

## AGENDA FOR THE



## CITY OF PINOLE PLANNING COMMISSION REGULAR MEETING

**Monday, January 23, 2023**

**7:00 P.M.**

Via Zoom Videoconference and In Person

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### **WAYS TO WATCH THE MEETING**

- IN PERSON. Attendance at the Pinole City Council Chambers (2131 Pear St).
- LIVE ON CHANNEL 26. The Community TV Channel 26 schedule is published on the City's website at [www.ci.pinole.ca.us](http://www.ci.pinole.ca.us). The meeting can be viewed again as a retelecast on Channel 26.
- VIDEO-STREAMED LIVE ON THE CITY'S WEBSITE, [www.ci.pinole.ca.us](http://www.ci.pinole.ca.us). and remain archived on the site for five (5) years.
- ZOOM VIDEOCONFERENCE. Zoom details are included below.
- If none of these options are available to you, or you need assistance with public comment, please contact Planning Manager David Hanham at (510) 724-8912 or [ghanham@ci.pinole.ca.us](mailto:ghanham@ci.pinole.ca.us).

### **HOW TO SUBMIT PUBLIC COMMENTS**

#### **In Person:**

Attend meeting at the Pinole City Council Chambers, fill out a yellow public comment card and submit it to the Planning Manager.

#### **Via Zoom:**

Members of the public may submit a live remote public comment via Zoom video conferencing. Download the Zoom mobile app from the Apple Appstore or Google Play. If you are using a desktop computer, you can test your connection to Zoom by clicking [here](#). Zoom also allows you to join the meeting by phone.

**From a PC, Mac, iPad, iPhone or Android:**

<https://us02web.zoom.us/j/86505375301>

**OR**

<https://zoom.us/join>

**Webinar ID: 865 0537 5301**

**By phone:** +1 (669) 900-6833 or +1 (253) 215-8782 or +1 (346) 248-7799

- Speakers will be asked to provide their name and city of residence, although providing this is not required for participation.
- Each speaker will be afforded up to 3 minutes to speak.
- Speakers will be muted until their opportunity to provide public comment.

When the Chair opens the comment period for the item you wish to speak on, please use the “raise hand” feature (or press \*9 if connecting via telephone) which will alert staff that you have a comment to provide. Once you have been identified to speak, please check to make sure you have unmuted yourself in the videoconference application (or press \*6 if connecting via telephone).

### **WRITTEN COMMENTS**

Please submit public comments to Planning Staff before the meeting via email to [ghanham@ci.pinole.ca.us](mailto:ghanham@ci.pinole.ca.us). Please include your full name, city of residence and agenda item you are commenting on.

### **AMERICANS WITH DISABILITIES ACT**

In compliance with the Americans with Disabilities Act of 1990, if you need special assistance to participate in a City meeting or you need a copy of the agenda, or the agenda packet in an appropriate alternative format, please contact the Development Services Department at (510) 724-8912. Notification of at least 48 hours prior to the meeting or time when services are needed will assist the City staff in assuring that reasonable arrangements can be made to provide accessibility to the meeting or service.

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### **CITIZEN PARTICIPATION:**

Persons wishing to speak on an item listed on the Agenda may do so when the Chair asks for comments in favor of or in opposition to the item under consideration. After all of those persons wishing to speak have done so, the hearing will be closed and the matter will be discussed amongst the Commission prior to rendering a decision.

Any person may appeal an action of the Planning Commission or of the Planning Manager by filing an appeal with the City Clerk, in writing, within ten (10) days of such action. Following a Public Hearing, the City Council may act to confirm, modify or reverse the action of the Planning Commission and the Planning Commission may act to confirm, modify, or reverse the action of the Planning Manager. The cost to appeal a decision is \$500 and a minimum \$2,500 deposit fee.

**Note:** If you challenge a decision of the Commission regarding a project in court, you may be limited to raising only those issues you or someone else raised at the public hearing or in writing delivered to the City of Pinole at, or prior to, the public hearing.

## **A. CALL TO ORDER**

### **B1. PLEDGE OF ALLEGIANCE**

**B2. LAND ACKNOWLEDGMENT:** 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.

### **B3. ROLL CALL**

**C. CITIZENS TO BE HEARD:**

The public may address the Planning Commission on items that are within its jurisdiction and not otherwise listed on the agenda. Planning Commissioners may discuss the matter brought to their attention, but by State law (Ralph M. Brown Act), action must be deferred to a future meeting. Time allowed: five (5) minutes each.

**D. MEETING MINUTES:**

**1. Planning Commission Meeting Minutes from December 12, 2022**

**E. PUBLIC HEARINGS:**

At the beginning of an item, the Chair will read the description of that item as stated on the Agenda. The City Staff will then give a brief presentation of the proposed project. The Commission may then ask Staff questions about the item.

For those items listed as Public Hearings, the Chair will open the public hearing and ask the applicant if they wish to make a presentation. Those persons in favor of the project will then be given an opportunity to speak followed by those who are opposed to the project. The applicant will then be given an opportunity for rebuttal.

The Public Hearing will then be closed and the Commission may discuss the item amongst themselves and ask questions of Staff. The Commission will then vote to approve, deny, approve in a modified form, or continue the matter to a later date for a decision. The Chair will announce the Commission's decision and advise the audience of the appeal procedure.

