

**CITY COUNCIL MEETING
MINUTES
March 15, 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 6:00 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

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

B. STAFF PRESENT

Andrew Murray, City Manager
Heather Bell, City Clerk
Eric Casher, City Attorney
Alex Mog, Assistant City Attorney
Chris Wynkoop, Fire Chief
Neil Gang, Police Chief
Lilly Whalen, Community Development Director

City Clerk Heather Bell announced the agenda had been posted on Thursday, March 10, 2022 at 4:00 p.m. with all legally required written notices. A revised staff report for Item 9F had been distributed and published on the City website. 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

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

A. PUBLIC EMPLOYEE PERFORMANCE EVALUATION

Pursuant to Gov. Code § 54957

Title: City Clerk

PUBLIC COMMENTS OPENED

Cordell Hindler, Richmond, suggested City Clerk Heather Bell had done a wonderful job. As the City Council moved into Closed Session he asked the City Council to recognize City Clerk Bell made sure all meeting materials had always been distributed in a timely manner.

Rafael Menis, Pinole, echoed the comments of the previous speaker. He too praised the efforts of City Clerk Bell and urged everyone to read the meeting minutes which summarized the comments from all speakers. He also appreciated the set up for this hybrid meeting and the work of the City Clerk to ensure that virtual meetings had been held during the pandemic. He looked forward to her continuing to serve the City of Pinole.

PUBLIC COMMENTS CLOSED

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

At 6:45 p.m., Mayor Salimi reconvened the meeting into open session and announced there was no reportable action from the Closed Session.

Mayor Salimi moved onto Item 8A at this time and announced that the City Council would return to the regular meeting agenda after the completion of the item.

8. RECOGNITIONS / PRESENTATIONS / COMMUNITY ANNOUNCEMENTS

A. Proclamations

1. Recognition of Nowruz

The City Council read into the record a proclamation in recognition of Nowruz, a celebration of the Persian New Year which marked the spring equinox. Nowruz would be celebrated on March 20, 2022.

PUBLIC COMMENTS OPENED

Dr. Hoss Abar thanked the City Council for the proclamation. He described the significance of Nowruz, an international holiday celebrating the Persian New Year. As a first generation immigrant to the United States, he detailed his background and his orthodontics practice located in Pinole for over 20 years. He expressed his appreciation to Pinole for the freedom and opportunities provided to his family and friends. On behalf of the Iranian community, he again thanked the Mayor and the entire City Council for the proclamation recognizing Nowruz.

Shaheen Jorjani, Berkeley, a teacher of Farsi in the Albany School District, and a member of the Persian community also thanked the City Council for the proclamation and the recognition of other cultures. She emphasized the importance of learning all cultures and their history.

PUBLIC COMMENTS CLOSED

Mayor Salimi declared a recess at 7:10 p.m. for refreshments. The City Council meeting reconvened at 7:22 p.m. with all Councilmembers and staff present via the hybrid meeting format.

2. Women's History Month

The City Council read into the record a proclamation recognizing March 2022 as Women's History Month, and Council member Toms asked that the proclamation be forwarded to the City Clerk to be shared with City staff.

PUBLIC COMMENTS OPENED

City Clerk Bell reported there were no comments for this item.

PUBLIC COMMENTS CLOSED

3. American Red Cross Month

The City Council read into the record a proclamation recognizing March 2022 as American Red Cross Month.

PUBLIC COMMENTS OPENED

Rolanda Wilson thanked the City Council for the proclamation and described the work of the American Red Cross and its response to natural disasters and emergencies, powered by community volunteers, community partners and those trained in vital health and safety skills. She provided an overview of the numerous blood drives held in Contra Costa County over the past year and those scheduled this year, the award of the American Red Cross Life Saving Award to a Contra Costa resident for saving the life of a two-year old girl, and the partnership with the City of Concord for the Sound the Alarm campaign for the installation of life-saving smoke alarms to communities in need. The Red Cross also planned to conduct an evacuation drill in Rossmoor.

PUBLIC COMMENTS CLOSED

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

City Clerk Bell described the procedures for public comment for the hybrid meeting and explained that public comments from those present in-person would be provided prior to the comments from those present via Zoom teleconference.

Bob Kopp, Pinole, provided an aerial view of the property where an apartment development had been proposed on Fitzgerald Drive and which he suggested would impact neighboring businesses, with inadequate parking and traffic and sewage impacts. He questioned adding potentially 200 apartment units given potential impacts on numerous utilities including water resources and pointed out that PG&E did not have the electrical grid capacity to keep electricity operating during hot summer months. There would also be impacts to the Pinole Police Department. He suggested the development should not be permitted and the City should consider commercial development that would bring revenue to the City. He also suggested the City lacked the proper fire apparatus for a multi-story building which could impact the City's budget.

