

**CITY COUNCIL MEETING
MINUTES
August 15, 2023**

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 Regular Meeting of the City Council to order at 5:02 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
*Via Zoom
Sheraton Grand Sacramento Hotel, 1230 J Street, Sacramento, CA, Room 1

B. STAFF PRESENT

Andrew Murray, City Manager
Eric Casher, City Attorney
Alex Mog, Assistant City Attorney
Heather Bell, City Clerk
Sanjay Mishra, Public Works Director
Lilly Whalen, Community Development Director
Markisha Guillory, Finance Director
Roxane Stone, Deputy City Clerk

City Clerk Heather Bell announced the agenda had been posted on Friday, August 11, 2023 at 4:00 p.m. with all legally required written notices. Written comments had been received in advance of the meeting, distributed to the City Council and staff, posted on the City website and made available to the public in 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

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

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

Anthony Vossbrink, Pinole, asked the status of street light outages throughout the City, in and around City parks and parking lots, and turnabouts around Adobe Road and Pinole Valley Road; the dog park and restrooms where a spot light had been out for over six months and a light that had been out in the barbecue grove across from the dog park. The Public Works Director had previously reported on the cost to replace light bulbs and he had asked the number of people required to change light bulbs. He had also asked why there appeared to be a double standard with respect to the maintenance of public parks, with some parks properly maintained whereas others appeared to be a lower priority. Fernandez Park appeared to be well maintained whereas Pinole Valley Park's playground, restrooms and the dog park were in need of maintenance. He asked when the Public Works Department and the City Manager would turn things around.

Mayor Murphy asked City staff to look into the issues raised and return with a status report on how those issues would be addressed if they had not already been addressed.

Mayor Murphy moved onto agenda Item 8, Recognitions / Presentations / Community Events, B. at this time.

8. RECOGNITIONS / PRESENTATIONS / COMMUNITY EVENTS

A. Proclamations: None

B. Presentations

1. AB 43 – Setting Speed Limits – by Public Works Director Sanjay Mishra

Public Works Director Sanjay Mishra presented a PowerPoint presentation on Assembly Bill (AB) 43, Setting Speed Limits, which would amend and add to various sections of the California Vehicle Code related to traffic safety and which had been approved in October 2021. He highlighted how the speed of traffic had been measured and California law that required cities to conduct a speed survey every ten years in order for a speed limit to be enforceable even if no changes had been made to the roadway.

Public Works Director Mishra also highlighted the Zero Traffic Fatalities Task Force, whose purpose was to make recommendations to the Legislature on what reforms the State should make to change the way speed limits had been set. AB 43 would authorize local authorities to consider the safety of vulnerable pedestrian groups and designate safety corridors and the like.

Public Works Director Mishra further highlighted the changes to existing law with AB 43: Vehicle Code changes and how local authorities may reduce speed limits to be reasonable and safe; Caltrans definition of a Safety Corridor and with AB 43 implementing policy recommendations from the State Transportation Agency, as outlined in the Zero Traffic Fatalities Task Force, by providing for more flexibility on setting speed limits based on safety and not just on traffic speed.

Council member Martinez-Rubin was pleased the City would have another tool to respond to concerns from the public and the perceptions with respect to safety. She asked how close the City was to implementing something consistent with AB 43.

Public Works Director Mishra clarified that nothing had been done to date to implement AB 43. A Safety Corridor would have to be declared with locations identified. As an example, the San Pablo Avenue Downtown Area or the Business District Area of Pinole Valley Road had a lot of bicycle and pedestrian activities. If those areas were declared a Safety Corridor by ordinance, the City could set a speed limit for those areas but a traffic study would be required to provide the rationale for why the areas should be declared a Safety Corridor.

Council member Martinez-Rubin recalled the City had conducted a safety study that had asked members of the public to identify locations in the City where there may have been injuries or accidents. She asked whether that study had been completed and if so whether it would help to support the declaration of a Safety Corridor.

Public Works Director Mishra explained the Local Road Safety Plan (LRSP) addressed traffic deficiencies in the City but did not include pedestrian counts. The LRSP was the best document to use in defining a Safety Corridor.

Council member Martinez-Rubin understood there were few accidents, fatalities or injuries in the City but there was still the risk of those occurrences as evidenced by public input. She asked what conditions would be acceptable to make the argument or the case a Safety Corridor could be defined even though the number of accidents, fatalities or injuries were not at the volume that would reach the required threshold.

Public Works Director Mishra understood a number of fatalities was not needed to be defined. AB 43 would allow a local authority the ability to define a Safety Corridor without having that data, but would ask for verification of specific traffic data. As an example, if the Business District had been defined with a high volume of pedestrians and bicyclists, the local authority could define the area as a Safety Corridor.

Mayor Pro Tem Toms asked of the types of surveys or traffic studies needed to be added to the LRSP to allow Safety Corridors to be declared in the City before the time in which to implement AB 43.