**Note: No Public Hearings will begin after 11:00 p.m. Items still remaining on the agenda after 11:00 p.m. will be held over to the next meeting.**

None

**F. OLD BUSINESS:**

None

**G. NEW BUSINESS:**

**1. Appointment of a Commissioner to the Project Labor Agreement (PLA) Ad Hoc Committee**

Selection of a Planning Commissioner to serve on the PLA Ad Hoc Committee.

**H. CITY PLANNER'S/COMMISSIONER'S REPORT:**

**I. COMMUNICATIONS:**

**J. NEXT MEETING(S):**

Planning Commission Regular Meeting, February 13, 2023 at 7:00PM

**K. ADJOURNMENT**

**POSTED: January 19, 2023**

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**David Hanham**  
**Planning Manager**

## DRAFT

MINUTES OF THE REGULAR MEETING  
PINOLE PLANNING COMMISSION

December 12, 2022

THIS MEETING WAS HELD IN A HYBRID FORMAT  
BOTH IN-PERSON AND ZOOM TELECONFERENCEA. CALL TO ORDER: 7:20 p.m.B1. PLEDGE OF ALLEGIANCE

B2. 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.*

B3. ROLL CALL

Commissioners Present: Banuelos, Benzuly, Menis, Acting Chairperson Kurrent

Commissioners Absent: Vice Chairperson Martinez, Chairperson Moriarty

Staff Present: David Hanham, Planning Manager  
Lilly Whalen, Community Development Director  
Alex Mog, Assistant City Attorney  
Justin Shiu, Contract Planner

C. CITIZENS TO BE HEARD

Anthony Vossbrink, Pinole, inquired of the status of the caretaker's home on Adobe Road, which property had been vacant for over a year. While the City Manager had informed him a status report would be provided to the City Council that had not occurred. He expressed concern with rumors in the community regarding the use of the property and suggested its use as a community garden and historical site would be preferred given that the City was losing revenue not leasing the property and since the vacant property was in disrepair and in need of maintenance. An adjoining fire trail on Adobe Road also required some retrofitting to provide ingress/egress access to the back half of Pinole Valley Road, specifically the 3900 block of Pinole Valley Road, which had been blocked with debris and fallen trees. Years ago a prior Fire Chief and Mayor had promised the breach in the fire trail would be repaired.

1 Mr. Vossbrink also asked the status of the Galbreth Road fire trail crossbar closure located  
2 at the end of Galbreth Road where a new barn gate had been installed, although the locks  
3 had been removed from the fire trail cross bar. He questioned why some fire trail cross  
4 bars had been locked and others had not, and asked whether the City had gone on record  
5 that Galbreth Road cross traffic and Rancho Road into the City of El Sobrante would be  
6 addressed.

7  
8 Planning Manager David Hanham explained that staff would have to speak with the Fire  
9 Chief to address concerns with the fire breaks/trails and staff would also have to look into  
10 the status of the caretaker's home. He reported there had been no applications submitted  
11 for the use of that structure.

12  
13 Commissioner Menis reported he had ex parte communications with Mr. Vossbrink about  
14 some of the items he had raised prior to the meeting. He had also sent a notice to  
15 members of the public about the single agenda item to be discussed by the Planning  
16 Commission.

17  
18 **D. MEETING MINUTES**

19  
20 1. Planning Commission Meeting Minutes from October 24, 2022

21  
22 **MOTION** with a Roll Call vote to approve the Planning Commission Meeting Minutes from  
23 October 24, 2022, as shown.

24  
25 **MOTION: Banuelos**

**SECONDED: Benzuly**

**APPROVED: 4-0-2**

**ABSENT: Martinez, Moriarty**

26  
27  
28 **E. PUBLIC HEARINGS**

29  
30 1. **2023-2031 Housing Element Update –Recommendation on Adoption**

31  
32 The Planning Commission is requested to consider making a recommendation to  
33 the City Council for a General Plan Amendment to adopt the 2023-2031 Housing  
34 Element. As an Element of the Pinole General Plan, and in accordance with the  
35 California Government Code, the Housing Element presents a comprehensive set  
36 of housing policies and programs to address identified housing needs for the City  
37 of Pinole for the 2023 through 2031 planning period. The project is exempt from  
38 the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3)  
39 of the State CEQA guidelines (Common Sense Exemption) because (1) it can be  
40 seen with certainty that there is no possibility that the proposed 2023-2031  
41 Housing Element would have a significant effect on the environment, (2) no  
42 property re-zoning is needed to accommodate the City's Regional Housing Needs  
43 Allocation, and (3) potential residential development densities have already been  
44 analyzed and mitigated in an earlier Environmental Impact Report. The full Public  
45 Review Draft Housing Element (issue date: October 14, 2022) can be accessed  
46 online ([www.landuseplanningforpinole.com](http://www.landuseplanningforpinole.com)) or at the Community Development  
47 Department at Pinole City Hall (2131 Pear Street).