Peter Murray, Pinole, also referenced the proposed apartment development to be located on Fitzgerald Drive, a project that had been in process for some time with work already having been completed with limited public notification. He pointed out that the Pinole Vista Shopping Center was intended to be self-sustaining for the City's future and the City had invested financially into the property to generate commercial property sales taxes for the General Fund, which was intended to be a parallel revenue stream to augment the City's limited property taxes. A potential residential project in the middle of the City's greatest revenue generating asset was a serious concern. Given the nature of the project and its size, it could be detrimental to the City's fragile financial dynamic, create a gap in Measure S funds, and result in a series of shares of state sales tax funds. While the City was faced with state housing mandates, he found there were many serious issues to discuss and be vetted for a project that would impact the entire community.

Rafael Menis, Pinole, referenced a petition to be presented to Contra Costa County regarding General Plan modifications, a topic germane to all County residents regarding the call for a ban on all new oil and gas drilling within the County due to environmental impacts on nearby communities, Greenhouse Gas (GHGs) emissions and climate change impacts. He urged all residents of the County to sign the petition and reported that Los Angeles County had agreed to ban all new oil extraction within its territory.

Roy Swearingen, Pinole, also referenced the potential residential development on Fitzgerald Drive in the Pinole Vista Shopping Center. He emphasized the City's multi-year effort to design the center as a sales tax viable development and not as a residential development. He was uncertain what work the Planning Commission or the City Council had done to research the background of the proposed project but pointed out that hospitals were non-existent, the nearest hospital was located in the City of Vallejo, and possibly 900 new residents would add 10 percent to the Pinole community. He urged the City Council to consider the City's local infrastructure, ensure that all bases were covered before permitting such development and consider the adverse impacts to the community.

Debbie Long, Pinole, also referenced the potential five story, 223-unit residential apartment development on Fitzgerald Drive in the Pinole Vista Shopping Center, and suggested the project should have already been reviewed by the Planning Commission and not an assortment of staff that was fairly new to the City with little to no institutional knowledge. She understood that a traffic study for the project had been prepared around the pandemic but should have been done prior to administratively pushing the project forward.

A study of accidents and crime in the area should have been researched as well as an opinion from the Police Department as to how an apartment complex of this size would affect existing traffic conditions and surrounding properties including those on Appian Way and Fitzgerald Drive.

Ms. Long questioned whether roads were adequate to meet pedestrian needs based on the residential property and the size proposed; whether the Fire Department could adequately respond to a high-rise apartment complex; how the units may tax the City's already underfunded and overburdened infrastructure; whether the City Council was aware the project was not slated to include solar although it would be prepped to be solar ready; and the fact the project would not be separated from the center but be open to the center's parking with the applicant having requested a variance from the required parking regulations. She understood no camera system was being required and the project would include less than 30 Very Low or Low Income units with the remainder of the units slated for market rate, which did not equate to affordable housing. The project was also the sole interest of the developer who was also the owner of the shopping center and it should be scrutinized as to whether it met all of the safety issues and Environmental Impact Report (EIR) concerns.

Ms. Long further questioned the consideration of changing Pinole from a General Law to a Charter City for the sole purpose of increasing taxes.

Ann Ling, a resident of Contra Cost County, referenced an agreement from Contra Costa County Animal Services to the 18 cities in the county that contracted for animal services which agreement had been written below the basic standards of care for shelters across the state, with many shelters serving smaller populations with a fraction of the animal services budget. She asked that the 18 cities agree to increase funding for animal services and that the cities consider a well-written humane City/County agreement that outlined all services to be provided. Cities should also consider reaching out to rescue groups and community members who could be involved in creating the new agreement. She noted that in September 2020, the County's Animal Services had removed many of its services due to budget issues, and while it was seeking more funds from the cities it was contracted with it was not including the numerous services that had been removed. While she recognized the County's Animal Services needed more funding, the agreement was not written with the best of intentions and she implored the City Council to consider discussing this issue with the Public Manager's Association (PMA).

Lisa Fulton, echoed the comments from the previous speaker and noted the Pinole Animal Shelter had been permanently closed placing a hardship on everyone. She detailed her background with animal rescues and commented on the current animal population explosion. She urged the City of Pinole to reinstate high volume spay and neuter services as well as low cost vaccinations, which services were desperately needed. She added there was an issue with cats being poisoned in areas where the population had exploded with people going to drastic measures to control the increase in population. She too spoke to the number of services the County's Animal Services no longer provided. She added that many people had studied the agreement and were willing to meet with members of the City Council to discuss improvements to the agreement.

Annie Wright, a Contra Costa County resident, detailed her efforts to trap/spay/neuter/vaccinate feral cats through the resources of non-profit rescue groups and she too expressed concern with the recent agreement from Contra Costa County Animal Services to the 18 cities in the county that provided animal services given that the scope of the contract did not include many needed services, and the fact that even before the pandemic the agency had reduced or eliminated

programs that were community based. While Contra Costa County's main animal shelter had reopened, there were backlogs for many of its services and waiting lists with limited spay/neuter/vaccination services which could result in potential health risks to animals. Also, the elimination of wildlife services, which was sorely needed, was an injustice to the communities and the animals. She too urged Pinole leaders to listen to their citizens and meet the needs of residents and animals.

