

**CITY COUNCIL MEETING
MINUTES
December 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 Murphy called the Special Meeting of the City Council to order at 6:00 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
Maureen Toms, Mayor Pro Tem
Norma Martinez-Rubin, Council Member
Cameron Sasai, Council Member
Anthony Tave, Council Member

B. STAFF PRESENT

Andrew Murray, City Manager
Heather Bell, City Clerk
Eric Casher, City Attorney
Jeremy Rogers, Community Services Director
Stacy Shell, Human Resources Director
Sanjay Mishra, Public Works Director
Roxane Stone, Deputy City Clerk

City Clerk Heather Bell announced the agenda had been posted on Wednesday, December 14, 2022 at 4:00 p.m. with all legally required written notices. A minor correction memorandum had been issued for Item 9F after the agenda had been published and one written comment had been received in advance of the meeting. Both had been posted to the City website, distributed to staff and the City Council, with a printed copy available in the back of the Council Chambers.

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

4. **CONVENE TO A CLOSED SESSION:** None

5. **RECONVENE IN OPEN SESSION TO ANNOUNCE RESULTS OF CLOSED SESSION:**
None

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 the COVID-19 elevated case rate for the City of Pinole and encouraged everyone to wear masks indoors and outdoors, particularly in crowded spaces. He stated during the December 6, 2022 City Council meeting he wanted to make a comment in praise of Mayor Murphy but comments had not been allowed at that time. He thanked Mayor Murphy for the work he had done over the past two years to make the City of Pinole a more engaged community, particularly his work in support of the use of the Balancing Act Tool, the fight for justice, the environment and making the City a better place for everyone as a whole. He encouraged the Mayor to continue those efforts. He otherwise reported a member of the public, who asked to remain anonymous, had asked that City staff provide updates on COVID-19 statistics in Pinole and/or that information be broadcast on Pinole Community Television (PCTV) as it had been reported during the pandemic. He wished everyone Happy Holidays.

7. **REPORTS & COMMUNICATIONS**

A. Mayor Report

1. Announcements

Mayor Murphy thanked City staff for holding down City Hall in the final days of the year to meet the mandate of public service. As the public met with City staff during the holiday period and into the next year, he urged the public to do so with mutual respect and grace, with City staff expected to continue to deliver high quality services.

Mayor Murphy reported that West Contra Costa Unified School District (WCCUSD) staff were working on planning a parade and rally to celebrate the achievements of the Pinole Valley High School Spartans, particularly the recent accomplishments of the football team winning the State Championship. He also reported he had attended and had spoken on a panel for the inaugural California Climate Emergency and Energy Security Summit hosted by Elected Officials to Protect America and the Clean Energy Commission. He briefed the City Council on the attendees that included West County elected officials and the topics that had been discussed and stated he would provide materials to City staff that included information from the Elected Officials to Protect America website. In addition, he reported that in the spring of 2022, he had joined Marin Clean Energy (MCE) in Washington D.C. to lobby for earmark requests from Pinole's congressional delegation with a report having been provided to the City Council at a prior meeting.

Mayor Murphy reported that all three earmark requests were now part of the federal spending package and legislators were expected to take action later in the week which included \$500,000 in funding for energy storage, \$2 million for Electric Vehicle (EV) Charging Stations and \$750,000 for Healthy Home Programs. He encouraged the public to visit the MCE website to obtain more information on qualification for the programs and stated that anyone may reach out to him or City staff with any questions. MCE also looked forward to recognizing the legislators who had worked so hard on the funding requests at its upcoming January 2023 Board meeting.

Mayor Murphy further reported that the first Mayoral Update had been released as part of the City's Communication and Engagement Plan that would leverage videography to keep the public informed of City events. The video may be accessed on the City's social media sites and on his personal social media pages. He thanked the City Manager, PCTV and all of those who had made this possible, one of the key objectives of the Communication and Engagement Plan.

The City Council returned to Citizens to be Heard at this time.

Aleta Alston-Toure, Director, Got Reparations Mobilization Campaign, asked the City Council to support the organization in the form of a proclamation. Got Reparations had spoken with many African-American businesses in Pinole to solicit support for the youth-led organization who intended to speak with African-American businesses in all 58 counties in the State of California. She also provided an overview of Assembly Bill (AB) 3121, the Task Force to Study and Develop Reparation Proposals for African Americans, along with the grassroots efforts of the Got Reparations Campaign.

Ana Olabode, Youth Organizer, Got Reparations Mobilization Campaign, also provided an overview of the grassroots efforts to speak with African-American businesses in the City of Pinole, youth in homeless encampments and plans to speak with Black students in the New Year at Pinole Valley High School. The purpose was to gain feedback from those who were unhoused and in low income communities given that their voices were not heard as much in the community. She too asked the City Council to consider the requested proclamation.

B. Mayoral & Council Appointments: None

C. City Council Committee Reports & Communications

Mayor Pro Tem Toms reported she had attended the Wildfire Prevention Working Group meeting via Zoom at which time a Memorandum of Understanding (MOU) with other East Bay jurisdictions had been discussed with the purpose to work on grants, vegetation management and other prevention measures. That effort had been funded by a grant through the Oakland Fire Safe Council and many others. She reported that the funds had been exhausted and it had been estimated that an additional \$35,000 was needed to bring the effort to a conclusion, which would occur in September 2023. It had been requested that both Alameda and Contra Costa Counties fund \$7,500 each with different amounts for the other East Bay cities based on population. The City of Pinole was asked to fund \$1,000. This request had been communicated to the City Manager and the Fire Chief.

Council member Tave reported he had attended a RecycleMore Board meeting and briefed the Council on a presentation from Raven SR, a clean fuels company that transformed waste, municipal solid waste, organic waste and methane into high quality hydrogen.