1 Planning Manager Hanham presented the staff reported dated December 12, 2022. He  
2 introduced Dan Wery, Housing Element Specialist and Shannon Liska, Planner with  
3 Michael Baker International (MBI), the firm hired to complete the City of Pinole's Housing  
4 Element Update as well as the Social Justice Element and updates to the Safety Element.  
5

6 Mr. Hanham recommended the Planning Commission take the following actions: 1) adopt  
7 Resolution 22-07 recommending: a) The City Council adopt an amendment to the General  
8 Plan to incorporate the revised Draft Housing Element 2023-2031 Update and the  
9 California Environmental Quality Act (CEQA) exemption; b) the City Council authorize the  
10 City Manager to make technical modifications, refinements, and clarifications (including  
11 but not limited to implementation details of the proposed housing plan programs) to the  
12 Housing Element Update without requiring a subsequent hearing and re-adoption; new  
13 goals, policies or programs would require re-adoption; and 2) consider and provide  
14 recommendations on the opportunities for future program development and additional  
15 implementation measures independent of, and subsequent to, the adoption of the Housing  
16 Element.  
17

18 Dan Wery, Housing Element Specialist, MBI, provided a PowerPoint presentation which  
19 included an overview of the purpose of the discussion to review changes to the Housing  
20 Element since the Planning Commission had last met on October 24, 2022, and since the  
21 City Council meeting of November 15, 2022 when changes had been made to the Draft  
22 Housing Element. He reported that the document had been submitted on December 2,  
23 2022 to the State Department of Housing and Community Development (HCD) for its 90-  
24 day review.  
25

26 Some changes recommended by the Planning Commission had been incorporated by the  
27 City Council, some had already been addressed, some required additional revisions and  
28 some could be considered independent of the Housing Element Update. The Planning  
29 Commission was asked to make a recommendation to the City Council on the adoption of  
30 the Draft Housing Element that would be considered by the City Council at its January 17,  
31 2023 meeting.  
32

33 Mr. Wery summarized the Housing Element Revision Summary which included the  
34 addition of the 223-unit Kmart/Pinole Vista site; Revised Site Maps and List, and  
35 Affirmatively Furthering Fair Housing (AFFH) and Sites Chapter, and the addition of No  
36 Net Loss Backup Inventory. Also added to the Housing Element was a glossary of terms,  
37 a translation notice page, updated cost valuation data, more details on community  
38 engagement, documented compliance of the public review process, teacher eligibility for  
39 an owner-tenant matching program and the recently adopted Pinole Communication and  
40 Engagement Plan.  
41

42 Mr. Wery highlighted a table of the Planning Commission's recommendations, which  
43 included how the recommendations would be addressed in the Housing Element contents  
44 and/or required zoning amendments and which recommendations would provide  
45 opportunities for future consideration as shown on Pages 8 through 11 of the December  
46 12, 2022 staff report. He also highlighted maps as part of Future Considerations, including  
47 Religious Institutions and Educational Sites.  
48  
49  
50

1 Mr. Wery identified the project schedule and next steps. He reiterated the Housing  
2 Element had been submitted to HCD on December 2 for the 90-day review period. The  
3 City Council would hold a public hearing on the adoption of the Draft Housing Element on  
4 January 17, 2023. HCD certification or, if necessary, revisions and recirculation of the  
5 Draft Housing Element and resubmittal to HCD had been scheduled for March 2023.  
6 Planning Commission review and recommendation to the City Council for review and re-  
7 adoption had been scheduled for April 2023, and the submittal of the re-adopted and  
8 revised Housing Element to HCD had been scheduled for May 2023.

9  
10 Mr. Wery suggested the City's Draft Housing Element was substantially complete with  
11 State Housing Law and the City of Pinole was far ahead of most cities since the City had  
12 already met much of its Regional Housing Needs Allocation (RHNA) for the next eight  
13 years and only needed another 83 +/- units over that time. The City also had a great Sites  
14 Inventory and Replacement Sites Inventory identified. He hoped that HCD would respond  
15 within the 90-day review period and confirm the City's Draft Housing Element was  
16 substantially compliant with State Housing Law, which would allow the City to start  
17 implementing the programs and policies contained therein. In the event the state found  
18 that the Draft Housing Element was not substantially complete with State Housing Law,  
19 HCD would submit a letter to the City and the City would have to respond hopefully to  
20 minor comments and resubmit a revised draft to HCD for a 60-day review pursuant to the  
21 project schedule.

22  
23 Mr. Wery welcomed comments from the Planning Commission at this time.

24  
25 Acting Chairperson Kurrent was impressed with the work done on the Draft Housing  
26 Element thus far. He had experience with General Plans and Housing Elements and  
27 thanked MBI for its work. He asked for clarification from staff whether the Planning  
28 Commission comments made during its October 24 meeting had been included in the  
29 Draft Housing Element.

30  
31 Mr. Hanham identified a redline version of the Planning Commission comments included  
32 in Table 1, as shown on Pages 4 through 7 of the December 12 staff report that reflected  
33 what had been included in the Draft Housing Element and what had been submitted to  
34 HCD. The redline revisions also occurred after the November 15 City Council meeting  
35 and reflected any changes the City Council had asked to be made. Table 2, as shown on  
36 Pages 8 through 22 of the staff report, included the Planning Commission  
37 Recommendations and Opportunities for Implementation.

38  
39 Acting Chairperson Kurrent commented that it appeared some verbiage was missing  
40 between the Draft Housing Element and the information in the staff report as it related to  
41 the Planning Commission's recommendations.

42  
43 Mr. Hanham explained that any additional Planning Commission future consideration  
44 recommendations would be part of future policies and programs to be added to the  
45 Housing Element.

46  
47 Acting Chairperson Kurrent asked what would happen if the City did not meet the HCD  
48 required deadline of January 31, 2023 for the adoption of the Housing Element.