Hulan Barnett, Richmond, identified himself as a candidate for the Contra Costa County Board of Supervisors. He too commented on the lack of animal services to Pinole, El Cerrito and Kensington residents, the closure of the Pinole Animal Shelter, traffic impacts in the region, closure of local businesses due to the pandemic and numerous other impacts to residents of District 1 of Contra Costa County. He found the City of Pinole to be a positive community and a good model for its residents. He stated that more information on his campaign was available on his website.

Mayor Salimi reported the City Council had approved a request for a future agenda item for a presentation from Contra Costa County Animal Services given the closure of the Pinole Animal Shelter.

City Manager Andrew Murray clarified in response to the public comments with respect to the application for a residential apartment development on Fitzgerald Drive that an application had been submitted by a developer, the application was going through the City review processes, and the project had been slated to be considered by the Planning Commission in late April.

7. REPORTS & COMMUNICATIONS

A. Mayor Report

1. Announcements

Mayor Salimi welcomed everyone back to the Council Chambers for the first in-person meeting since the closure of City Hall due to the pandemic.

B. Mayoral & Council Appointments

None

C. City Council Committee Reports & Communications

Mayor Pro Tem Murphy also welcomed everyone back to the Council Chambers and looked forward to reaching out to the public in-person. He welcomed everyone to the next Marin Clean Energy (MCE) Board meeting scheduled for March 17, 2022 at 7:00 p.m. and provided an overview of the meeting agenda; invited everyone to his monthly coffee and conversation scheduled for Sunday, March 20, 2022 at 9:00 a.m. at East Bay Coffee; and thanked the Contra Costa County Congressional delegation specifically Mike Thompson, Mark DeSaulnier, and Jerry McNerney and reported that due to their leadership there was now an additional \$3 million for Contra Costa Behavioral Health Services. He looked forward to a great year in 2022.

Council member Martinez-Rubin wished everyone a happy spring and welcomed everyone back to the Council Chambers and stated she planned to join the Council at its next meeting. She

appreciated all of the staff efforts to provide safety measures in the Council Chambers and urged the public to continue to practice good public health measures to reduce exposure to COVID-19 by masking, practicing social distancing and getting vaccinated.

Council member Toms reported she and Council member Tave had attended the quarterly Pinole-Hercules Wastewater Subcommittee meeting and she shared information on the monthly flow data from the Wastewater Treatment Plant. She had also attended meetings of WestCAT and the Bay Front Chamber of Commerce Board briefing the Council on the discussions and scheduled Chamber activities.

Council member Tave reported Pinole Garden Club would host its plant sale on May 7 at Pinole Valley Community Church. He too briefed the Council on the discussions from the quarterly Pinole-Hercules Wastewater Subcommittee meeting and provided clarity regarding the monthly flow data from the Wastewater Treatment Plant. He had also attended a meeting of RecycleMore briefing the Council on the discussions.

D. Council Requests for Future Agenda Items

Council member Martinez-Rubin requested a future agenda item for staff to prepare something to allow the City Council to think through the long-term impacts related to the state mandates such as the housing mandates and other state mandates the City would face given concerns with the lack of funding and how the City should plan for the future.

City Manager Murray commented there were a number of unfunded state mandates, many of which were not related to land use planning. He asked whether Council member Martinez-Rubin was referencing land use planning items or other buckets of items, and Council member Martinez-Rubin clarified she was speaking to all of the buckets to allow the City Council to have an overview of those issues, with the main topic at this time being housing. She suggested they should start the discussion now given the potential impacts on the City's infrastructure and there should be a discussion on how to plan for that beyond the housing mandates.

Council member Toms pointed out the housing piece would commence when the City Council held a workshop at its next meeting. The City would also go through a General Plan Amendment and that would be the mechanism for that review.

City Manager Murray confirmed the City Council would be discussing the state housing legislation, and there were a number of impact fees the City imposed on developers as part of the Master Fee Schedule to recoup some of the expenses imposed on the City. He and the City Attorney could meet to prepare something to get this conversation started with additional research on individual presentations that could be provided to the City Council. If that direction was acceptable staff could proceed.

Council member Martinez-Rubin welcomed future presentations on specific topics as they moved along but at some point she would like all of the pieces presented to allow a better understanding of the complexity of the ongoing challenges and multifaceted issues facing the City.

Council member Tave requested a future agenda item in the form of a memorandum to show whether the City had a mechanism to opt into a leverage cooperative or master agreement for buying or purchasing with the state and how many the City could manage if it did.

City Manager Murray expressed the willingness to prepare something. He noted the City had recently updated its Procurement Policy, which allowed the City to piggyback on cooperative purchasing agreements or those with other public agencies and he could prepare some information for the City Council to review.

Mayor Pro Tem Murphy requested a future agenda item for the City Council to consider a Letter of Support for Assembly Bill (AB) 1814, allow Community Choice Aggregators (CCAs) to plug into state funding for programs to advance transportation electrification in California. Consensus given.

Mayor Salimi requested a future agenda item as a Closed Session item for the City Council to discuss the allocation of American Rescue Plan Act (ARPA) funds for increases, bonuses or benefits for frontline workers.

Council member Tave recalled that HdL Consulting had advised against using COVID-19 relief funds for such uses, and Mayor Salimi recalled HdL had stated that the ARPA funds could not be allocated for that purpose although he would be more than happy for staff to provide additional information since he understood other cities had, in fact, been able to use ARPA funds for that purpose. Consensus given.