Council member Tave had also attended the Holiday Tree Lighting Ceremony which had been well attended and he wished everyone a Happy Holiday.

Council member Martinez-Rubin hoped to provide an update on the Annual WestCAT Stuff a Bus event after the January WestCAT Board meeting. She wished everyone a happy, safe and healthy holiday and looked forward to seeing everyone in 2023.

D. Council Requests for Future Agenda Items

Council member Tave requested an update on building or extending the height of the dog park fencing as a future agenda item, although he recognized it would likely be part of the Parks and Recreation Master Plan and could be addressed through a memorandum. He also requested the City Council discuss the idea of hosting a February or March job fair as a future agenda item.

City Manager Andrew Murray acknowledged that staff had received some questions from members of the public related to the height of the dog park fence and the possibility of establishing two separate play areas for large and small dogs, which would be a larger question and more appropriate for the Parks and Recreation Master Plan; however, staff could prepare a memorandum on the issue of fencing and identify some immediate options.

Council member Tave suggested a memorandum related to the dog park fencing was acceptable as long as it included a solution to the issue. He reiterated his request for the Council to discuss hosting a February or March job fair as a future agenda item. Consensus given.

Council member Sasai requested a discussion of a Mayoral and City Council member internship program for high school students as a future agenda item. Consensus given.

Council member Martinez-Rubin requested a schedule for striping or freshening up areas in the City where it should be improved and include curb painting as a future agenda item.

Mayor Murphy reported the Capital Improvement Program (CIP) prioritization process would commence in the New Year. He asked staff if that was an item that would be best considered as a future agenda item or a memorandum.

City Manager Murray suggested either would be fine. Staff could prepare a memorandum on the current practice of preparing and identifying preventative work on striping and curb painting, which could feed into conversations related to the CIP in the spring. Consensus given.

Council member Martinez-Rubin requested consideration of a proclamation for Earth Day Week in April 2023, and the involvement of relevant students at Pinole Valley High School who may show through photo documentation the City's progress for beautification. She wanted staff to research how the City may partner with the photography class at Pinole Valley High School whereby the photographs could be displayed in City Hall to illustrate the City's progress.

City Clerk Bell confirmed that an Earth Day/Month proclamation would be considered for 2023. Also, a list of 2023 proclamations would be provided to the City Council at its January 17, 2023 meeting.

Mayor Pro Tem Toms suggested Council member Martinez-Rubin's request should be considered or coordinated by the Community Services Commission rather than the City Council but Council member Martinez-Rubin disagreed.

City Manager Murray clarified the request was for a future agenda item to discuss the City's activities for Earth Day including possibly working with students at Pinole Valley High School on a photo exhibit. He was unaware whether that work had been planned by the students or not, and there could be other ideas from Council members on other activities to celebrate Earth Day. He suggested the future agenda item would be prior to Earth Day with a discussion about what the City's activities in recognition of Earth Day would entail. Consensus given.

E. City Manager Report / Department Staff

City Manager Murray briefed the City Council on the Holiday Tree Lighting Ceremony, Shop with a Cop event at Target and identified the tentative agenda items for the January 17, 2023 City Council meeting. In addition, public workshops had been scheduled for the Community Corner Visioning on February 4, 2023, with more information at pinolecommunitycenter.com, and a Climate Action and Adaptation Plan (CAP) workshop had been scheduled for January 26, 2023 from 6:00 to 8:00 p.m.

F. City Attorney Report

City Attorney Eric Casher wished everyone a happy and prosperous New Year. He advised that the Municipal Code Ad-Hoc Subcommittee would next meet in January to discuss updates to the Code Enforcement and Sign Ordinance, and the consideration of a Single-Use Plastic Ordinance.

PUBLIC COMMENTS OPENED

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

PUBLIC COMMENTS CLOSED

8. RECOGNITIONS / PRESENTATIONS / COMMUNITY EVENTS

A. Proclamations

1. Pinole Valley High School Football Team

The proclamation was deferred to the January 17, 2023 City Council meeting.

PUBLIC COMMENTS OPENED

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

PUBLIC COMMENTS CLOSED

B. Presentations

1. Holiday Tree Lighting Video

Jeremy Rogers, Community Services Director, provided a brief video prepared by PCTV staff of the December 3, 2022 Holiday Tree Lighting Ceremony, which had been moved to the Senior Center due to inclement weather with around 300 participants.

Mayor Pro Tem Toms understood there had been power outages related to the Holiday Tree, although Community Services Director Rogers was unaware of any outages but would look into it. He recognized all of the community organizations involved in that event.

Council member Sasai thanked PCTV and City staff involved in coordinating the event even with the weather challenges. He had attended the event and thanked all of the participants, particularly the Interact Club.

Council member Martinez-Rubin also thanked everyone involved in the event, especially the Bay Front Chamber of Commerce Executive Director for the opportunity to increase literacy with a book give away to children, which had also been part of the Holiday Tree Lighting event.

Mayor Murphy thanked City staff and Community Services Director Rogers for his leadership.

PUBLIC COMMENTS OPENED

Cordell Hindler, Richmond, stated that although he had not attended the Holiday Tree Lighting Ceremony, he commended the Community Services Department for its work. He asked for an opportunity to speak under Citizens to be Heard.

PUBLIC COMMENTS CLOSED

Mayor Murphy reopened Item 6, Citizens to be Heard.

Cordell Hindler, Richmond, requested the following future agenda items: proclamations for notable African-Americans as part of Black History Month in February, recognizing women in history during the month of March, and a presentation on plans for the Port of Oakland.

Mayor Murphy stated the proclamations requested had been planned for 2023 and staff would have to get back to Mr. Hindler on the status of a presentation on plans for the Port of Oakland.