Public Works Director Mishra stated a pedestrian and bicyclist count survey would be needed. Vehicle surveys were already part of the LRSP, but the LRSP did not include the count for pedestrians and bicyclists. He added this item was only a presentation but the City Council may provide direction that a pedestrian and bicyclist count would be part of a future Capital Improvement Plan (CIP) project to fund a project to complete the survey, with the desire to consider Safety Corridors for certain sections of the City.

Council member Sasai asked for the definition of a Business Activity District.

City Attorney Eric Casher reported the definition of a Business Activity District had been defined as *An area that prioritizes commercial land uses at the downtown or neighborhood scale and meets at least three of the following four different requirements: 1) No less than fifty percent of the contiguous property fronting the highway consists of retail or dining commercial uses including outdoor dining that open directly onto sidewalks adjacent to the highway; 2) there are parking spaces including parallel, diagonal or perpendicular spaces located alongside the highway; 3) traffic control signals or stop signs regulating traffic flow on the highway are located at intervals or no more than 600 feet; and 4) there are marked crosswalks not controlled by a traffic controlled device, pursuant to Vehicle Code Section 22358.9.*

Council member Sasai asked whether the maximum speed reduction would be five miles per hour in any corridor or whether speed limits could be reduced by another ten or fifteen miles per hour.

Public Works Director Mishra clarified the City had always been able to reduce speeds by five miles per hour. AB 43 allowed flexibility for a Business District or Safety Corridor, whereby local authorities may reduce the speed further by another five miles per hour and enforce that speed.

Council member Sasai asked of the soonest date when the speed limits may be reduced pursuant to AB 43, and Public Works Director Mishra advised that speed limits may be reduced after June 20, 2024, if the City was ready at that time.

PUBLIC COMMENTS OPENED

Anthony Vossbrink, Pinole, requested better visuals for the telephone numbers for people to participate in the meeting remotely, to be posted on the bottom and top of the screen. He otherwise suggested there should be better police enforcement, more police officers patrolling hot spots in the City including Fitzgerald Drive, Appian Way, San Pablo Avenue, Pinole Valley Road and Wright Avenue. He reiterated past requests for semi or annual status reports from the Police Department, with the Police Chief and a Sargent having promised a report would be provided to the Traffic and Pedestrian Safety Committee (TAPS) but that had never happened. The report was to provide the number and location of citations given by the Police Department pre-, during and after the pandemic. He urged a proactive response rather than reactive, with the installation of speed bumps, better signage and consequences for those perpetrators who did not follow traffic laws. He again urged a presentation be provided as promised.

John Bender, Pinole, asked for clarification of the definition of a Safety Corridor and whether it included the zoning designation of a property as Commercial Mixed-Use with residential on the street, citing San Pablo Avenue east of Pinole Valley Road towards the City of Hercules as an example.

PUBLIC COMMENTS CLOSED

City Attorney Casher clarified in response to public comment that the statutory section of the Vehicle Code did not get into that level of detail for the definition of a Safety Corridor but there was annotation of the statute he could look into and would provide a follow-up.

Mayor Pro Tem Toms asked that the item be earmarked for the next quarterly CIP report to allow the City Council to provide direction. She suggested it would be nice on the effective date of June 30, 2024, when local authorities may lower the speed limit pursuant to the Vehicle Code changes and have speed limit signs installed to take effect on that date.

Mayor Murphy looked forward to follow-ups as part of the next CIP update.

2. East Bay Municipal Utility District – Updates

Clifford Chan, General Manager, East Bay Municipal Utility District (EBMUD) introduced the EBMUD Team present including Director Lesa McIntosh, Ward 1; Florence Wedington, Senior Civil Engineer; David Woodard, Manager, Regulatory Compliance; and Y'Anad Burrell with the Team providing a PowerPoint presentation which included an extensive overview of EBMUD's Water Portfolio, 2019 Recycled Water Plan, Recycled Water Strategic Plan Update, Emergency Planning and the Customer Assistance Program (CAP).

Mayor Pro Tem Toms asked about emergency services and work with the City of Pinole to identify distribution points via hydrants. She asked whether several sites needed to be identified or whether it would include distribution via trucking in water.

Mr. Chan understood the City may already have identified points of distribution for supplies including water, which locations needed good egress/ingress. If the City had identified those distribution points, EBMUD would work with the City to set up a location for a manifold.

Council member Tave commented that through the pandemic and the drought there had been community concerns with the reliability of the EBMUD system and water delivery. He asked about projects planned in West County, particularly specific to the City of Pinole, which would address the current system's ability to handle emergencies. He found the current plan to be more reactive to emergencies and characterized the current system as old and brittle.