PUBLIC COMMENTS OPENED

Rafael Menis, Pinole, requested a future agenda item for the City Council to adopt a resolution/proclamation in support of Ukraine and reported that other municipalities in the country including Aspen, Colorado had adopted similar resolutions. He urged the City Council to adopt a resolution/proclamation similar to that adopted by the City of Aspen.

Cordell Hindler, Richmond, requested a future agenda item for the City Council to revisit the budget and invite Sabrina Landreth, General Manager, East Bay Regional Park District (EBRPD) to provide an update on how COVID-19 had impacted parks in the Bay Area.

Irma Ruport, Pinole, sought a future presentation on the status of the Pinole Animal Shelter. She otherwise requested a future agenda item for the Fire Chief or Contra Costa County Supervisor John Gioia to provide an update on Fire Station No. 74.

City Manager Murray advised that Fire Chief Wynkoop would be providing a presentation at a City Council meeting in April on some of the changes to Fire Station No. 74 and the progress of negotiations with the Contra Costa County Fire Protection District (CCCFPD) about greater collaboration.

PUBLIC COMMENTS CLOSED

E. City Manager Report / Department Staff

City Manager Murray reported the City Council had been provided a memorandum on the status of Youth Commissions; a Special City Council meeting had been scheduled for March 22, 2022 to discuss updates to the General Plan, Housing, Health and Safety and Environmental Justice; another Special City Council meeting was scheduled for March 29 and would focus on the City's

revenue stream and local taxes; and he provided a preview of potential agenda items for the April 5, 2022 Regular City Council meeting.

F. City Attorney Report

City Attorney Casher reported the Municipal Code Update Subcommittee would meet on March 21, 2022 to discuss updates to the City's Encroachment Permit Ordinance and an ordinance and policy update to comply with the requirements of AB 481, Funding, Acquisition and Use of Military Equipment.

8. RECOGNITIONS / PRESENTATIONS / COMMUNITY EVENTS

B. Presentations / Recognitions

1. Overview of Recent Housing Legislation by Assistant City Attorney Alex Mog and Community Development Director Lilly Whalen

Community Development Director Lilly Whalen provided a PowerPoint presentation which included an overview of the General Plan, Specific Plan, Zoning Ordinance, concept of density, General Plan Land Use Map for the City of Pinole, General Plan Land Use Designations, variety of land use designations in Pinole, summary of new housing in 2021 and criteria for affordable housing.

Assistant City Attorney Alex Mog highlighted the requirements of the Density Bonus Law, Housing Accountability Act, Senate Bill (SB) 35, Affordable Housing: Streamlined Approval Process and SB 9, California Housing Opportunity and More Efficiency [HOME] Act.

Mayor Salimi asked that the presentation be posted on the City's website.

Responding to the Council, Assistant City Attorney Mog explained that an Accessory Dwelling Unit (ADU) amnesty was still possible under state law, whereby someone with a currently illegal ADU could legalize the unit without penalty. Pursuant to state law, if the City were to impose requirements on a project there must be a nexus between the project and the requirement and it must be roughly proportional to the impacts of the project.

As an example, the City had a requirement for a project to improve the frontage of a project, such as if sidewalks were absent the sidewalk and curb must be improved. It was more difficult for cities to require something more than that but some cities had been able to negotiate greater community benefits when a project needed something from a city. If a project needed discretionary approval from a city and needed a Development Agreement (DA), a city would be in a stronger position to negotiate additional benefits as part of that DA, or if a project was seeking some other discretionary approval from a city, the city could require more community benefits. Where a project complied with the zoning standards it became more difficult for a city to require anything more and the standards the city may adopt required a nexus between what the city may require and what the developer planned to do.

Assistant City Attorney Mog also highlighted how cities may incentivize things such as through fee waivers, preparation of pre-approved plans for model ADUs that members of the public may use, or the creation of incentives in the regulations for a city to get the types of units preferred in a community.

Community Development Director Whalen added as part of the kick-off of the Housing Element Update, the process would have to understand the community's needs and there would be polling and surveying of the community's needs regarding housing and what would be helpful in the future for everyone to have safe and affordable housing. There would also be stakeholder polling as part of the effort.

Assistant City Attorney Mog again highlighted the Density Bonus Law and confirmed that relaxing any development standard was possible as an incentive. He again described SB 9, and clarified there was nothing currently in state law which limited the City's ability to collect full impact and connect fees related to SB 9 units, although he would not be surprised if legislators changed that in the future.

Council member Tave commented that he had additional questions he would ask in writing to the City Manager.

Mayor Pro Tem Murphy looked forward to future discussions on this topic, particularly on SB 9, and greater discussions on the needs for housing to be a community benefit to the City.

Council member Martinez-Rubin found there was a need for the legislators to balance all that they were requiring with what the law allowed as exemptions while also providing support and funding to facilitate not only the building of structures, housing and the amenities without sacrificing the quality of life around new developments and the rest of the City. She was amazed with the shift in housing laws, was not surprised people were moving away from more dense communities, and looked forward to the results of the community survey and polling to identify the needs of the community.