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 the December 6, 2022 meeting.
- B. Receive the December 3, 2022 – December 16, 2022 – List of Warrants in the Amount of \$690,805.46 and the December 9, 2022 Payroll in the Amount of \$575,023.24 (Regular Payroll) and \$124,607.86 (PD/Fire Holiday Pay) for a total of \$699,631.10.

- C. Resolution Continuing Authorized Remote Teleconference Meetings Pursuant to AB 361 **[Action: Adopt Resolution per Staff Recommendation (Casher)]**
- D. Approve the 2023 Council Committee Assignment List **[Adopt Resolution per Staff Recommendation (Bell)]**
- E. Receive the Development Impact Fee Report for the Fiscal Year Ended June 30, 2022 **[Action: Receive Report per Staff Recommendation (Guillory)]**
- F. Approval of the Solid Waste Collection Rates (Fees) Effective January 1, 2023 **[Action: Adopt Resolution per Staff Recommendation (Mishra)]**
- G. Adopt a Resolution Approving Side Letter Agreements to the Memorandums of Understanding (MOUs) Between the City of Pinole and Represented Groups Pinole Police Employee Association (PPEA) and American Federation of State, County, and Municipal Employees (AFSCME) Union Local 1. **[Adopt Resolution per Staff Recommendation (Shell)]**
- H. Parks and Recreation Master Plan Contract **[Adopt Resolution per Staff Recommendation (Rogers)]**
- I. Award a Maintenance Contract to Shipley Pools for Pool Maintenance Services **[Action: Authorize the City Manager to Execute a Maintenance Contract per Staff Recommendation (Mishra)]**

PUBLIC COMMENTS OPENED

Rafael Menis, Pinole, referenced Item 9H and the details for the contract proposed to be approved with RJM Design Group for the Parks and Recreation Master Plan. He asked for clarification on the contingency amount in the contract. As to Item 9I, he stated the cost for the newly-licensed pool maintenance technician was roughly four times higher than the current licensed technician and had not accounted for City staff time to backfill failure of services not performed by the current licensed technician. He asked the cost of staff time for the backfilling.

Community Services Director Rogers clarified with respect to Item 9H that the entire budget for the Parks and Recreation Master Plan was not to exceed \$150,000 including the contingency.

Public Works Director Sanjay Mishra spoke to Item 9I and clarified the current pool technician was not a licensed individual but the City had used the services of this individual for some time, although the City had noticed a failure to provide services and the City had been cited by the County Health Department for the pool, which had led to the new maintenance contract. A Request for Proposal (RFP) had been issued for pool maintenance services, three proposals had been received, and including the current contractor the costs were similar for maintenance services and similar to the costs associated with maintaining pools in other jurisdictions.

Council member Tave requested that Items 9D and 9F be removed from the Consent Calendar, and Council member Martinez-Rubin requested the removal of 9H.

PUBLIC COMMENTS CLOSED

ACTION: Motion by Mayor Pro Tem Toms/Council member Sasai to approve Consent Calendar Items 9A, 9B, 9C, 9E, 9G and 9I.

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

- D. Approve the 2023 Council Committee Assignment List **[Adopt Resolution per Staff Recommendation (Bell)]**

Council member Tave offered a motion, seconded by Council member Sasai to modify the Committee Assignment for the West Contra Costa Transportation Advisory Committee (WCCTAC) to read: Delegate: Tave, Alternate: Sasai.

Council member Martinez-Rubin stated she would like to remain as the Delegate to WCCTAC to ensure continuity. She suggested it takes about a year to get a sense of what was going on a committee and she would like to stay on WCCTAC rather than have the City of Pinole be represented by someone new.

ACTION: Motion by Council members Tave/Sasai to Modify the Committee Assignment for the West Contra Costa Transportation Advisory Committee (WCCTAC) to read: Delegate: Tave; Alternate: Sasai.

Vote: Passed 3-2
Ayes: Murphy, Sasai, Tave
Noes: Toms, Martinez-Rubin
Abstain: None
Absent: None

Council member Martinez-Rubin offered a motion to modify the Committee Assignment for the Municipal Code Ad-Hoc Subcommittee to read: Attendees: Martinez-Rubin/Toms. There was no second to the motion.

Mayor Pro Tem Toms offered a motion, seconded by Council member Martinez-Rubin to further modify the Committee Assignment for the West Contra Costa Transportation Advisory Committee (WCCTAC) to read: Delegate: Tave; Alternate: Martinez-Rubin.

ACTION: Motion by Mayor Pro Tem Toms/Council member Martinez-Rubin to further modify the Committee Assignment for the West Contra Costa Transportation Advisory Committee (WCCTAC) to read: Delegate: Tave; Alternate: Martinez-Rubin.

Vote: Failed 2-3
Ayes: Toms, Martinez-Rubin
Noes: Murphy, Sasai, Tave
Abstain: None
Absent: None

Council member Sasai offered a motion, seconded by Council member Tave to modify the Committee Assignment for the West Contra Costa Transit Authority (WestCAT) to reflect Council member Sasai as one of the two delegates to the Board.

Mayor Pro Tem Toms recalled the Mayor had offered to give up the Alternate seat at the December 6 meeting but there had not been any interest. She asked if Council member Sasai was willing to serve as the Alternate to WestCAT.

Council member Sasai clarified his motion was to take one of the delegate seats. He had spoken with his mentors, he was qualified to serve as a delegate, it would ensure equal responsibility for the work load on the different boards, and he did not have a preference on which delegate should be replaced.

Mayor Pro Tem Toms stated she currently served as the Vice Chair of WestCAT and that Council member Martinez-Rubin was a past Chair.

Council member Sasai restated his motion, seconded by Council member Tave to modify the Committee Assignment for the West Contra Costa Transit Authority (WestCAT) to allow Council member Sasai to serve as one of the two delegates to the Committee and replace the assignment of Council member Martinez-Rubin.