Mr. Chan detailed EBMUD's Seismic Improvement Program which started in the 1990s and had been upgraded with many drinking water tanks and facilities providing reliable water supply; replacement of many distribution pipelines over the years with the most vulnerable pipelines replaced first along with major transmission mains; and highlighted EBMUD's improvement projects in the cities of Berkeley, El Cerrito and El Sobrante. He was unaware of specific projects planned for the City of Pinole.

Y'Anad Burrell, EBMUD, reported EBMUD held quarterly coordination meetings with the cities in the EBMUD service area. She detailed the purpose and discussion of the meetings and stated the next meeting had been scheduled in the next week. She would have to review the notes from the last coordination meeting and circle back to provide accurate information as to whether there were any specific projects proposed for the City of Pinole.

Council member Tave understood EBMUD had a lot of ongoing recycled water projects. He asked whether there were any cost savings from the Regional Water Quality Control Board (RWQCB) along with the distribution of recycled water for use and if there was any benefit that could be missing in an analysis, and Mr. Chan confirmed there were benefits when reducing the discharge into the Bay when dealing with nutrients and if going to full nutrient removal, such improvements would be very costly with lower cost options under consideration.

Council member Martinez-Rubin asked whether EBMUD was considering points of distribution or tools to access potable water working with property management firms. She requested that if the relationships were not there in the coordination meetings, they should be formed and continue to be developed with property management firms as an incentive to renters or owners.

EBMUD Director Lesa McIntosh, Ward 1, explained that had been an issue for years and for years EBMUD had not done enough to reach out to those entities; however, they had come a long way at the urging of the EBMUD Board and EBMUD was now reaching out to those entities and working diligently on that effort. If the City of Pinole was not seeing that effort, she asked that anyone reach out to EBMUD and let them know whether or not the City's management companies were receiving information from EBMUD that could be passed along to homeowners or renters.

Mayor Murphy commented the City had conducted a recent survey about climate action, drought and water usage, which had elicited huge interest from Pinole residents. He also commented on the City Council's consideration of a points of distribution program and he asked the status of that process.

David Woodard, Manager, Regulatory Compliance, reported that EBMUD met regularly with the counties in its service area with a focus on the actual unit/size. There was now a system that would work and EBMUD was moving on to the Memorandum of Understanding (MOU) process and would be reaching out to everyone at some point. He clarified, when asked, that two cities had signed up for a points of distribution program with EBMUD pre-pandemic. EBMUD had signed MOUs with the City of Pleasant Hill and the Town of Danville, although those MOUs may have to be modified as it related to changes to the manifold equipment.

Mr. Chan asked Mr. Woodard when he worked with the County to ask about the City of Pinole and work with them to set up a point of distribution, which Mr. Woodard confirmed he would do.

City Manager Andrew Murray reported he had met with Emergency Management staff including Mr. Woodard a few months ago to follow up on the City Council request for a point of distribution MOU with EBMUD, at which point he had learned EBMUD had a couple of dated MOUs they wanted to revisit to address changes to the manifold equipment. He had discussed with EBMUD the fact the Pinole City Council wanted the same agreement and access other communities had with EBMUD and he looked forward to continuing that conversation.

Mayor Murphy asked about the estimated timeline for the partnership between the County, EBMUD and the cities, and Mr. Woodard explained that EBMUD was in the process of churning out the manifolds, was moving the focus to the MOUs, would go as fast as possible, and hoped to avoid administrative challenges.

On the discussion, Mr. Chan stated he would not be happy if they were two to three years out but he would provide information when possible.

Mayor Murphy emphasized that working with other agencies around emergency planning was critical. He reported that Marin Clean Energy (MCE) allocated \$1.5 million in a resiliency fund, which had been doubled in an effort to address climate resiliency and emergency planning. Some of the funds had been used for battery storage units for people who were medically vulnerable. He asked how EBMUD would work with MCE and other agencies as a way to overlap services as it related to emergency planning.

Mr. Chan explained as part of its emergency planning EBMUD worked with local power agencies to ensure reliable power supplies. EBMUD had its own backup power supply to supply power and worked with refineries to ensure access to fuel for any pipeline repair or any other needed work. EBMUD worked to develop its own power supplies, some of which would allow EBMUD to be independent of the grid, but most would not absent battery storage. He noted that a battery storage facility was being considered in the City of Oakland. EBMUD also worked with larger facilities such as hospitals and others, where they could have access to different water lines in the street and worked with those agencies/companies to improve reliability.

PUBLIC COMMENTS OPENED

Rafael Menis, Pinole, understood there were potential fuel issues with EBMUD equipment in the aftermath of a disaster. He asked whether EBMUD had considered electrification of its equipment to the extent feasible. As to pipelines and impacts from wildfires, citing the recent wildfire in Maui, Hawaii, he asked about the number of pipelines of the new restored pipelines being installed that were made of potentially hazardous materials if melted down, and how many were made of less hazardous materials. As to the emergency recommendations for two gallons of water per household member and a seven-day supply for each person, he asked how feasible that recommendation was in practice. As to the manifolds, he understood they were pipes that would be hooked into fire hydrants in the event of a water distribution breakdown and he sought clarification of that situation.