1 Assistant City Attorney Alex Mog explained that the City Council was scheduled to adopt  
2 the Draft Housing Element on January 17, 2023 prior to the January 31 deadline. In the  
3 event HCD determined the City was not in compliance with State Housing Law, it may  
4 impact the City by the loss of funding from various grants and the “builders remedy” may  
5 come into play. If the City did not have a compliant Housing Element, the City could not  
6 use the Housing Accountability Act (HAA) as the basis to deny a project and there could  
7 be a risk to the City. Staff hoped the Draft Housing Element would be approved even if  
8 the City had to respond to potential revisions to prevent a non-compliant Housing Element  
9 and to prevent the potential for the “builders remedy.” He emphasized it would be the  
10 City’s position when the City Council adopted the Draft Housing Element on January 17,  
11 2023 that it would be adopting a compliant Housing Element and if there were any issues  
12 from HCD they would be addressed as quickly as possible.  
13

14 Acting Chairperson Kurrent recognized it would be prudent for the City to adopt a generally  
15 compliant Housing Element that complied with the state as soon as possible. While there  
16 were things the Planning Commission would like to have as part of future considerations,  
17 he urged the Planning Commission to not modify or recommend any new programs at this  
18 time but review what was before the Commission.  
19

20 Commissioner Menis referenced the staff recommendation as outlined on Page 14 of the  
21 staff report and asked if that meant the Draft Housing Element would include any revisions  
22 the Planning Commission may make at this time, or whether the Commission was being  
23 asked to recommend City Council approval of the document submitted to HCD on  
24 December 2, 2022.  
25

26 Mr. Hanham and Mr. Wery clarified the staff recommendation was to approve the Draft  
27 Housing Element as submitted to HCD on December 2, 2022. Any revisions made would  
28 restart the HCD review clock and delay the process.  
29

30 Commissioner Menis again referenced the staff recommendation as shown on Page 14  
31 of the staff report, specifically subparagraph (b) which read: *The City Council authorize*  
32 *the City Manager to make technical modifications, refinements, and clarifications*  
33 *(including but not limited to implementation details of the proposed housing plan*  
34 *programs) to the Housing Element Update without requiring a subsequent hearing and re-*  
35 *adoption; new goals, policies or programs would require re-adoption.* He asked if that  
36 meant any changes made in the future that would lead to a new goal, policy or program  
37 would lead to a new Housing Element or amendment to the Housing Element.  
38

39 Mr. Wery clarified that additional programs may be considered outside of the Housing  
40 Element as part of future considerations. If the Planning Commission wanted to amend  
41 the Draft Housing Element formally to include those things, that would involve a re-review  
42 from HCD as described.  
43

44 Again referencing the staff recommendation, specifically subparagraph (a) which read:  
45 *The City Council adopt an Amendment to the General Plan to incorporate the revised draft*  
46 *Housing Element 2023-2031 Update and the CEQA exemption,* Commissioner Menis  
47 stated the CEQA exemptions as outlined on Page 13 of the staff report had stated no  
48 changes were being made to the General Plan whereas, in fact, changes had been  
49 proposed to the General Plan as part of the Draft Housing Element. He asked staff to  
50 provide clarification.

1 Assistant City Attorney Mog explained that no changes had been proposed to the land  
2 use designations in the General Plan. He clarified the Housing Element would amend the  
3 General Plan as an element of the General Plan but was not changing any of the permitted  
4 uses in the General Plan. To address the concerns, he suggested the third full whereas  
5 clause as shown on Page 2 of Resolution 22-07, and as shown in Attachment A to the  
6 staff report, could be amended to read:

7  
8 ***WHEREAS, the Housing Element update qualifies for an exemption in the***  
9 ***California Environmental Quality Act (“CEQA”) under CEQA Guidelines Section***  
10 ***15061(b)(3), as the project does not provide entitlements to land use development***  
11 ***projects, nor does it propose development of the identified RHNA sites that could***  
12 ***have an effect on the environment, and no changes to land uses within the City or***  
13 ***changes to the City’s General Plan outside of the Housing Element are proposed;***  
14

15 Assistant City Attorney Mog also detailed Senate Bill (SB) 9 that allowed two units by right,  
16 which would also be exempt from CEQA, and if someone submitted an SB 9 application  
17 to the City it must be approved.  
18

19 Commissioner Banuelos commented on the building of Accessory Dwelling Units (ADUs)  
20 where parking had been an issue in the community, particularly in his neighborhood and  
21 which had not been taken into account as part of SB 9. While he could accept building on  
22 religious institution properties or vacant shopping center sites, he was not okay with over-  
23 densifying existing neighborhoods and was so concerned with the impacts he stated he  
24 may vote against this agenda item.  
25

26 Assistant City Attorney Mog acknowledged the concerns but again stated that SB 9 was  
27 a state law and the City was stuck with it, but the City had some flexibility to adopt  
28 regulations related to ADUs.  
29

30 The Planning Commission discussed at length concerns related to ADUs, SB 9 and that  
31 if the City did not have a certified Housing Element it could be placed at greater risk.  
32

33 Assistant City Attorney Mog suggested as the policies, programs and implementation  
34 steps came before the Planning Commission that was the time to provide feedback on the  
35 specifics.  
36

37 Mr. Hanham added no changes were being proposed to densities, intensities or zoning  
38 but something could be amended in the future.  
39