On the motion, Council member Martinez-Rubin stated she would like to remain on the WestCAT Board. She too had the qualifications to serve and represent the citizens of Pinole, and suggested experience was important. Council member Sasai had been appointed the Alternate to the Association of Bay Area Governments (ABAG) where he would get the sense of the background necessary to make subsequent comments on WestCAT.

ACTION: Motion by Council members Sasai/Tave to modify the Committee Assignment for the West Contra Costa Transit Authority (WestCAT) to allow Council member Sasai to serve as one of the two delegates to the Committee and to replace the current assignment of Council member Martinez-Rubin.

Vote:	Passed	3-2
	Ayes:	Murphy, Sasai, Tave
	Noes:	Toms, Martinez-Rubin
	Abstain:	None
	Absent:	None

Mayor Pro Tem Toms offered a motion for additional modification to the appointments to WestCAT with Council member Martinez-Rubin to serve as the Alternate.

In response to the Mayor, who was currently shown as the Alternate, Council member Martinez-Rubin reiterated her desire to continue serving on WestCAT and reiterated the importance of continuity.

Mayor Murphy stated he would like to continue as the Alternate, as shown for WestCAT.

Mayor Pro Tem Toms withdrew her motion.

ACTION: Motion by Council members Tave/Sasai to approve the 2023 Committee Assignment List, as modified.

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

F. Approval of the Solid Waste Collection Rates (Fees) Effective January 1, 2023
[Action: Adopt Resolution per Staff Recommendation (Mishra)]

Council member Tave stated he had removed the item from the Consent Calendar to allow staff the opportunity to highlight the new rates as shown in the December 20, 2022 staff report, with Republic Services to increase the fees it charged Pinole residents effective January 1, 2023 for solid waste collection, particularly in response to AB 939.

Public Works Director Mishra clarified the rate increases were not in response to AB 939 but AB 1383 regulations, with the rate structure having been outlined in the tables shown on Page 3 of the staff report, and with the rate increase ranging from 2.7 to 2.71 percent per service size in gallons. He also clarified that a revised attachment had been provided for this agenda item to reflect that the recommended action for this item would generate approximately \$10,600 in additional franchise fee revenues to the City for calendar year 2023.

PUBLIC COMMENTS OPENED

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

PUBLIC COMMENTS CLOSED

ACTION: Motion by Mayor Pro Tem Toms/Council member Tave to Approve the Solid Waste Collection Rates (Fees) Effective January 1, 2023.

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

H. Parks and Recreation Master Plan Contract [Adopt Resolution per Staff Recommendation (Rogers)]

Council member Martinez-Rubin clarified with Community Services Director Rogers the area behind the Faria House identified as Heritage Park as well as the area of the eucalyptus trees near Pinole Grove Senior Housing would be part of the documentation to be provided to the consultant to prepare the Parks and Recreation Master Plan contract, and that those areas had been designated as park areas.

Council member Tave also confirmed with the Community Services Director that the community garden would be included in the study, and as part of the process the City Council and members of the public would be allowed the opportunity to provide comment on the Parks and Recreation Master Plan when presented.

Mayor Murphy thanked Community Services Director Rogers for prioritizing the project and for the recommended partnership with RJM Design Group, which was something the previous City Council had supported.

Council member Sasai understood pursuant to the staff report that the project exceeded the original budget. He expressed concern whether the City had received the most cost-effective and efficient contract.

Community Services Director Rogers explained that Master Plans were expensive and the original budget of \$100,000 had been inadequate. While the project was more than budgeted, RJM Design Group was the best in the industry and staff was excited to work with the firm.

Council member Tave also clarified with Community Services Director Rogers that all public contracting procedures had been met and time allotted for public bids with one qualified vendor having responded to the RFP.

PUBLIC COMMENTS OPENED

Anthony Vossbrink, Pinole, asked whether the funds budgeted for the consultant fees were directly related to RJM Design Group or whether those funds included any incremental staff time; whether existing staff resources had been considered to prepare the Parks and Recreation Master Plan rather than pay for a consultant; and requested the incorporation of the vacant caretaker's home as part of the Parks and Recreation Master Plan which had been supported by the Pinole Garden Club, and which had also supported the incorporation of a history museum and community garden. He spoke to the need for inoperable lighting in the City to be repaired and not wait until the CIP or the Park and Recreation Master Plan had been approved. Further, in the area of the dog park, he suggested the existing trail should be formally recognized for indigenous persons and be identified as the Ohlone Indian Trail.

Community Services Director Rogers explained that staff hours had not been included in the budget but would be part of the staff day-to-day operations, with the budget funds to go towards RJM Design Group's assessments and preparation of the Parks and Recreation Master Plan. With the public engagement process, there would be opportunity for public comment in a public forum with all comments to be documented in the Parks and Recreation Master Plan.

Irma Ruport, Pinole, expressed concern with the fact that only one proposal from a qualified firm had been received, and while RJM Design Group had an excellent reputation the City had allocated \$100,000 in the CIP and they were \$50,000 over budget and would use Measure S funds. She opposed a project going over budget absent public input. The City had been in trouble in the past with one proposal which she described as a monopoly and she suggested the majority of the scope of work could be done in-house by City staff. If the item was not time sensitive, she recommended it be continued to the next City Council meeting. She had additional questions, suggested more time was needed for input, and questioned the fiscal responsibility of projects going over budget.