Mr. Chan explained the manifolds (hose bibs) would be an area where residents could go to get water and fill up containers; portable storage was feasible for residents and the water could be changed at the same time as one changed batteries on smoke detectors. As an example, water was able to be disinfected with chlorine tablets or be boiled. All water supply maintenance information had been posted on the EBMUD website. In terms of the pipes, about a third were comprised of cast-iron material, a third steel and the remaining third consisted of asbestos cement. The standard material for pipe replacement today was ductal iron pipe.

As to possible electrification of the fleet, Mr. Chan commented on the challenges purchasing electrical equipment and the fact the current electric grid was not reliable although that may change in the future. He added there were new rules pushing EBMUD to move towards zero emission vehicles, but that equipment currently did not exist. He reiterated that with the electrical grid currently unreliable there were a number of challenges, but working with the state and various agencies he was confident that would be fixed in the decades to come.

Anthony Vossbrink, Pinole, understood several wastewater treatment plants in the Bay Area had to dump excess volumes of treated or untreated water into the Bay. He asked whether EBMUD had a hand in that by diverting too much water from the winter storms that caused impacts to wildlife and beaches. He also understood EBMUD may start asking residents to use treated wastewater for drinking water.

Mr. Vossbrink asked about the volume of water that would come to West Contra Costa County. Given the City of Pinole had its own wastewater treatment plant, he asked whether the City would benefit from a manifold, which could provide relief to ratepayers. He also commented on the recent tragedy in Maui and asked that the meeting adjourn in memory of those lost. In that case, he understood that electrical pumps had been impacted by the fires since power lines were down and he asked whether EBMUD coordinated with PG&E with respect to its electrical power grid.

Mr. Chan spoke to PG&E's Public Safety Power Shut-Offs (PSPSs) and explained that EBMUD was not immune to the PSPS but it did have backup power. EBMUD never had issues delivering water to its customers even when electricity had been lost in their facilities and much of that had to do with the coordination with PG&E. He added that nutrients into the Bay and the cause of Red Tides did not occur during the wet periods and reported that from January 1 to December 1, 2022, EBMUD's normal flow into its wastewater plant was around 50 million gallons per day and during a two-day period EBMUD experienced an increase of around 650 million gallons per day, with the remaining 600 gallons per day from infiltration into the sewer lines and sewer laterals from homes and city sewer lines, and there had been a decree to reduce that infiltration inflow. Nutrient issues that led to Red Tides and fish kills during the summer of 2022 had impacted all wastewater discharges into the Bay and EBMUD had reduced its nutrient load into the Bay consistently over a number of years and would continue to do so.

Florence Wedington, Senior Civil Engineer, further clarified EBMUD's Strategic Plan for recycled water, as previously described, with several things to be considered to provide recycled water as part of EBMUD's water supply. She also reported the state had recently released draft regulations for how the water would be treated to ensure a level for safe drinking, which regulations would not be finalized until the end of 2023 and which would also be taken into consideration.

Ms. McIntosh added that EBMUD was a public agency and its meetings were open to the public. She urged the public, City Council and staff to participate in EBMUD meetings held the second and fourth Tuesday of each month. She also detailed the various EBMUD committees and encouraged everyone to reach out and share during EBMUD meetings to ensure everyone was fully informed.

Mayor Murphy thanked EBMUD for the presentation and looked forward to future partnerships.

PUBLIC COMMENTS CLOSED

The City Council returned to agenda Item 7 at this time.

7. REPORTS & COMMUNICATIONS

A. Mayor Report

1. Announcements

Mayor Murphy wished everyone a happy new school year and extended special wishes to students, teachers and schools that had started the new school year. He reminded residents of the start and launch of the Parks Master Plan and noted that more information was available at pinoleparksmasterplan.com.

Mayor Murphy also welcomed new business Pinole Pizza and Deli at the Del Monte Center on San Pablo Avenue and encouraged residents and visitors to participate in Foster Freeze Cruise Nights of Summer on San Pablo Avenue, with events scheduled for August 27, September 24 and October 29, 2023 at 4:00 p.m. All events were family friendly. He further encouraged residents to read the City's fire prevention brochure available on the City's website.

Mayor Murphy also offered his thoughts and prayers to the Maui community and asked everyone to consider ways to support the community with a number of organizations working to provide support and take action.

Mayor Murphy otherwise recognized it has been a wonderful summer for the City of Pinole with more community events planned and he again looked forward to what the new school year brought, and in that regard asked everyone to keep the community as healthy and safe as possible.

