CIP and hoped a larger conversation could be had at some point in the future regarding prioritization. As an example, five projects had been deferred and if that was a recommendation by City staff, the City Council needed to have that conversation and re-negotiate amongst themselves. He asked whether that conversation would be held soon or whether it was part of a prior request for a future agenda item since he had requested at the last City Council meeting a future agenda item to have a discussion to prioritize CIP projects.

City Manager Murray clarified the memorandum from the Capital Improvement and Environmental Program Manager on the CIP spoke to a refresher of the history of action the City Council had taken, it was not a staff recommendation but action the City Council had provided during the budget and CIP approval process and which the City Council had approved. There had been touch points with the City Council about the CIP projects and after multiple rounds of discussions and expansion of some projects, such as the Senior Center Parking Lot and limited renovation of the Faria House, staff had advised while they could do those two things some other things would have to be deferred and that recommendation had been approved by the City Council, which was why it was in the current CIP.

City Manager Murray also clarified some of the confusion could be that the quarterly reports were for the fourth quarter of the last fiscal year, which was reporting the status of the end of the last fiscal year. He clarified, as an example, the Faria House was not a funded project in the last fiscal year. There was a bit of a disconnect since the report was a close out of the last fiscal year CIP and not the status report on the current CIP, which would come as part of the first quarter report in the new fiscal year. Again items that had been added and others deferred had been based on decisions made by the City Council.

City Manager Murray also understood the Mayor Pro Tem's request for a future agenda item was to be a discussion of the process for a methodology to prioritize CIP projects, and was not intended as an actual reconsideration of CIP projects, although the City Council was welcome to have that discussion.

Mayor Pro tem Murphy remained concerned where they were at but thanked staff for the report. He again commented that several projects had been deferred in the CIP which seemed to be of importance and once the City Council had the conversation on the methodology and prioritization of CIP projects, it would come to which projects should be unfunded and un-programmed versus which should not. He was concerned to see that the Master Storm Drain and City Hall Modernization projects had been deferred and hoped that the City Council could come back sooner than later to make decisions related to the budget.

City Manager Murray explained the CIP had been adopted in June 2022, the City Council may agendaize a future agenda item to reconsider that item, there could be some related costs on work already done, but staff could consider that direction. The next year's CIP would be discussed soon and that was another opportunity for the City Council to change priorities.

Council member Tave referenced the CIP projects that had been deferred as outlined in the staff memorandum and asked how critical those projects were, and City Manager Murray explained as part of the discussion of adopting the CIP, a whole list of criteria had been used similar to the budgeting exercise.

City Manager Murray added that some CIP projects related to regulatory requirements or required enforcement action and some improved the quality of life in the community or the quality of the environment. A common metric was not used, it was a policy decision similar to the budget process and a values and priority decision made by the City Council. As an example, the City was about to start a public engagement program to create a vision for the Community Corner and how to weigh that capital project with other CIP projects.

City Manager Murray again defined the quarterly updates and the memorandum from staff regarding a refresher of the history of the decision-making for this process. It was not an agenda item and there would be an agenda item on a decision-making rubric during a City Council meeting in November. He suggested the City Council start with that discussion and decide whether or not to make a change to the CIP mid-year, which could be a requested future agenda item.

Mayor Pro Tem Murphy commented the City had invested in the Balancing Act Tool which had been used for the ARPA funds and had a prioritization model that could be considered for the City Council and the public and may be relevant for the conversation in November.

ACTION: Motion by Mayor Pro Tem Murphy/Mayor Salimi to approve Consent Calendar Items 9E through 9G, as shown.

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

10. PUBLIC HEARINGS: None

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.

11. OLD BUSINESS: None

ACTION: Motion by Mayor Salimi/Mayor Pro Tem Murphy to Extend the City Council meeting to 11:15 p.m.

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

12. NEW BUSINESS

B. Hate Crime Update [Action: Receive Report (Gang)]

Chief of Police Neil Gang presented the staff report dated September 20, 2022, and explained in order to address hate incidents and crimes more actively, the City had begun participating in the national program United Against Hate Week (UAHW), which campaign had brought together municipalities, school districts, and civic organizations to establish a network of support and resources to allow communities to respond to, and to prevent hate, foster inclusion, and promote equity for all. The City would be holding its first annual "Pinole United Against Hate" event at Fernandez Park on November 19, 2022, as well as undertaking additional activities to promote UAHW.