Council member Martinez-Rubin commented that given her background in health care, she was interested in knowing how high density development may impact the environment and where nearby open space may be limited or absent. She suggested this presentation should also be provided to the Planning Commission.

Assistant City Attorney Mog confirmed a version of the presentation had already been made to the Planning Commission.

Council member Martinez-Rubin wanted to see a comparable presentation on what could be done about design and the internal environment in terms of impacts from high density development on health and safety. As an example, Asian countries lived in highly dense environments and this large life shift was global due to demographic increases.

In response to the Mayor, Community Development Director Whalen identified the areas of the City that allowed Commercial land uses and noted that the majority of the land in Pinole was dedicated to residential land uses.

Mayor Salimi understood Pinole had about two percent Commercial and he asked whether the City could identify that as a hardship if losing that two percent to build residential development, and therefore the City did not have to build additional residential units.

Also, given that the nature of housing was changing, Mayor Salimi suggested the General Plan should be redesigned in such a way to integrate all of the state legislation but keep the Pinole-preferred design, which could be part of a future discussion.

PUBLIC COMMENTS OPENED

Debbie Long, Pinole, requested that SB 99, General Plans: safety element: emergency evacuation routes, should be added to this discussion. She detailed the requirements of SB 99, and commented that she had discussed with the City Council the fact that Rancho and Galbreth Roads had only one evacuation route. She suggested the City was jeopardizing the health of its citizens and she had raised this concern with the Fire Chief with no action. The community was facing a looming fire season, the area had been identified by PG&E as a fire hazard zone, homeowners qualified for a generator, and she again asked that SB 99 be part of the discussion and part of all discussions related to the Housing Element.

Peter Murray, Pinole, agreed that development should be of a certain quality which had been attempted when redevelopment funds had been spent on low-income housing in Pinole. He commented in the past developers would build anything, move on and leave a city with the problems, leaving the community to pay or administrate the problems. He suggested no one had the right to build anything, it was a privilege that had to be earned and it was up to the Planning Commission to ensure the City's standards were met.

Rafael Menis, Pinole, commented that a prior Consent Calendar item had involved the Housing Element and attached Safety and Environmental Justice Elements, which had been signed out to a contractor to run the various processes associated with the updates. Evacuations had specifically been tagged as part of the Safety Element and would be reviewed as part of General Plan revisions that would take place this year. In terms of the role of the Planning Commission and City and state rules, it was important to realize, as the presentation had made clear, the state intent with new legislation was to limit the discretion of a city as a whole to make subjective judgments. The State of California had made an effort over the years to dismantle a city's ability to apply subjective standards and he cited 5G technology and the discussion around objective versus subjective standards. He suggested the state did not want discretion and subjectivity but development and was willing to use its power to compel it as far as it could and if that did not work as part of SB 9 they would likely try another law.

Cordell Hindler, Richmond, stated he would not live in a residential area that could be close to a fire hazard and he agreed with many of the comments that had been made.

Mayor Salimi suggested if the City Council wanted any further presentations on additional state legislation to let him know so that staff could provide that information.

PUBLIC COMMENTS CLOSED

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 Minutes of the March 1, 2022 Meeting.
- B. Receive the February 26, 2022 – March 11, 2022 List of Warrants in the Amount of \$670,680.32 and the March 4, 2022 Payroll in the Amount of \$493,913.10
- C. Resolution Continuing Authorized Remote Teleconference Meetings Pursuant to AB 361 **[Action: Adopt Resolution per Staff Recommendation (Casher)]**
- D. Resolution Confirming Continued Existence of Local Emergency **[Action: Adopt Resolution per Staff Recommendation (Casher)]**
- E. Housing Successor Annual Report for Fiscal Year 2020-21 **[Action: Receive and File Report (Whalen)]**
- F. Annual Progress Report – Housing Element **[Action: Adopt Resolution per Staff Recommendation (Whalen)]**
- G. Stormwater Utility Area Assessment for Fiscal Year 2022-23 **[Action: Adopt Resolution per Staff Recommendation (Kaur)]**

PUBLIC COMMENTS OPENED

Rafael Menis, Pinole, referenced Item 9E, commented that the Housing Successor Annual Report had noted the land the Faria House sat upon was deed restricted to be park limiting its use and could not be transferred from the Successor Agency. He asked how the restrictions on the land would limit the City's ability to engage in alternate solutions for the Faria House.

City Manager Murray advised that staff would have to get back to Mr. Menis with clarification since it would require additional research.

PUBLIC COMMENTS CLOSED

Mayor Pro Tem Murphy spoke to Item 9F and commented that the Annual Progress Report – Housing Element, had identified the City's Regional Housing Needs Allocation (RHNA) with no Very Low or Low housing units having been built in the reporting cycle and he asked staff to provide clarification.

Community Development Director Whalen stated that no building permits had been issued for those categories of units in the reporting cycle. She also clarified the City had an Affordable Housing Fund, which fund had a cash balance after taking into account the SAHA Project and which would be just over \$2 million. The funds could be used to support the development of affordable housing units in Pinole but she was uncertain those funds would accommodate the RHNA.