B. Mayoral & Council Appointments: None

C. City Council Committee Reports & Communications

Council member Sasai reported he had attended the WestCAT Board of Directors meeting and briefed the Council on the discussions; and had met with representatives from the State Civil Rights Department to discuss an anti-hate initiative sponsored by the Governor's Office, which he detailed and which discussion he hoped to advance to the City Council. He also reported a resident of Pinole Shores had recently reached out to him about the collapsed portion of the Bay Trail. He had recently walked that portion of the trail with that individual and had reached out to the Ward 1 Board Member of the East Bay Regional Park District (EBRPD). He hoped a presentation from the EBRPD would be made to the City Council to allow questions to be asked and solutions to be discussed.

Council member Martinez-Rubin reported she had attended the City Seal and Logo Subcommittee meeting; participated in the Crafts Fair at the Senior Center and invited participation and input on City activities; the League of California Cities East Bay Division meeting; and the Mayors' Conference, and briefed the Council on all presentations and discussions.

Mayor Pro Tem Toms reported she had attended the WestCAT Board of Directors meeting and briefed the City Council on the discussions.

Council member Tave reported the Bay Area Rapid Transit (BART) District had expanded its service hours significantly to increase ridership and he identified the new hours of operation. He also reported that goats got out at Shea Drive and while the situation was not as bad as reported, the situation had been brought under control and was part of a fire prevention measure that had been implemented. He thanked the Pinole Police Department for handling the incident and expressed his hope the program could also be implemented in other areas of the City.

PUBLIC COMMENTS OPENED (Items A through C)

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

PUBLIC COMMENTS CLOSED

D. Council Requests for Future Agenda Items

ACTION: Motion by Council member Martinez-Rubin/Mayor Murphy to approve a request for a brief report on the Classic Car Show from the Classic Car Show Committee as well as a brief presentation on whom the Committee would be making donations from proceeds from the Classic Car Show, to be considered at the September 5, 2023 City Council meeting.

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

ACTION: Motion by Council members Sasai/Tave to approve a request for a presentation from the California Versus Hate Initiative.

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

PUBLIC COMMENTS OPENED

Cordell Hindler, Richmond, requested the following future agenda items to be considered at an October City Council meeting agenda including a presentation from Contra Costa County Supervisor John Gioia and Lisa Motoyama regarding a study to address homelessness; a proclamation for Breast Cancer Awareness Month and a presentation from Danny Wan or designee on the Port of Oakland's plans as it recovered from the pandemic.

PUBLIC COMMENTS CLOSED

Mayor Pro Tem Toms reported a proclamation for Breast Cancer Awareness Month had already been scheduled for an October City Council meeting and City Clerk Bell clarified she would verify the list of proclamations for the month of October.

E. City Manager Report / Department Staff

City Manager Murray provided an overview of the tentative agenda items for the September 5, 2023 regular City Council meeting. He also clarified the situation with the goats on Shea Drive had not involved the City but the City was progressing with fire fuel mitigation on City-owned property and open spaces with the use of goats as a possible option.

F. City Attorney Report

City Attorney Casher reported the Municipal Code Update Subcommittee would meet on Monday, August 21, 2023 to discuss updates to the Single-Use Plastics Ordinance.

The Municipal Code Update Subcommittee would also consider updates to the Pinole Municipal Code (PMC) regarding Electric Vehicle (EV) Charging Station Usage restrictions and a Panhandling Ordinance. Updates to the Campaign Sign Ordinance would be presented to the Planning Commission at its next meeting and thereafter to the City Council once approved.

PUBLIC COMMENTS OPENED (Items 7D through 7F)

Anthony Vossbrink, Pinole, requested a report from the Police Chief as a future agenda item, as he had previously requested, and also asked for a presentation from the Executive Director of Contra Costa Animal Services on the increase in taxes and a status report on the vacant former Pinole Animal Shelter and proposed plans for a feral spay and neuter clinic, which he understood was to be a non-profit but that was not the case. He also spoke to the situation with the goats, and suggested Caltrans had lacked proper supervision, had only one herder and dog and there had been a lack of adequate fencing. He asked the City Manager whether the Public Works Department would consider the use of goats to clean-up the exterior of the Pinole-Hercules Wastewater Treatment Plant.

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 Regular City Council Meeting on July 18, 2023.
- B. Receive the July 14, 2023 – August 11, 2023 – List of Warrants in the Amount of \$3,741,157.74, the July 21, 2023, Payroll in the amount of \$491,186.62 and the August 4, 2023 Payroll in the amount of \$475,534.19.
- C. Staff recommends that the City Council adopt a resolution approving a Memorandum of Understanding (MOU) between the City and American Federation of State, County, and Municipal Employees (AFSCME) Union Local 512 for the period of July 1, 2023 – June 30, 2025. **[Action: Adopt Resolution per Staff Recommendation (Shell)]**
- D. Award a Contract to Tetra Tech to Complete an Energy Conservation, Generation and Storage Assessment in an Amount Not to Exceed \$47,938. **[Action: Adopt Resolution per Staff Recommendation (Dhillon)]**
- E. Authorize Response to Grand Jury Report No. 2306, Affordable Housing: “A Plan Without a Home.” **[Action: Approve Response and Authorize Mayor’s signature per Staff Recommendation (Whalen)]**