City Manager Murray clarified that figures in the CIP were very often planning level estimates, with the cost of project completion unknown until a project was put out to bid. He emphasized that all construction and land use planning related costs had escalated over the last few years. The \$100,000 initially budgeted had been a penciled in amount, and additional funds were typically needed to complete projects due to escalating costs for a number of reasons. The suggestion that if the City allocated additional funds for a qualified firm could lead to financial challenges was a leap. He also commented that professional and qualified firms were busy and it took time for the firms to invest in the marketing to prepare a proposal, and if a city was to spend less than needed for a capable job, firms would not submit a proposal. This was not the first time the City had a small number of responses to RFPs in a field that was very impacted.

Regardless of the number of responses, staff conducted the same due diligence to verify whether a respondent was a good qualified firm and whether the City was getting good value for its money. Based on staff's cross-departmental review, there were different perspectives in evaluating RJM Design Group, with a scope having been negotiated that was of good value for a reasonable price from a well-qualified firm. Interested and capable firms were aware of the RFP and if going back to the drawing board it would mean a delay in the process, which was not sensible.

City Manager Murray acknowledged that City staff may be able to do some components of the scope of work but it may take staff away from other things and consultants were often hired since they had a deeper level of expertise and were more efficient when specializing in some things. Given the incredible City Council and public enthusiasm to move the project forward and staff's strong opinion the contract should be approved and moved forward, he urged the City Council to support the staff recommendation.

PUBLIC COMMENTS CLOSED

Mayor Pro Tem Toms recognized that it took staff time to prepare an RFP and if this contract was rejected staff would have to spend much more time and the City would get a reputation in the consultant industry that it may not be worth the time to submit a proposal to the City of Pinole. She wanted to avoid that and found the contract to be reasonable. Also, the budget was reviewed each quarter when adjustments could be made. She supported the item.

Council member Tave clarified with Community Services Director Rogers that the Community Services Department was comprised of one Recreation Manager and three Recreation Coordinators and that RJM Design Group had more personnel.

Council member Tave recognized City parks were a priority for the community. He wanted to ensure the Parks and Recreation Master Plan was done correctly, and while the City had only received one proposal he found the contract to be good for Pinole, the budget would be monitored by staff, and there would likely be updates and opportunities for public input as they moved forward.

Community Services Director Rogers stated he would work with the City Manager to update the City Council as the contract progressed to ensure the community and City Council was kept abreast of the work.

Council member Martinez-Rubin found the contract timeline to be reasonable along with the City Manager's explanation of the process to this point.

Council member Martinez-Rubin valued the strength of the proposal as submitted, recognized costs had increased over time and the fact that the Parks and Recreation Master Plan would serve the City for at least a decade after completion. She thanked staff for their work and for the multiple opportunities for public feedback.

ACTION: Motion by Mayor Pro Tem Toms/Council member Tave to Approve the Parks and Recreation Master Plan Contract.

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

10. PUBLIC HEARINGS

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

- A.** Ordinance of the City Council of the City of Pinole Adding Chapter 2.64 “Criminal Background Checks” to the Municipal Code relating to Access to State and Federal Level Summary Criminal History Information **[Action: Introduce Ordinance, Waive First Reading, and Conduct Public Hearing (Casher)]**

City Attorney Casher presented the staff report and recommended the City Council introduce and conduct the first reading of an ordinance adding Chapter 2.64 “Criminal Background Checks” to Title 2 of the Pinole Municipal Code (PMC) authorizing the City to access state and federal level fingerprint based criminal history information for new hires, including volunteers and contract employees, and certain licensed applicants.

Council member Martinez-Rubin asked why elected officials had not been included in the group of people whose criminal background would be checked and was informed by City Attorney Casher that elected Council members submitted forms as part of the process of holding office, and although he was uncertain whether background checks were part of that process once a publicly-elected City representative that matter was concluded. While a criminal background check of elected Council members could be considered in the ordinance, it would not allow the City to remove a duly elected Council member from office who had been elected by members of the public.

Council member Tave asked the timeline of a criminal background check. As an example, if someone had something in their background as a minor whether it would preclude them from employment opportunities with the City of Pinole.

City Attorney Casher was uncertain how far back a criminal background was expunged from the record; however, there was an appeal process as part of the ordinance. As an example, if someone applied for a job with the City and had a felony conviction when they were around 15 years of age, he hoped there would be a conversation whether or not that individual had paid their debt to society.

City Attorney Casher added that there were programs available that offered record expungement, which were the types of resources that could be offered to applicants and as a resource for further opportunities for employment.

Council member Sasai supported the ordinance and suggested it should have been in place long ago. He thanked the City Attorney for considering current hiring practices and was pleased there would be discretion with the City on approaching these types of situations.

In response to Mayor Murphy, City Attorney Casher explained the ordinance would apply to new hires with the City of Pinole where the criminal background checks would be run when vetting an applicant. If approved, the ordinance would provide authority to the City Council to request a background check. As part of the California Penal Code where background checks arose, it would not allow a city to request a background check unless the City Council provided for that authority, which the proposed ordinance would provide. He was unaware of any employment restrictions based on felony convictions but there were some processes around expungement opportunities. Anytime a background check was done, staff would ensure it was compliant with all state and federal laws.

Mayor Murphy also clarified with City Attorney Casher his understanding the National Defense Authorization Act was for federal agencies only and he asked that prior to the second reading of the ordinance that issue be further clarified.

City Manager Murray explained that state law prohibited an employer from not extending an offer of employment to someone with past criminal history without including an appeal process and absent a relevant nexus between the offense and the job duties. The intent of the ordinance was not to cast a wider net for less serious offenses but to ensure the City was checking state criminal records while also covering other state and federal criminal records for serious offenses.

The City of Pinole did not have a process at this time to check those more serious offenses and City Attorney Casher confirmed there had been past hires or employment opportunities where an individual may have had a criminal conviction where they were not significant, a significant amount of time had passed, or the conviction was not related to the job assigned duties. Candidates had different backgrounds and experiences and diversity perspectives were important and there was recognition it was a competitive job market which required that people be invited with all sorts of different backgrounds. The intent of the ordinance was to allow the City to be completely aware of anyone who had significant offenses even if in other states.