ACTION: Motion by Council member Toms/Tave to Approve Consent Calendar Items 9A through 9G, as shown.

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

Mayor Salimi re-opened public comment for Item 9.

Cordell Hindler, Richmond, referenced Item 9A and stated he was appalled at the adjournment time which was a burden to City staff, and urged the City Council to be more considerate of City staff. As to Item 9C, he described the current meeting as a hybrid format. He otherwise expressed support for Items 9B and 9D.

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 Amending Chapter 9.24 of the Municipal Code to Regulate the Use and Sale of Fireworks in the City of Pinole **[Action: Conduct Public Hearing and Approve First Reading of Ordinance (Casher)]**

City Attorney Eric Casher provided a PowerPoint presentation of an ordinance amending Chapter 9.24 of the Pinole Municipal Code (PMC) to regulate the use and sale of fireworks in the City of Pinole and asked the City Council to conduct the first reading of the ordinance. If approved, the ordinance would come back for a second reading and go into effect 30 days from the approval of the second reading and be in place in time for the July 4, 2022 holiday.

Responding to the Council, City Attorney Casher explained the ordinance allowed for enforcement against individuals and there would be a need to identify whomever may discharge fireworks in the public right-of-way (ROW). The prior ordinance had no regulations regarding fireworks discharged on residential properties with no enforcement mechanism.

Council member Toms reported the Municipal Code Update Subcommittee had supported the ordinance.

City Attorney Casher also clarified the intent of Chapter 9.24 Use of Fireworks – Sale, as shown on Page 127 of 131 of the agenda packet, with the use of the term “sale” a carryover from the prior ordinance but which could be stricken if unclear. The prohibition of the sale of fireworks had been provided in Chapter 9.24, Section 9.24.020, Prohibition, as written but which could be expanded if necessary, and the code enforcement provisions had been provided in Section 9.24.050, Enforcement which included code enforcement for any civil action to enforce the code. The language was essentially identical to the Contra Costa County ordinance and part of the interest in adopting an ordinance for Pinole was to have alignment with the County Ordinance, but the language could be adjusted if so directed by the City Council.

Fire Chief Chris Wynkoop confirmed he had conferred with the City Attorney on the ordinance and found the changes to be acceptable.

Police Chief Neil Gang had also conferred with the City Attorney on the ordinance, found the changes to be acceptable, and applauded the work of the City Attorney since the ordinance enhanced the ability for enforcement. He suggested no additional language was necessary.

PUBLIC HEARING OPENED

Bob Kopp, Pinole, found no issue with the City's ordinance being consistent with the County Ordinance but suggested the problem was people did not know how to use fireworks and people were getting hurt. He suggested that professional fireworks displays should include a bond but he otherwise supported following the laws.

Cordell Hindler, Richmond, thanked the City Attorney for a well-thought report and urged the City Council to conduct the first reading.

PUBLIC HEARING CLOSED

Council member Tave offered a motion, seconded by Council member Toms to conduct a first reading of an ordinance amending Chapter 9.24 of the Municipal Code to regulate the use and sale of fireworks in the City of Pinole.

On the motion, Council member Martinez-Rubin requested modification to eliminate the reference to Sale from the heading of Chapter 9.24 Use of Fireworks as shown on Page 127 of 131.

Council member Toms suggested the heading remain as shown since it would be more inclusive.

City Attorney Casher agreed that the heading was more inclusive regulating more than the use and sale of fireworks.

Council member Martinez-Rubin retracted her recommended modification.

ACTION: Motion by Council member Tave/Toms to conduct a first reading of an ordinance amending Chapter 9.24 of the Municipal Code to regulate the use and sale of fireworks in the City of Pinole.

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

11. OLD BUSINESS

- A. Provide Direction on Whether to Include, in the Voter Poll Regarding a Potential Charter City and Real Property Transfer Tax Ballot Measure, Questions on Certain Other Matters of Community Interest **[Action: Discuss and Provide Direction (Murray)]**

City Manager Murray provided a PowerPoint presentation and asked the City Council to provide direction on whether to include in the voter poll regarding a potential Charter City and Real Property Transfer Tax (RPTT) ballot measure, questions on certain other matters of community interest.

Council member Toms suggested the following additional polling questions *“How are we communicating infrastructure needs?”* and *“Do you see the climate crisis as a local issue that could be addressed locally by investing in charging stations, solar or an electrification ordinance?”* and suggested the consultants would know how to frame the question.

Responding to Council member Martinez-Rubin, City Manager Murray explained that the consultant would not normally run the polling questions before the City Council first given there was a standard formula for constructing them and timing would not allow it.

Mayor Pro Tem Murphy suggested questions about the climate crisis and wildfire prevention were important and recommended a question about the participatory budget process and how many people were aware of the Balancing Tool, or a question leaning to a metric or participatory budgeting and how the process was modeled in Pinole.

Council member Tave suggested a question asking *“How likely are you to _____”* and insert the question and possibly include a 1 to 10 scale on how likely a resident may vote for a RPTT, and how likely a resident would use the Senior Center, playhouse, and to vote for a tax for additional services as examples, leaving it to the consultant as to how to frame the questions.