- F. Award a Contract for the Development of a Storm Drain Master Plan (CIP Project #IN1703) to West Yost in an Amount Not to Exceed \$243,264.00. **[Action: Adopt Resolution per Staff Recommendation]**
- G. Approve a Second Contract Amendment to the Agreement with Tripepi Smith for Additional Work on the City Seal, Logo and Branding Guidelines to Increase the Not to Exceed Amount to \$32,000 and Appropriate Additional Funding in the Amount Not to Exceed \$11,750. **[Action: Adopt Resolution per Staff Recommendation (Epps)]**
- H. Resolution Authorizing the City Manager to Execute the Third Amendment to the Agreement with the Natelson Dale Group to Develop a Comprehensive Economic Development Strategy and Appropriate an Additional \$3,000 in Funding. **[Action: Adopt Resolution per Staff Recommendation (Whalen)]**
- I. Adopt a Resolution Approving a Memorandum of Understanding Between the City of Pinole and the American Federation of State, County and Municipal Employees (AFSCME) Union Local 1 for the Period of July 1, 2023 - June 30, 2025. **[Action: Adopt Resolution per Staff Recommendation (Shell)]**

PUBLIC COMMENTS OPENED

Ana Avila, Pinole, referenced Item 9I, and speaking on behalf of the American Federation of State, County and Municipal Employees (AFSCME) Union Local 1 and as the President of the unit, introduced representatives from the unit and expressed her sincere gratitude for the two-year contract she hoped would be approved on the Consent Calendar. She thanked the City's negotiation team by name and everyone who had taken part to ensure the great outcome for the unit and recognition of its needs.

Rafael Menis, Pinole, referenced Item 9C, Page 84 of 594 of the un-amended agenda packet, and noted the market equity adjustments for the positions shown appeared to show the City had been underpaying for the positions. He asked whether market equity adjustments had been made in the past decade or whether this was this first time for the adjustment.

For Item 9I, Page 460 of 594 of the un-amended agenda packet, again for the positions shown under equity adjustment, there were notable increases and Mr. Menis asked again when a market equity study had last been done.

Speaking again to Item 9C, Page 154 of 594 of the un-amended agenda packet and the redline edits as shown under Section 7.4 Regular Work Week-Amount of Overtime Earned, which reads: *Effective the first full pay period after adoption, hours in paid leave status for holidays as outlined in Section 15. 2 (excluding floating holiday(s)) and sick leave used will count toward time worked for purposes of determining eligibility for the overtime rate*, Mr. Menis asked whether that was normally done, whether it was a standard that was now being considered or whether a new thing had been negotiated. The same applied for Item 9E as well.

Mr. Menis also referenced Page 561 of 594 of the un-amended agenda packet for Item 9I, the strike out dates shown for holidays and identified an error in how the numbers had been listed. The information was correct in the union proposal but not in the amended agenda packet.

For Item 9E, Mr. Menis referenced Page 269 of 594 of the un-amended agenda packet, the City's response to Finding 5, and found the response to be a misinterpretation of the finding which was not asking whether the City had taken steps to resolve the obstacle but stating an obstacle actually existed, and he questioned why the City had indicated a "partial disagreement." He suggested the response should show the steps the City had taken to address the obstacles.

Mr. Menis further referenced Page 276 of 594 of the un-amended packet, again for Item 9E, and the City's response to Grand Jury Recommendation R1, with the City's response as shown, although Recommendation R1 was talking more about a specific staff member being assigned with accountability and there appeared to be partial disagreement rather than the City's response that Recommendation R1 had been implemented. Lastly, he referenced Table 2: 2022 CCC Wages, Rent to Income, AMI Status, as shown on Page 234 of the 594 of the un-amended agenda packet, and asked whether or not it would be possible to generate a similar table for City of Pinole data as opposed to Countywide data based on information the City had to supplement the report and integrate the findings on a more local level to be more actionable on a local level.

PUBLIC COMMENTS CLOSED

In response to the public comment, City Manager Murray reported the City had done a total compensation benchmarking study around every round of negotiations and it would have been done two years ago and did not always result in changes to the MOU but targeted market increases, which was part of the negotiation process. The definition of hours worked for purposes of overtime was a negotiated agreement on how that had been defined with various external standards that was a result of priorities expressed by the labor groups and the City Council's willingness to meet them as part of the negotiation process. Also, the incorrect dates identified for the holidays would be clarified and corrected, if needed.

Community Development Director Lilly Whalen responded to the comments with respect to Item 9E, and clarified the City's response to Finding 5, as "partial disagreement" was because the obstacles did exist and the City was partially in disagreement since the City had taken steps to reduce the obstacles by providing affordable housing in the community. In response to who had been assigned to ensure that the Housing Element was implemented, the Community Development Department had indicated in the response that the Director of the Community Development Department would be responsible to ensure annual reports were submitted to the state. As to the request with respect to Table 2, she had no response at this time but would look into it.