PUBLIC HEARING OPENED

Rafael Menis, Pinole, was relieved the ordinance was primarily intended to focus on serious felonies, misdemeanors and moral turpitude and not minor offenses; however, for employment purposes, the ordinance would apply not only to City employment opportunities but background checks for some volunteers which would include the Planning Commission, as an example, which should be clarified. He also understood that some cities in the state had decided to “ban the box” on an application form and discourage asking about prior felony convictions even if there was a process for exemption or expungement since it may discourage certain members of the population from applying.

Mr. Menis added that there had also been an issue of equity since historically speaking several felonies historically applied to communities of color which disproportionately impacted certain populations, with equity impacts. In addition, some crimes may be broad, such as the Migratory Bird Control Treaty Act as an example, which included a misdemeanor for the possession of feathers of migratory birds.

City Attorney Casher clarified there were some legal requirements around the categories of volunteers that must have criminal background checks if working with minors as an example. He acknowledged there were efforts underway that would remove the box on an application, where an applicant was not required to self-identify whether the applicant had a felony conviction and which prevented an application from being immediately discarded from consideration. Also, the ordinance had a section that mentioned licensees and he clarified the City did not conduct criminal background checks on business license applications, although as an example, the City would not be able to issue a business license for a commercial cannabis enterprise without conducting a criminal background check. The City currently did not allow commercial cannabis enterprises but if permitted in the future it would have to be addressed in the ordinance.

Council member Tave pointed out other agencies that issued licenses, such as the State Contractor's Board, required prospective applicants to go through other background check processes. He asked whether the application process could include language where everyone had the chance to apply for City employment opportunities without having to disqualify themselves.

Human Resources Director Stacy Shell clarified the City's application form did not include a question that asked for criminal history. The only time the City would become aware of any criminal history was when the applicant was the final candidate, had been selected for the position and provided a conditional offer for a job where they were then sent through a criminal background check at that point. If an applicant had any convictions on their record, the City was required to provide the applicant with a five-day appeal notice clearly outlining the reasons for denying the employment, and they were also provided information where that conviction information had come from. If there was incorrect information on a conviction from a specific agency, the applicant also had the opportunity to appeal the error to that agency. As part of the process, there was the opportunity to have conversations with the applicant prior to an offer of employment with the City.

While Council member Tave found the five-day appeal period to be inadequate for a government agency, Human Resources Director Shell clarified the five-day period allowed for the applicant to respond to the City in response to the City denying employment.

Council member Martinez-Rubin asked when the ordinance would take effect and was informed by City Attorney Casher that if the second reading of the ordinance was approved by the City Council on January 17, 2023, it would take effect 30-days thereafter.

Council member Martinez-Rubin commented that there was a current vacancy on the Planning Commission and she understood the City had not conducted a criminal background check on Planning Commissioners in the past. Given the timeline for the adoption of the ordinance and the need to appoint a new Planning Commissioner to the Planning Commission, she asked staff to clarify how that would be addressed.

Human Resources Director Shell stated the intent was to apply the ordinance to all volunteers across the board. Once the ordinance was adopted, staff could adopt a policy for all City volunteers. Currently, the City did not conduct background checks of its volunteers nor did the City have a written policy in place for conducting the volunteer selection process.

City Clerk Bell clarified there was one vacancy on the seven-member Planning Commission and it would depend on the policy and when the ordinance would go into effect whether or not it would affect that vacancy, expected to be considered at the second City Council meeting in February.

Human Resources Director Shell reiterated the intent to further develop a written policy related to volunteers once the ordinance had been adopted and then work out the process for all City volunteers and how it would apply to existing and new volunteers.

Council member Martinez-Rubin looked forward to better clarity on the nexus of the ordinance to the Planning and Community Services Commissions.

City Manager Murray agreed there should be no delay to appointments to City Commissions as a result of the ordinance and reiterated the purpose of the ordinance. Staff was hopeful the ordinance would be adopted so that it could be applied to potential new hires and then staff could work on a written policy for volunteers.

Council member Martinez-Rubin commented that it was particularly important to consider criminal background checks for volunteers given the number of youth activities and events in the City to ensure that City sponsored events were safe.

Council member Sasai agreed with the concerns raised by Council member Martinez-Rubin and asked whether the ordinance would impact existing City employees.

Human Resources Director Shell stated the ordinance would not impact current City employees but apply to future City employees moving forward as outlined in the ordinance.

Cordell Hindler, Richmond, stated he had conversations with the Human Resources Department for the City of Richmond and had been informed that criminal background checks were optional for consultants. The City of Pinole's ordinance was reasonable if working with youth.

PUBLIC HEARING CLOSED

Mayor Murphy thanked the City Attorney and Human Resources Director for their work on the ordinance. As part of the second reading, he sought more information on the appeals process that had not been included in the actual ordinance.

City Attorney Casher stated he would provide more detail on the appeals process as part of the second reading but it was a policy decision that could be dealt with as part of policy and procedures and he would work with the Human Resources Director on that component.

ACTION: Motion by Council members Tave/Martinez-Rubin to Introduce and Waive the First Reading of an Ordinance Adding Chapter 2.64 "Criminal Background Checks" to Title 2 of the Pinole Municipal Code Relating to Access to State and Federal Level Summary Criminal History Information.

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

- B. First Reading of Ordinance Adding Chapter 2.62 “Code of Ethics and Conduct” to the Pinole Municipal Code [Action: Introduce Ordinance, Waive First Reading, and Conduct a Public Hearing (Casher)]**

City Attorney Casher presented the December 20, 2022 staff report and recommended the City Council introduce and waive the first reading of an ordinance adding Chapter 2.62 to the Pinole Municipal Code codifying the City’s Code of Ethics for elected and appointed officials, with minor revisions.