Council member Martinez-Rubin asked how the polling information would be used, to which City Manager Murray explained that the purpose of the polling was to get a sense of the likely voter support for a potential tax measure, gauge the persuasiveness of different funding priorities and gauge the persuasiveness of possible opposition statements and the like.

Council member Martinez-Rubin recommended leaving the simplicity of the questions to be asked by the pollster to be able to gauge whether people understand what a Charter City and RPTT was along with the potential impacts, and whether the pollster could make any prediction for the City Council to use the survey results to inform the next steps. She suggested there would be enough questions from the pollster on the two components; the Charter City and RPTT for the poll, but there may be room for questions on how the RPTT could be used, which would be helpful for the next steps. Questions related to the amount of the RPTT would also have to be clarified.

City Manager Murray explained that the pollster would use a standard formula with questions on how the RPTT could be spent and to gauge voter priorities around different community services and needs, all part of the standard poll the pollster would likely prepare. If there was the possibility to add additional questions, the question was posed to the City Council whether community input should be sought on other issues.

Council member Martinez-Rubin suggested it would be good practice that the questions the pollster would pose to the voters be available to the City Council. She was uncomfortable not being apprised of the questions prior to polling and asked staff to inform the pollster that the City Council wanted to see the questions prior to publishing them to the public.

City Manager Murray reiterated that seeing the questions prior to publishing them was a matter of timing. The next regular City Council meeting would be the first Tuesday of April, which would delay administering the survey if the questions were to be brought back to the City Council first. The pollster had experience with Charter City and real property tax polling measures, the survey methodology was straightforward, and City Manager Murray would be reluctant for the City Council to weigh-in on the survey questions since the pollster had a well-honed methodology.

Council member Toms would be interested in seeing the questions to be posed to voters but not having any decision points on reviewing and approving the questions, prior to going out to the public.

Council member Martinez-Rubin concurred with Council member Toms and suggested that was part of the transparency.

City Manager Murray confirmed a copy of the questions could be provided to the City Council.

Mayor Salimi asked whether or not questions could be targeted specifically to the high propensity voters, those who had voted in the last five elections, a good representation of the voters, and City Manager Murray explained that the pollster would use a methodology to screen likely voters to be able to forecast the outcome of the vote on the two topics. The consultants would likely craft the questions in a way to mimic the likely ballot question to obtain as much representative set of responses as possible, but traditionally would not ask the question in more than one way. The questions would likely be crafted based on the success of past ballot measures.

PUBLIC COMMENTS OPENED

Peter Murray, Pinole, suggested the language in the polling would make a difference. He commented that the City had routinely balanced its budget, had reserves and set asides for unfunded mandates, and suggested some of the questions for the polling should include questions why the City wanted to change the existing governance system, whether people realized a Charter City was almost always tied to the imposition of a new tax with the RPTT, which in his opinion would be for nothing with no required nexus of a benefit to the exiting community member, and while a number of local cities had become charter cities, none were remotely a city Pinole should emulate financially or administratively. It should also be explained in a question form that a charter city had possible and potential political nefarious actions and the charter could be amended to perform in undesirable ways. He cited the City of Bell, which had overflowing and unfettered corruption only because it could and it could possibly happen in Pinole. Another question to pose to voters could be to ask the reasons for removing the City from the state's General Law practices.

Rafael Menis, Pinole, referenced the National Civic League, which had information on possible questions that could be considered for this topic. Example questions to consider for polling could be whether one was more likely to consider a charter city if it encompassed adopting rank choice voting for city elections and adopting a RPTT in a certain amount or if adopting a RPTT at a certain amount. One of the recommendations for a charter city would be to establish a Board of Ethics and he read into the record the information provided by the National Civic League. There were options to construct a charter city to require ethics and correct against concerns around corruption, but it would be unknown whether the public would support that if the question was not asked as part of the polling.

Mr. Menis suggested the following two questions be included: *Would you be more or less likely to support the adoption of a charter city if it included both a Real Property Transfer Tax and the adoption of rank choice voting?* and *Would you be more or less likely to support the adoption of a Charter City if it included the establishment of an independent City Board of Ethics required as a charter element and the adoption of a Real Property Transfer Tax?*

Debbie Long, Pinole, emphasized that citizens should be made aware what a charter city is since that had not been discussed. She read into the record the definition of a charter city, which included a number of provisions and carried many concerns. Charter cities may control elections, decide how recalls were handled, adopt its own process and how to handle city contracts, decide how to finance public improvements, and she noted that in the State of California, charter cities had declared bankruptcy or insolvency but to date no General Law city had declared bankruptcy. Charter cities may make charitable gifts of public funds for public purposes and decide the classification of the public purpose, and may open the door for lawsuits. Charter cities may also create a sub-government in part of the city, create a strong Mayoral form of government leading to a Mayor having almost total administrative authority with city staff reporting to the Mayor, and it may regulate and govern local police.