40 Commissioner Menis again referenced the staff recommendation and his understanding  
41 based on the verbiage that the implementation of the Housing Element programs would  
42 skip the Planning Commission process, although Assistant City Attorney Mog explained  
43 the implementation details had shown how the program would be implemented. As an  
44 example, if the City were to adopt a Just Cause Eviction Ordinance, it was an ordinance  
45 that would require City Council approval. As another example, the implementation details  
46 could include changing the timeline of implementation of a program from three to two  
47 years. The actual implementation would still need to go through the appropriate legislative  
48 body and any ordinance required City Council approval.  
49

1 Commissioner Menis referenced Page 22 of the Housing Element Update and the 5<sup>th</sup>  
2 Cycle Program for Accessible Units for the Physically Disabled, Program H.4.8 and the  
3 Continued Appropriateness recommendation to *remove completed reasonable*  
4 *accommodation procedure*. He recalled that was due to the accommodations being  
5 integrated into the State Building Code the City had recently adopted and he asked staff  
6 to provide clarification, and Mr. Hanham explained the requirements for Program H.4.8  
7 were in the State Building Code.

8  
9 Commissioner Menis referenced Page 17, Housing Construction Program H.4.2, and  
10 asked whether there were any 6<sup>th</sup> Cycle Programs that could be referenced and was  
11 informed by Mr. Hanham the program was not tied to anything in particular.

12  
13 Commissioner Menis referenced Page 16, Rehabilitation Assistance Program H.2.3, with  
14 the Continued Appropriateness to: *Retain/Modify. Increase program specificity, language,*  
15 *and metrics, including setting a geographic target for assistance*. He asked whether the  
16 City had existing metrics and if so whether that information was available to the public.

17  
18 Shannon Liska, Planner, MBI explained that the same table had shown the program from  
19 the 5<sup>th</sup> Cycle Housing Element with the new program to go off of the previous metrics and  
20 which targeted the number of units.

21  
22 Commissioner Menis asked whether the City had met those goals in the current 5<sup>th</sup> cycle  
23 Housing Element, to which Mr. Wery stated he was unsure but the goals were still good  
24 goals that could be retained and carried forward.

25  
26 Community Development Director Lilly Whalen stated she would look into whether or not  
27 there were any records of existing goals being met.

28  
29 Commissioner Menis added the document also mentioned in multiple locations the City's  
30 recently adopted Communication and Engagement Plan. He requested that a hyperlink  
31 be included in the digital documents as well as any associated documents.

32  
33 Acting Chairperson Kurrent referenced Table 63, Planning Related Fees, as shown on  
34 Page 99 of the document, particularly the last entry for Variance, Single Family Variance,  
35 and with the fee shown to be incorrect and which should be corrected.

36  
37 Mr. Wery explained that was a good example of a technical change that could be made  
38 absent a public hearing and that entry would be corrected to read \$1,650.

39  
40 Contract Planner Justin Shiu reported that Chairperson Moriarty had provided written  
41 comments which he read into the record at this time. Chairperson Moriarty had no major  
42 issues, was pleased with the additions and inclusion of the Environmental Justice Element  
43 language, but noted that Page 8 regarding the new public review period contained  
44 repeated sentences in paragraphs two and three. The Chair also appreciated the  
45 references throughout the document to the Communication and Engagement Plan, found  
46 Table 73, as shown on Page 165 to be helpful but the Appendix A Map was different from  
47 the original, and she assumed the update had been reflected in Appendix B since the  
48 original map was missing Sites 30 through 44, which apparently did not exist.

49  
50 PUBLIC HEARING OPENED

1 There were no comments from the public.

2  
3 PUBLIC HEARING CLOSED

4  
5 Acting Chairperson Kurrent recognized there were many issues that needed to be  
6 addressed in the future but he wanted the Planning Commission to focus on obtaining  
7 HCD approval and focus on the December 2 Draft of the Housing Element as submitted  
8 to HCD.

9  
10 Commissioner Banuelos stated he was okay with most of the information conceptually,  
11 but hoped that tweaking would be allowed in the future. He remained distrustful given the  
12 last General Plan and Zoning Ordinance Update ten years ago when the forecast was that  
13 Pinole would grow about 5 percent, although the RHNA had suggested the City would  
14 grow almost 7 percent leading him to the opinion that the people calculating the RHNA did  
15 not know what they were talking about. He noted the City had quit the Association of Bay  
16 Area Governments (ABAG) for around a year and a half at that time, with the knowledge  
17 the City would lose money from available grants, and his mistrust of the state and the  
18 entire system was that the RHNA numbers were bogus. He was aware they had to start  
19 somewhere and he would likely vote for the item although he really did not support it.

20  
21 Acting Chairperson Kurrent understood the concerns about the ABAG numbers that were  
22 shared by many cities.

23  
24 Commissioner Banuelos commented that he could support some of the ideas in the  
25 document. He recognized that people who had nowhere to go needed help. He cited a  
26 former redevelopment project for three small homes on Buena Vista where one of the  
27 homes had been purchased by a teacher. He urged caution when moving forward to be  
28 careful with what they were doing.

29  
30 Commissioner Benzuly was generally okay with the Housing Element as submitted and  
31 found that everything looked okay. He understood there was a timing element that  
32 required the City to have something approved by January 31, 2023. While not perfect,  
33 the City had to have something given the risks and potential exposure.