Mayor Murphy thanked the Municipal Code Ad-Hoc Subcommittee for its work on both ordinances.

Council member Martinez-Rubin asked what had driven Mayor Murphy to request the item when he was the Mayor Pro Tem, and Mayor Murphy explained that he wanted to be a steward as a Council member and elected official to update the Code of Ethics given some of the challenges he had faced as a first-time Council member and to ensure the Code of Ethics was modernized.

When asked, City Attorney Casher again outlined the main changes to the ordinance as shown in the staff report and stated that having the ordinance codified as part of the PMC would make it more accessible to the public and promote transparency and accountability whereby a violation of the Code of Ethics would rise to the level of a violation of the PMC and could be considered a code enforcement-related action.

Council member Martinez-Rubin commented that one of the challenges of ordinances was enforcement and due to some degree of subjectivity related to this ordinance made it difficult to enforce. She referenced Attachment A, as included in the staff report, Page 155 of 162 of the agenda packet, Section 2.26.030 Code of Ethics and Conduct, subsection G, which read: *Public officials shall recognize the obligation to participate fully and responsibly in matters and organizations concerned with the betterment of the life in the City of Pinole*, and subsection H which read: *Public officials shall exercise our authority and prestige for the benefits of the City of Pinole and all members of the community and never for personal or private advantage*, and commented that the City Council rarely had such a discussion and questioned whether there had been any violation. She also referenced subsection C, which read: *Public officials shall serve with efficiency, respect legality and heed the commands of due diligence and morality*. She found there were many terms used that were abstract and subjective and questioned whether it would serve the City Council now with a new composition of individuals as it had in the past. She asked whether the Municipal Code Ad-Hoc Subcommittee had discussed whether there should be more than the codification of the ordinance and whether the ordinance was strong enough.

PUBLIC HEARING OPENED

Cordell Hindler, Richmond, commented that before he had joined a Board or Commission he had to fill out paperwork and had read the associated Code of Ethics. He respected the opinions of those in which he would serve. He liked the ordinance.

Rafael Menis, Pinole, asked about the timeframe of the applicability of the Code of Ethics for the Mayor, City Council and City Treasurer as opposed to Boards/Commissions/Committees and staff, and read into the record the second paragraph of Section 2.62.020 Scope, which read: *Further, the provisions of this chapter shall apply to the Mayor, Members of the City Council and Treasurer at all times during their term of office as elected officials of the City of Pinole. However, the provisions of this chapter shall apply to all members of the boards, commissions, committees and staff only while they are acting in their official capacities or affecting the discharge of their duties.* He asked for clarification of the intent of that section. If this requirement applied to elected officials all of the time, he asked to what extent subsection E of Section 2.62.030, Code of Ethics and Conduct applied. That section read: *Public officials shall deal with all employees, fellow officers and members of the public without regard to political partisanship.* With that section in mind, he asked the impact of the political partisan roles that Council members and the Mayor may hold outside of public office.

Mr. Menis agreed with the concerns raised by Council member Martinez-Rubin with the language in Section 2.26.030, subsection C, which was broad and vague and should be defined more specifically. Also, subsection F, as shown, would prevent consideration of equity such as if one was considering support for people who were pregnant or had a physical or mental disability, who could not be provided support if needed, and this subsection should be clarified.

PUBLIC HEARING CLOSED

City Attorney Casher explained that the timing of the applicability of the ordinance was that City Council members as public face representatives of the City all the time were different as compared to City employees, and it was not intended to conflict with Section 2.26.030, Code of Ethics and Conduct, subsection C with individual Council members not ceding their First Amendment Rights or ability to have political interests and advocate for things. He added that the language in the ordinance was from the 2007 ordinance originally adopted as a Code of Ethics, and while there could be some language improvements, subsection F in that same section would not prohibit the City from having some consideration of pregnancy and the like and was softer than that.

Council member Tave briefed the Council on the deliberations of the Municipal Code Ad-Hoc Subcommittee with the intent to recognize times had changed since 2007, with social media also having changed and which played a role. There was no intent to limit public speech but allow the City Council to have conversations and a discussion with the public. The ordinance was intended to provide rules while also allowing the City Council the ability to facilitate a discussion.

Mayor Pro Tem Toms also briefed the Council on the deliberations of the Municipal Code Ad-Hoc Subcommittee with the intent to allow Council members to address whether or not a violation of the Code of Ethics had occurred, and if the ordinance was codified it was a good start and provided good rules for any public official, staff and anyone to follow.

Council member Martinez-Rubin understood the Municipal Code Ad-Hoc Subcommittee was more interested in the City Council's interaction on the dais and the creation of an atmosphere to be civil and she had no problem with that.

Council member Martinez-Rubin found that negative comments or lack of civility did not occur on the dais but externally. The ordinance would address that and would create a benchmark for the City Council to follow, but she questioned whether what the Municipal Code Ad-Hoc Subcommittee had discussed and wanted to address would really be addressed with this ordinance since members of the public would use Free Speech in however and whatever manner desired, which was unfortunate since they had all experienced that negativity with no means to address a direct confrontation and that issue would remain.

Council member Martinez-Rubin found that codifying the ordinance, when it was known that City Council members were held to a higher standard, had not been described well in the ordinance. She hoped between now and the second reading of the ordinance more appropriate language could be considered and emphasized that members of the public did not generally subscribe to the higher level of civility in the ordinance.

Mayor Murphy reiterated his intent to address the Code of Ethics that was part of a 2007 resolution and which could become City law, with law oftentimes changing culture allowing for standardizing policies and integration into existing programs that would offer many opportunities. This ordinance would provide cohesion with the City Treasurer included in the Code of Ethics which had not been done in the past or as part of the 2007 resolution, and this ordinance would apply to all City officials even if not at the dais.