Mayor Murphy offered a motion, seconded by Council member Tave to continue items 9D and 9E to the next meeting of the City Council to allow more time for review.

Council member Tave asked whether there were any time restrictions with respect to Item 9E.

Community Development Director Whalen advised the response to the Grand Jury was due in mid-September and there would be time to continue the item to the September 5, 2023 City Council meeting.

ACTION: Motion by Mayor Murphy/Council member Tave to continue Items 9D and 9E to the next City Council meeting to allow more time for review.

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

Council member Martinez-Rubin requested that Items 9A and 9B be removed from the Consent Calendar for discussion. For Item 9A, she requested the following revision to the sixth paragraph on Page 8 of 594 of the un-amended agenda packet to read:

Council member Martinez-Rubin reported on her attendance at a meeting of the Revenue and Taxation Policy Committee of the League of California Cities and briefed the City Council on the discussions. Also, along with Council member Sasai and the Assistant to the City Manager discussed a possible agreement with a firm to help the City update its seal and logo.

For Item 9B, Council member Martinez-Rubin identified an overlap in dates when the List of Warrants had been paid, and in reviewing the last month and this month's warrants she had found duplicates. She asked how and when the City reconciled the warrants paid to ensure a more current balance of funds used for the different payments the City made. She suggested the City Manager or Finance Director provide clarification and she provided examples from the List of Warrants as shown in Item 9B.

Finance Director Markisha Guillory stated she would review the List of Warrants and overlapping dates and would provide a response to the question via email or at the next City Council meeting. She added there were processes that were followed in terms of reconciling payments with bank reconciliation and with the budget as well.

Council member Martinez-Rubin asked that a response be provided to the entire City Council.

Mayor Pro Tem Toms understood there were no duplicate payments, although some warrants had been shown twice because they were on the cusp of a time period and the City Council could still move forward with the List of Warrants.

Council member Martinez-Rubin commented that either time periods or a statistical report ensured figures were not included in two sets of dates, which was why she wondered why that had been done. She wanted a true reconciliation to know the balance of the budget.

Council member Tave understood the concern was with the fiscal year overlap and Finance Director Guillory confirmed there could be overlaps between fiscal years, but again she would have to conduct some research.

ACTION: Motion by Mayor Pro Tem Toms/Council member Martinez-Rubin to approve Item 9A, as amended and Items 9B, 9C, 9F, 9G, 9H, and 9I, as shown.

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.** Introduction and First Reading of an Ordinance Amending Pinole Municipal Code Section 2.04.200 Council-Manager Relations and Section 2.12.010 Time of Regular City Council Meetings Consistent with the Updated City Council Meeting Procedures. **[Action: Conduct Public Hearing and Introduce Ordinance on First Read (Casher)]**

City Attorney Casher provided a PowerPoint presentation for an ordinance updating the PMC to align with City Council Meeting Procedures, which included an overview of the background and the Municipal Code Update Subcommittee's identification of two sections of the PMC which needed updating based on the revised City Council meeting procedures, as shown in Chapter 2.04, "City Manager," Section 2.04.200 "Council-Manager Relations" and Chapter 2.12 "Council Meetings," Section 2.12.010, "Time of Regular Meeting." He read into the record the language changes to each section referenced that had been included in the August 15, 2023 staff report.

City Attorney Casher also identified a typographical error in the ordinance as it appeared on the meeting agenda, to be corrected on the second reading of the ordinance. He recommended the City Council introduce and waive the first reading of an Ordinance amending Pinole Municipal Code Section 2.04.200 to update the description of City Council and City Manager relations, and amending Section 2.12.010 to modify the start time of regularly scheduled City Council meetings, consistent with the updated City Council Meeting Procedures. He added the changes had been reviewed and approved by the Municipal Code Update Subcommittee. The actual City Council Meeting Procedures would be approved upon conclusion of amending the Ordinance.

In response to Council member Tave, City Attorney Casher explained for committee and committee assignments, the authority had been delegated to the subcommittee members. As an example, the duly appointed members of the Municipal Code Update Subcommittee had been deputized with the authority to make recommendations to staff in their capacity as subcommittee members, which ultimately flowed up to the City Council for formal approval of any changes. Pursuant to the Brown Act, decisions were to be made at the dais by the full City Council as opposed to individual Council members. He also offered examples of administrative decisions within the purview of the City Manager.

Council member Martinez-Rubin referenced the language modifications to Section 2.04.200 Council-Manager Relations, and matters that required City Council approval. She asked whether an approach had been discussed by the Municipal Code Update Subcommittee on matters that required City Council approval. She asked whether the language could be made even clearer to allow a Council member to become better informed of the role of a Council member.