34  
35 Commissioner Menis referenced Exhibit B, Notice of Exemption, and suggested the  
36 Applicability of Statutory Exemption Section 15061 (b)(3) of the State CEQA Guidelines,  
37 as shown on the CEQA Statutory Exemption 15061 (b)(3) Findings, be amended, with the  
38 second to last sentence under this section to be eliminated, and which currently read: *No*  
39 *changes to land uses within the City or changes to the City's General Plan are proposed,*  
40 *since changes were being made to the City's General Plan.*

41  
42 Commissioner Menis was pleased with Table 1 and the memorandum included on Page  
43 4 in the Housing Element, which had shown the City would have sufficient backup sites to  
44 meet the Low Income housing obligations. As to the Place Based Improvements as shown  
45 on Page 6, he appreciated flagging the highlighted points in the future Environmental  
46 Justice Element, as shown. With respect to Page 11 and the discussion of the Just Cause  
47 Eviction Ordinance, he suggested it would be interesting to look at that in the future.

1 Commissioner Menis appreciated the note of translation services on the back of the first  
2 page, which was important to have prior to the table of contents and he applauded staff  
3 for having that information at the beginning of the document. He stated most of his  
4 comments had been made at the prior Planning Commission meeting.

5  
6 Acting Chairperson Kurrent was hesitant to communicate to HCD there were other  
7 potential sites in the City for potential housing development because if they were not  
8 developed within two cycles of the Housing Element they would not be eligible for inclusion  
9 in the next update. He stated it was good to have the knowledge of those sites in reserve  
10 but he would rather not communicate that information to HCD.

11  
12 Commissioner Menis understood the point was not to have those sites be included in the  
13 sites inventory but if there was an issue with the sites inventory the backup was there.

14  
15 Mr. Hanham explained that additional sites had not been mentioned but if needed could  
16 be identified as additional sites if a site was undevelopable for one reason or another when  
17 the City would have the ability to bring in additional sites.

18  
19 Acting Chairperson Kurrent acknowledged that affordable housing had a stigma for many  
20 but affordable housing was vital for people in the community, was more like workforce  
21 housing, and he understood some cities had been adamant about not allowing affordable  
22 housing in their communities. He wished the state would do a better job enforcing the  
23 rules for all.

24  
25 Acting Chairperson Kurrent suggested that when new Planning Commissioners were  
26 appointed to the Planning Commission would be the perfect time to consider the Planning  
27 Commission recommendations and consider a Just Cause Eviction Ordinance. Had there  
28 been more time, he would have liked to have had those Planning Commission  
29 recommendations incorporated into the Housing Element, but given the timeline the City  
30 had to meet to have a certified Housing Element made that impossible.

31  
32 Commissioner Menis offered a motion to approve the staff recommendation, subject to:

- 33  
34 • Revise the third full whereas clause as shown on Page 2 of Resolution 22-07 to  
35 read:

36  
37 ***WHEREAS,** the Housing Element update qualifies for an exemption in the*  
38 *California Environmental Quality Act (“CEQA”) under CEQA Guidelines Section*  
39 *15061(b)(3), as the project does not provide entitlements to land use development*  
40 *projects, nor does it propose development of the identified RHNA sites that could*  
41 *have an effect on the environment, and no changes to land uses within the City*  
42 *are proposed; and*

- 43  
44 • Exhibit B, Notice of Exemption, Applicability of Statutory Exemption Section 15061  
45 (b)(3) of the State CEQA Guidelines, as shown on the California Environmental  
46 Quality Act (CEQA) Statutory Exemption 15061 (b)(3) Findings, to be amended,  
47 with the second to last sentence under this section to be eliminated and which  
48 currently read:

1                    *No changes to land uses within the City or changes to the City's General Plan are*  
2                    *proposed since changes were being made to the City's General Plan.*

3  
4                    On the motion, Commissioner Banuelos asked if the changes proposed were made to the  
5                    resolution whether the City would be open to requiring more changes.

6  
7                    Assistant City Attorney Mog suggested nothing was proposed to change the General Plan  
8                    outside of the Housing Element. As an alternative, he reiterated his recommendation to  
9                    amend the third full whereas clause as shown on Page 2 of Resolution 22-07, to read:

10  
11                    **WHEREAS**, the Housing Element update qualifies for an exemption in the  
12                    California Environmental Quality Act ("**CEQA**") under CEQA Guidelines Section  
13                    15061(b)(3), as the project does not provide entitlements to land use development  
14                    projects, nor does it propose development of the identified RHNA sites that could  
15                    have an effect on the environment, and no changes to land uses within the City or  
16                    changes to the City's General Plan outside of the Housing Element are proposed;

17  
18                    Assistant City Attorney Mog added the City Council may decide to change the General Plan  
19                    in the future but that would require CEQA review.

20  
21                    **MOTION** with a Roll Call vote to adopt Resolution 22-07, A Resolution of the Planning  
22                    Commission of the City of Pinole, Recommending to the City Council the Approval of General  
23                    Plan Amendment 22-02 for Adoption of the 2023-2031 Housing Element and Approval of the  
24                    CEQA Exemption Pursuant to CEQA Guidelines Section 15061(b)(3) for the 2023-2031  
25                    Housing Element Update, with Exhibit A: 2023-2031 Housing Element and Exhibit B: Notice  
26                    of Exemption, subject to:

- 27  
28                    • Revise the third full whereas clause as shown on Page 2 of Resolution 22-07 to  
29                    read:

30  
31                    **WHEREAS**, the Housing Element update qualifies for an exemption in the  
32                    California Environmental Quality Act ("**CEQA**") under CEQA Guidelines Section  
33                    15061(b)(3), as the project does not provide entitlements to land use development  
34                    projects, nor does it propose development of the identified RHNA sites that could  
35                    have an effect on the environment, and no changes to land uses within the City  
36                    are proposed; and