Police Chief Gang also defined hate crimes pursuant to Penal Code 422.55PC, which defined hate crimes as a *criminal act committed in whole or in part because of the victim's actual or perceived disability, gender, nationality, race or ethnicity, religion, sexual orientation, or association with a person or group with one or more of these actual or perceived characteristics*. He described the differences between hate crimes and a hate incident which was an action or behavior motivated by hate, and which for one or more reason was not a crime. Examples included name-calling, insults, displaying hate material on your own property, posting hate material that did not result in property damage and the distribution of materials with hate messages in public places. He also clarified the United States Constitution allowed hate speech as long as it did not interfere with the civil rights of others.

Police Chief Gang also displayed a chart of how hate crimes may be addressed through law enforcement, civic leaders, faith-based organizations, media, industry or business associations, schools and universities, justice, victim advocates, federal agencies and community organizations and institutions.

PUBLIC COMMENTS OPENED

Rafael Menis, Pinole, spoke to the differences between hate crimes versus hate incidents, and asked whether calling someone a name and then damaging their property or driving at someone in a threatening way but not actually striking them rose to the level of a hate crime or a hate incident. And, if the City could not treat hate incidents as a hate crime, he asked whether hate incidents were tracked by the City since it could lead to more serious issues and potential future change.

PUBLIC COMMENTS CLOSED

Mayor Pro Tem Murphy requested that the report commissioned by the Department of Justice that had been referenced in the staff report be made available online, which included information on the increase in hate crimes in the country to Asian American Pacific Islanders (AAPIs), and Black and anti-immigrant communities. He asked whether the Police Department had any liaisons to those particular communities or organizations serving those communities. He also asked whether the District Attorney's Office had a specialized hate crime unit.

Police Chief Gang advised the Pinole Police Department had a Hate Crime Coordinator, and the Police Department had community outreach to various communities through engagement events and correspondence. He also understood the District Attorney's Office also had personnel who worked on hate crimes.

Police Chief Gang also provided the details for the two reported incidents in the City of Pinole including in 2018 at Stewart Elementary School where racist language had been written in the girls' restroom, and another in 2021 where a swastika and racist language had been spray painted near the tennis courts and picnic tables on the concrete slab. Both of those incidents had been defined as vandalism and not a hate crime in the assumption that the incidents involved youth. In those cases, the victim was the City due to the vandalism. Due to the record of the events, the incidents could be tracked and if future events occurred in the same area they could go back and track and possibly connect them. He also clarified that while an incident may not be defined as a hate crime did not mean a police report had not been taken allowing the ability to track and document events.

Council member Martinez-Rubin suggested there were victims to such incidents given they may have 'viewed' the incident. She asked the Police Chief to clarify civil rights to others.

ACTION: Motion by Mayor Salimi/Mayor Pro Tem Murphy to Extend the City Council meeting to 11:30 p.m.

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

Police Chief Gang reiterated the United States Constitution allowed hate speech as long as it did not interfere with the civil rights of others, such as Freedom of Speech, right to be able to move about if someone was blocked, and crimes on property whereby if someone was committing a crime while the hate incidents were occurring would turn into a hate crime.

City Attorney Casher reiterated that the First Amendment allowed for hate speech but if hateful speech was directed towards someone that was harassment infringing on one's civil rights. He suggested if anyone felt offended by speech, conduct or something written on private property it should be reported to law enforcement. The District Attorney was responsible to investigate whether that offensive speech, conduct or something written on private property rose to the level of a hate crime that could then be prosecuted.

City Manager Murray agreed with the City Attorney's comments in that the City needed to hear from its citizens about the experiences they were having in order to develop programs to create a healthy environment and atmosphere in the City.

Police Chief Gang read into the record the Pinole Police Department's policy on hate crime.

The City Council thanked the Chief of Police for the presentation and the work of the Police Department to reach out to the community and ensure the community was safe.

13. CITIZENS TO BE HEARD (Continued from Item 6) (Public Comments)

Only open to members of the public who did not speak under the first Citizens to be Heard, Agenda Item 6.

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.*

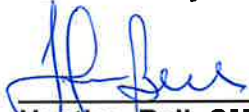
Pursuant to provisions of the Brown Act, no action may be taken on a matter unless it is listed on the agenda, or unless certain emergency or special circumstances exist. The City Council may direct staff to investigate and/or schedule certain matters for consideration at a future Council meeting.

Deputy City Clerk, Roxane Stone reported there were no comments from the public.

- 14. ADJOURNMENT** to the Regular City Council Meeting of October 18, 2022 in Remembrance of Amber Swartz.

At 11:20 p.m., Mayor Salimi adjourned the meeting to the Regular City Council Meeting of October 18, 2022 in Remembrance of Amber Swartz.

Submitted by:



Heather Bell, CMC
City Clerk

Approved by City Council: October 18, 2022