Council member Tave emphasized that codifying the ordinance would allow for discretion of Free Speech while also providing for order and decorum.

ACTION: Motion by Council member Tave/Mayor Pro Tem Toms to Introduce and Waive the First Reading of an Ordinance Adding Chapter 2.62 "Code of Ethics and Conduct" to the Pinole Municipal Code.

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

11. OLD BUSINESS: None

12. NEW BUSINESS

A. City Council Budget for Training and Memberships [Action: Approve Additional Budget Appropriation by Minute Order and Consider Additional Budget Appropriation and Provide Direction (Murray)]

City Manager Murray presented the staff report dated December 20, 2022, and recommended the City Council appropriate additional funding in the Fiscal Year (FY) 2022/23 budget, by minute order, of \$2,400 per Council member for Council member training and memberships and consider appropriating funds that Council members may use for miscellaneous discretionary City purposes as part of the FY 2023/24 budget development process.

Mayor Pro Tem Toms referenced the Association of Bay Area Governments (ABAG) one delegate membership cost as shown in the Travel and Training Table on Page 2 of the staff report and clarified the cost was really for mileage (bus pass). She noted that WestCAT provided transportation to the meeting location and should not be in the category of discretionary funds. She also spoke to the cost shown for the League of California East Bay Division meetings, with the list of delegates shown as the Mayor and Mayor Pro Tem, and asked whether the \$600 cost, as shown, was sufficient. In addition, the cost shown for the League of California Cities Conference (5 @\$600) for a total of \$3,000 was not enough and may cover only plane fare and not any other expenses.

Mayor Pro Tem Toms otherwise liked the idea of increasing the budget by minute order, as recommended by staff.

Council member Martinez-Rubin clarified with the City Manager the recommendation to increase the budget as proposed by staff for FY 2022/23.

PUBLIC COMMENTS OPENED

Rafael Menis, Pinole, looked forward to the future discussion on appropriating funds that Council members may use for miscellaneous discretionary City purposes as part of the FY 2023/24 budget development process. Speaking to the Travel and Training Table on Page 2 of the staff report, he commented that the cost shown for the Contra Costa County (CCC) Mayors' Conference monthly dinners (2 @\$50/per person) for a total of \$1,200 and various dinners/award ceremonies with a cost of \$100 for the year did not match up and he asked staff to provide clarification.

Cordell Hindler, Richmond, also questioned the cost shown for the Mayors' Conference and commented that the City of Richmond charged a fee of \$55 per person to attend. He also questioned the travel costs as shown and recommended the budget for this item be increased.

PUBLIC COMMENTS CLOSED

Council member Martinez-Rubin was pleased that staff had taken a look at the budget and the expenses incurred by Council members considering that compensation did not cover the costs associated with the activities outside City Council meetings.

Council member Tave stated that attendance at the conferences had extreme value, but suggested the chance of all five Council members attending the same event was doubtful. He suggested as these costs continued to be monitored the City Council consider the costs as compared to the stipend received.

City Clerk Bell clarified the costs were the best guess of what the City Council may do, there would be variation in who attended what and there had been more interest in training opportunities as communities had come out of pandemic restrictions. It was important to inform the public what the costs were going towards.

Council member Sasai looked forward to having the opportunity to attend a League of California Cities Conference for new Mayors and Council members and other conferences and suggested the increase in the budget was justified and needed.

Council member Sasai also reported he had spoken with Council members from jurisdictions of a similar size to the City of Pinole who had suggested a budget of \$5,000 per Council member was a more appropriate budget amount. He wanted to ensure there was an adequate budget to avoid discouraging Council members from seeking more training.

Mayor Murphy emphasized the importance of membership and training opportunities for the City Council. He saw these costs as investments in the City Council and in the City. He looked forward to future feedback from the City Council at the next budget cycle if more funds were needed and he thanked the City Manager and staff for bringing the item forward.

ACTION: Motion by Mayor Pro Tem Toms/Council member Tave to Approve by Minute Order the Appropriation of Additional Funding in the Fiscal Year (FY) 2022/23 budget, of \$3,500 per Council member, for Council member training and memberships.

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

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.*

Cordell Hindler, Richmond, supported the continuation of the hybrid meeting format; reported the West County Mayors' meeting would be hosted by the City of Richmond in January 2023; and reported the Athletic Director at Salesian College Preparatory had informed him they were 60 teachers short, although the WCCUSD had held a job fair in the summer to retain teachers. He wished everyone a Happy Holiday.

Mayor Murphy reported that Kathy Bradshaw, a long-time Pinole resident and wife of a former Council member had recently passed. Eric Adame Toms, the nephew of Mayor Pro Tem Toms had also recently passed.

Mayor Pro Tem Toms reported her nephew Eric Adame Toms had worked at the flower cart while in high school, had been in a horrific car accident on San Pablo Avenue in his senior year, had been disabled since that time, and had recently passed away. She appreciated the gesture to adjourn the meeting in his memory. She added that Kathy Bradshaw had been a resident of Pinole for many years, raised a family, was married to former Council member Phil Bradshaw and had been an active member of the community and she was pleased the meeting would also adjourn in her memory.

- 14. ADJOURNMENT** to the Regular City Council Meeting of January 17, 2023 in Remembrance of Amber Swartz, Kathy Bradshaw and Eric Adame -Toms.

At 9:38 p.m., Mayor Murphy adjourned the meeting to the Regular City Council Meeting of January 17, 2023 in Remembrance of Amber Swartz, Kathy Bradshaw and Eric Adame -Toms.

Submitted by:



Heather Bell, CMC
City Clerk

Approved by City Council: January 17, 2023