- 37  
38                    • Exhibit B, Notice of Exemption, Applicability of Statutory Exemption Section 15061  
39                    (b)(3) of the State CEQA Guidelines, as shown on the California Environmental  
40                    Quality Act (CEQA) Statutory Exemption 15061 (b)(3) Findings, to be amended,  
41                    with the second to last sentence under this section to be eliminated and which  
42                    currently read: *No changes to land uses within the City or changes to the City's*  
43                    *General Plan are proposed since changes were being made to the City's General*  
44                    *Plan.*

45  
46                    **MOTION: Menis**

47                    **SECONDED: Banuelos**

48                    **APPROVED: 4-0-2**

49                    **ABSENT: Martinez, Moriarty**

50                    Mr. Shiu described the 10-day appeal process of a decision of the Planning Commission  
in writing to the City Clerk subject to applicable fees.

1 Acting Chairperson Kurrent again expressed his appreciation to the consultants and staff  
2 for their work on the Housing Element and urged residents to read the document.

3  
4 Commissioner Menis also expressed his gratitude for the work of the consultants and City  
5 staff and the feedback from the community.

6  
7 **F. OLD BUSINESS:** None

8  
9 **G. NEW BUSINESS**

10  
11 **1. Planning Commission Regular Meeting Schedule 2023**

12 Reviewing and Adopting the Planning Commission Regular Meeting Schedule  
13 dates in 2023

14  
15 The Planning Commission reviewed the proposed Planning Commission Regular Meeting  
16 Schedule for 2023 and made no changes.

17  
18 Mr. Hanham advised that a two-meeting format had been proposed to allow for flexibility  
19 of time and any meeting could be canceled, if needed.

20  
21 **MOTION** with a Roll Call vote to adopt the Planning Commission Regular Meeting Schedule  
22 Dates for 2023, as shown.

23  
24 **MOTION: Banuelos**

**SECONDED: Menis**

**APPROVED: 4-0-2**

**ABSENT: Martinez, Moriarty**

25  
26  
27 **H. CITY PLANNER'S / COMMISSIONERS' REPORT**

28  
29 Mr. Hanham reported that staff continued to process the Pinole Shores II project; the building  
30 on the Doctor's Hospital site had been demolished; staff was working on the objective  
31 standards program and staff would be bringing forward parklet regulations in the New Year.

32  
33 Commissioner Benzuly inquired of the status of the Satellite Affordable Housing Associates  
34 (SAHA) project, and Mr. Hanham reported the applicant had some funding fallout but had  
35 ultimately been able to secure additional funding and staff was reviewing the plan sets with  
36 the project to move forward.

37  
38 Commissioner Menis referenced an article in the San Francisco Chronicle dated October 30,  
39 2022 about rain gardens implemented in the City of San Francisco. He requested a future  
40 agenda item to discuss the idea.

41  
42 Commissioner Menis also reported he had ex parte communications with Tony Vossbrink  
43 who had requested the following as future agenda items: Pinole Community Television  
44 (PCTV) to have the public information to access Zoom meetings be identified on the banner  
45 for televised meetings for City Council and Planning Commission meetings; asked of the  
46 costs to the City incurred by ADUs and tenants/renters if not reported to the City, and asked  
47 whether the City had enough code enforcement officers to meet current and future demands,  
48 which Commissioner Menis recognized may not necessarily be future agenda items but were  
49 items staff should evaluate.

1 Mr. Hanham advised the PCTV banner could easily be modified. He would discuss the other  
2 matters with the Community Development Director to see what could be done and the  
3 Planning Commission would be updated.  
4

5 Acting Chairperson Kurrent also commented that the City's Tree Ordinance was not fully  
6 understood by residents and was an area where better enforcement was needed. He  
7 suggested that rain gardens may be something the Pinole Garden Club may be interested in  
8 considering.  
9

10 Commissioner Banuelos asked the status of the Historic Overlay District, and was informed  
11 by Assistant City Attorney Mog the City Council had decided not to move forward.  
12

13 Commissioner Menis explained that two Council members had to recuse themselves from  
14 discussing the item due to the proximity of their residences leaving three Council members  
15 to move the item forward, although there had not been three votes to do that and the item  
16 died.  
17

18 Commissioner Banuelos was disappointed the item had fallen through given the staff time  
19 spent to prepare the item.  
20

21 In response to Commissioner Menis, Assistant City Attorney Mog acknowledged that if the  
22 new City Council wanted to consider the item as a future agenda item and move forward that  
23 could be a consideration but at this point the City Council had decided not to move forward.  
24 He added if more than three Council members had to recuse themselves on an item, there  
25 was a process to bring back a third Council member to achieve a quorum. He confirmed the  
26 City Council had heard the concerns about not moving the item forward.  
27

28 Acting Chairperson Kurrent commented on the parklet regulations, his understanding few  
29 businesses would be affected, and questioned whether the regulations were needed, but Mr.  
30 Hanham explained that some existing businesses wanted to retain the parklets on their  
31 property. Staff was considering parklet/outdoor dining regulations and maintenance  
32 considerations, which would all come back to the Planning Commission at the time the item  
33 was presented.  
34

35 **I. COMMUNICATIONS:** None  
36

37 **J. NEXT MEETING**  
38

39 The next meeting of the Planning Commission to be a Regular Meeting scheduled for  
40 January 9, 2023 at 7:00 p.m.  
41

42 **K. ADJOURNMENT:** 9:20 p.m.  
43

44 Transcribed by:  
45

46 Sherri D. Lewis  
47 Transcriber  
48





# Memorandum

**TO:** PLANNING COMMISSION MEMBERS

**FROM:** David Hanham, Planning Manager

**SUBJECT:** Appointment of a Commissioner to the Project Labor Agreement (PLA) Ad-Hoc Committee

**DATE:** January 23, 2023

## PURPOSE

Appointment of a Planning Commissioner to serve on the Project Labor Agreement (PLA) Ad-Hoc Committee.