Ms. Long noted that one of the candidates running for the City Council had already expressed a desire to reimagine the role of policing, shifting of resources and establishing a Police Oversight Commission. A charter city had complete control over finances and financing and may decide what debt to income ratio it was comfortable with absent state oversight. A charter city may also create a special jurisdiction to create a new governance system, potentially superseding state laws. Until the City Council determined the need for additional taxations, the purpose of wanting a charter city and how the City Council proposed to spend the money, she found that putting this matter out for public polling was irresponsible and lacking transparency without upfront accountability.

Bob Kopp, Pinole, commented that the City had been in existence for years, had run smoothly and he questioned changing something that was working. He questioned whether the current City Council would support a charter city. He also spoke to the current real property tax with half of the funds going to the County and the other half to the City of Pinole and provided calculations on how increasing the real property tax would impact residences of a certain value. He was willing to place an advertisement in the local newspaper to inform the public of his comments, emphasized he had paid taxes on his residence for years, the City had never provided any financial assistance for home maintenance and upkeep, and this discussion may result in a penalty, and not a real property transfer fee but a transfer tax on residents, possibly forcing residents out of Pinole. He suggested this was not the right thing to do. He was surprised the City Council was considering a charter city, and he had lost confidence in the current City Council.

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

Cordell Hindler, Richmond, agreed with the previous speaker. He was appalled at the idea of a charter city for Pinole and commented that when the City of El Cerrito had become a Charter City it had a committee comprised of residents. He suggested a charter city was not good for the community.

PUBLIC COMMENTS CLOSED

Council member Tave sought a representative data set from likely voters and hoped the pollster would base that scale on Pinole's voting records.

City Manager Murray reiterated the pollster would use a methodology to forecast to the greatest extent possible the possible outcome of a vote and had every interest in reaching those most likely to vote. The polling firms were highly regarded and highly recommended.

Mayor Pro Tem Murphy pointed out the outcome of a charter city would not be decided by the City Council but the voters of Pinole. He commented that everyone was welcome in Pinole, no one had a stronger voice than another whether they were long term or new residents. He suggested the questions offered by Mr. Menis should be added to the questions the pollster would ask the public and asked how they could be added.

City Manager Murray advised that based on City Council direction the questions could be added to the pollster's slate of questions.

Mr. Menis reiterated the two questions he would like the pollster to add to the slate of questions as follows: *Would you be more or less likely to support the adoption of a charter city if it included both a Real Property Transfer Tax and the adoption of rank choice voting?* and *Would you be more or less likely to support the adoption of a Charter City if it included the establishment of an independent City Board of Ethics required as a charter element and the adoption of a Real Property Transfer Tax?*

Council member Toms reported she had previously provided her recommended questions for consideration if the pollster found them appropriate to add.

Council member Martinez-Rubin again wanted to see the final set of questions and would be curious about the findings from the poll. She wanted to know more about the methodology the pollster may use given that different segments in Pinole voted in different ways and the interest in taxes may vary however the pollster was able to identify what was meaningful to residents who would likely vote in terms of what a charter city and RPTT would mean. She asked that the questions be kept simple. As to the questions offered by Mr. Menis, she pointed out that the topic of rank choice voting and its implications had not been discussed by the City Council and she was curious how the questions would be asked.

Mayor Salimi summarized the consensus of the City Council to move forward and provide direction to staff to include additional questions in the voter poll regarding a potential Charter City and RPTT Ballot Measure, with the City to rely on the expertise of the consulting firm conducting the poll to decide whether questions on matters that the Council identified, other than the ballot measure, could be incorporated into the ballot measure poll, as follows:

*Is the public aware of the infrastructure needs?
Is the public aware climate issues are local issues?*

How do you model participatory budgeting?

How likely are you to ____ (insert the question) and possibly include a 1 to 10 scale on how likely a resident may vote for a RPTT, and how likely would a resident use the Senior Center, playhouse, as examples, and vote for a tax for additional services leaving it to the consultant on how to specifically frame the question. .

Would you be more or less likely to support the adoption of a Charter City if it included both a Real Property Transfer Tax and the adoption of rank choice voting?

Would you be more or less likely to support the adoption of a Charter City if it included the establishment of an independent City Board of Ethics required as a charter element and the adoption of a Real Property Transfer Tax?

ACTION: Motion by Council member Toms/Tave to direct staff to discuss the additional questions with the pollsters and if appropriate to have the questions included in some form.

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

12. NEW BUSINESS

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.

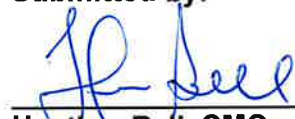
Citizens may speak under any item not listed on the Agenda. *The time limit is 3 minutes and is subject to modification by the Mayor. Individuals may not share or offer time to another speaker. Pursuant to provisions of the Brown Act, no action may be taken on a matter unless it is listed on the agenda, 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.*

City Clerk Bell reported there were no comments for this item.

14. ADJOURNMENT to the Special City Council Meeting of March 22, 2022 in Remembrance of Amber Swartz.

At 11:12 p.m., Mayor Salimi adjourned the meeting to the Special City Council Meeting of March 22, 2022 in Remembrance of Amber Swartz.

Submitted by:



**Heather Bell, CMC
City Clerk**

Approved by City Council: April 5, 2022