City Attorney Casher stated the discussion at the Municipal Code Update Subcommittee level had been focused on finding language in this particular chapter of the PMC that would allow for Council members to continue to operate in the way they had been operating and he offered examples.

City Attorney Casher stated if there was a directive from the City Council regarding an administrative matter such as bringing in more goats for fire prevention, as an example, that would be a discussion at the City Council level.

Council member Tave offered examples of the current City Council practices that were in-line with the Ordinance.

PUBLIC HEARING OPENED

Rafael Menis, Pinole, spoke to the changes to Section 2.04.200, and while some of the changes made sense, he had concern with the language that had been stricken from this section. Section 2.04.200 Council-Manager Relations originally read: *The City Council and its members shall deal with the administrative services of the city only through the City Manager, except for the purpose of inquiry, and neither the member of the City Council nor any member thereof shall give orders or instructions to any subordinates of the City Manager. The City Manager shall take his or her orders and instructions from the City Council on matters requiring City Council approval only when sitting in a duly convened meeting of the City Council and no individual councilman shall give any orders or instructions to the City Manager.*

Mr. Menis explained as a member of the public he sometimes had questions and he would be directed by the City Manager to reach out to the individual Department Head to address those questions rather than to go through the City Manager each time. The new language proposed for Section 2.04.200 would prevent individual Council members from giving orders to a particular Department Head or ask questions of particular Department Heads with any questions to administrative staff falling under the City Manager's control. Specifically striking the phrase *except for the purpose of inquiry* seemed to imply to a layperson's reading of the Ordinance that individual Council members may not make direct inquiries. While the new language would cover the Brown Act and possible usurping the City Manager's power or the City Council taking over the City Manager's role, he would like the language to still leave space for individual inquiry.

PUBLIC HEARING CLOSED

City Attorney Casher explained that the language stricken from Section 2.04.200 had been intended to broaden the ability of the City Council to work with the City Manager. It would not prevent the City Manager from authorizing the City Council to reach out to Department Heads, and was not intended to be more restrictive than the prior version of the Ordinance, which had restricted the City Manager's role a bit more.

In response to the Mayor, City Attorney Casher again read into the record the original language in Section 2.04.200, the same section with the proposed new language and the reason for the proposed changes, as outlined in the August 15, 2023 staff report.

Mayor Pro Tem Toms confirmed that was the understanding of the Municipal Code Update Subcommittee when it had met as a subcommittee.

Council member Martinez-Rubin suggested it was also a matter of having a City Manager understand how best to work with City staff and how staff would want inquiries to occur.

Council member Martinez-Rubin also suggested it could become a volume issue, where the City Manager may want to know about being responsive and how that responsiveness would occur, where the City Manager would have the prerogative to determine and City Council members would have the expectation to understand, how the flow of communication would occur.

City Attorney Casher again walked through the changes to Section 2.04.200 and the reason why some of the verbiage had been stricken and reiterated it was not intended to limit direct communication with the City Manager but allow for those requests to flow through the City Manager and then allow some discussion from a practical point how that would be implemented.

Mayor Murphy thanked the Municipal Code Update Subcommittee for its work on this matter.

Council member Tave clarified the Municipal Code Update Subcommittee did not want to bombard the City Manager with all details the City Council received from the community, but if a question escalated to the City Manager that could be addressed by the verbiage proposed in Section 2.04.200, which would provide a balance that could be acknowledged.

ACTION: Motion by Mayor Pro Tem Toms/Tave to introduce and waive the first reading of an Ordinance amending Pinole Municipal Code Section 2.04.200 to update the description of City Council and City Manager relations, and amending Section 2.12.010 to modify the start time of regularly scheduled City Council meetings, consistent with the updated City Council Meeting Procedures.

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

11. OLD BUSINESS: 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.*

Rafael Menis, Pinole, reported he had received a message from a member of the community, stating there were organizations doing partial donation shares with organizations like the American Red Cross, Maui Food Bank and Hawaii Community Foundation. He identified the links for each organization for those interested in providing support for the people of Maui.

Council member Tave asked that the meeting adjourn in Memory of Megan Soriano, Office Manager with Sequoia Real Estate, who had been involved in the small business community in Pinole and in community events.

14. **ADJOURNMENT** to the Regular City Council Meeting of September 5, 2023 in Remembrance of Megan Soriano; Americans lost in Maui, Hawaii, as well as those who were still struggling and who had survived the fires in Maui; and in Remembrance of Amber Swartz.

At 7:48 p.m., Mayor Murphy adjourned the meeting to the Regular City Council Meeting of September 5, 2023 in Remembrance of Megan Soriano; Americans lost in Maui, Hawaii, as well as those who were still struggling and who had survived the fires in Maui; and in Remembrance of Amber Swartz.

Submitted by:



Heather Bell, CMC
City Clerk

Approved by City Council: September 5, 2023