## BACKGROUND

The City Council requested that City staff provide information on Project Labor Agreements (PLAs) and assemble a PLA Ad-Hoc Committee, which would include one appointed Planning Commissioner. The Committee would review PLA agreements on capital projects for the City of Pinole. Recently, the City used a PLA for Sewer Expansion Project. A PLA is defined as a pre-hire collective bargaining agreement between a construction project sponsor/owner and one or more labor organizations that establishes terms and conditions of employment for a specific construction project or projects. PLAs are also sometimes referred to as Community Workforce Agreements. PLA's typically address challenges commonly associated with complex construction projects, such as avoiding labor disruptions, while providing specific benefits by setting participation goals for local businesses.

PLAs are described in Title 29, Section 158(f) of the United States Code. Public Contract Code 2500(a) enables cities to utilize PLAs.

PLAs must have specific taxpayer protection provisions, including the following:

1. The agreement prohibits discrimination based on race, national origin, religion, sex, sexual orientation, political affiliation, or membership in a labor organization in hiring and dispatching workers for the project.
2. The agreement permits all qualified contractors and subcontractors to bid for and be awarded work on the project without regard to whether they are otherwise parties to collective bargaining agreements.

3. The agreement contains an agreed-upon protocol concerning drug testing for workers who will be employed on the project.
4. The agreement contains guarantees against work stoppages, strikes, lockouts, and similar disruptions of the project.
5. The agreement provides that a neutral arbitrator shall resolve disputes arising from the agreement.

### **ANALYSIS**

The City of Pinole has entered PLAs on individual City construction projects in the past. For example, the City entered into a PLA when it performed the Water Pollution Control Plant Upgrade

Several jurisdictions have utilized PLAs on individual projects, including Hayward, Martinez, Sacramento, San Francisco, San Jose, and Watsonville. As a result of their successful experience with PLAs, they have adopted policies that require use of PLAs on public construction projects that meet certain criteria and have established overarching PLAs with the relevant labor organizations in their jurisdictions. The overarching PLA establishes terms and conditions on projects that meet specific requirements and thresholds.

PLAs usually address wage irregularities and ensures a minimum level of local business participation in the public contracts. Local business participation requirements help local construction labors, trucking, suppliers etc. PLAs seems to benefit local economy, promotes local hires, and offers project stability related to labor disputes. A criticism of PLAs is that they increase the cost of construction by requiring payment of union wages to non-union workers. All public contract projects are required to pay prevailing wages (per the public contract code) and are comparable to the union wages.

Most of the PLA agreements reviewed by staff had similar language but differed on the project thresholds, local hiring goals, and inclusion of a disadvantaged resident program.

- **Project Thresholds**

The application of the policy in several of the PLAs reviewed was determined by a construction project's minimum bid amount (the "Threshold"). For example, after forming an Ad-Hoc Committee and discussing the item with key staff members, the City of Martinez adopted a policy with a threshold of \$500,000. The City of Watsonville has determined its threshold to be on all competitively bid public works construction projects with a projected construction cost of \$600,000. The City of Hayward's Community Workforce Agreement covers all construction projects with a minimum cost of \$1,000,000.

- **Local Hiring Goals**

Several cities found that the construction jobs that are created by City-funded projects can be used to facilitate their local hire goals (i.e., hiring from a socio-economic group, within a certain geographic boundary, certain income boundary etc.). The City of Watsonville determined that project labor agreements have proven to be a valuable vehicle for accomplishing their local hire goals, and

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their City-Wide PLA policy was written to include any local hire ordinance adopted by the City of Watsonville. The City-Wide PLA agreement entered into by the City of Hayward included a goal that Hayward residents perform a minimum of thirty (30%) of the hours worked on a craft-by-craft basis.

- Inclusion of a Disadvantaged Resident Program

The City of Hayward's City-Wide PLA recognized a desire to facilitate the entry of veterans who are interested in careers in the building and construction industry and agreed to utilize the services of the Center for Military Recruitment, Assessment and Veteran's Employment Center and the "Helmets to Hardhats" program to serve as a resource for employment opportunities and training to the extent permitted by law. The City of Watsonville's PLA also requires the use of the "Helmets to Hardhats" program to assist returning veterans in obtaining employment and training opportunities on public works construction projects.

Cities often take the following steps to determine what an overarching PLA should contain:

1. formation of ad-hoc council subcommittee to study the item in further detail;
2. presentations and study sessions to the City Council;
3. meetings between senior staff members of the city and local union groups where specific terms were negotiated; and
4. preparation of a draft PLA for the Council to consider at a publicly held City Council meeting.

**STAFF RECOMMENDATION**

Staff recommends that the Planning Commission appoint a Planning Commissioner to the Project Labor Agreement (PLA) Ad-Hoc Committee.