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**MINUTES OF THE REGULAR
PINOLE PLANNING COMMISSION**

August 24, 2020

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**DUE TO THE STATE OF CALIFORNIA'S DECLARATION OF EMERGENCY – THIS
MEETING WAS HELD PURSUANT TO AUTHORIZATION FROM GOVERNOR
NEWSOM'S EXECUTIVE ORDERS – CITY COUNCIL AND COMMISSION MEETINGS
WERE NO LONGER OPEN TO IN-PERSON ATTENDANCE. THE MEETING WAS
HELD VIA ZOOM TELECONFERENCE.**

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A. CALL TO ORDER: 7:03 P.M.

B. PLEDGE OF ALLEGIANCE AND ROLL CALL

Commissioners Present: Flashman, Moriarty, Murphy*, Wong, Chair Kurrent
*Arrived after Roll Call

Commissioner Absent: Ojeda

Staff Present: David Hanham, Planning Manager
Tamara Miller, Development Services Director/
City Engineer
Justin Shiu, Contract Planner
Misha Kaur, Senior Project Manager
Alex Mog, Assistant City Attorney

C. CITIZENS TO BE HEARD

Planning Manager David Hanham reported no comments had been received via
e-mail to be read into the record.

D. CONSENT CALENDAR

1. Planning Commission Meeting Minutes from July 27, 2020

Chair Kurrent requested an amendment to Lines 16 through 18 of Page 3 of the July
27, 2020 Planning Commission Meeting Minutes, as follows:

*The modified shipping container to be used by staff to be able to make drinks
and serve food would face out and into the property with the main door being
the entrance for staff. The interior layout of the container was clarified.*

MOTION to adopt the Planning Commission Meeting Minutes from July 27, 2020, as
amended.

1
2 **MOTION: Moriarty**

3 **SECONDED: Flashman**

4 **APPROVED: 5-0-1**

5 **ABSENT: Ojeda**

6
7 **E. PUBLIC HEARINGS:**

8 **1. Conditional Use Permit CUP 20-04: East Bay Coffee Alcohol Service in**
9 **Outdoor Dining**

10 **Request:** Consideration of a use permit request to sell beer and wine in
11 an outdoor dining area at East Bay Coffee, 2529 San Pablo
12 Avenue.

13
14 **Applicant:** Lisa Ancira
15 2529 San Pablo Avenue
16 Pinole, CA 94564

17
18 **Location:** 2529 San Pablo Avenue (APN: 401-184-015)

19
20 **Planner:** David Hanham

21
22 Commissioner Moriarty identified a potential conflict of interest given the proximity of
23 her personal residence to the subject site. She had been instructed to log off from
24 Zoom and watch the discussion via the City's website and/or Channels 26 or 99.

25
26 Planning Manager Hanham provided a PowerPoint presentation of the request for a
27 use permit to sell beer and wine in an outdoor area at East Bay Coffee located at
28 2529 San Pablo Avenue. He recommended the Planning Commission adopt
29 Resolution 20-14 approving a use permit request (CUP 20-04) which permits beer
30 and wine sales within the existing East Bay Coffee Company Café, subject to the
31 conditions of approval contained in Exhibit A to Attachment A of the staff report dated
32 August 24, 2020.

33
34 Responding to the Commission, Mr. Hanham clarified the following:

- 35
36
 - 37 • The area for outdoor dining with alcohol service would be enclosed by a 6-
38 foot high fence and acknowledged the business may be the only
39 establishment in Old Town Pinole and in the Mixed Use Zoning District which
40 allowed the sale of alcohol outdoors, but staff understood some restaurants
41 located on Fitzgerald Drive allowed alcohol sales as part of outdoor dining,
42 which would have to be verified.
 - 43 • A local resident had contacted staff expressing concern with the application
44 although a formal letter had not been submitted to the Planning Commission.

45

1 The resident's concerns included parking around the area, potential noise
2 impacts particularly with alcohol service outdoors, and whether there would
3 be any outside events. Staff had advised a separate permit would be required
4 for the approval of any outdoor events.
5

- 6 • All conditions of approval as part of the approval of a Conditional Use Permit
7 (CUP) for outdoor dining for East Bay Coffee Company, as approved by the
8 Planning Commission during its July 27, 2020 meeting, had also been
9 included in the conditions of approval for the current application (CUP 20-04).
10
- 11 • The applicant had expressed the willingness to provide patrons information
12 on available parking in the area, and Condition 13 of Resolution 20-14
13 identified the location for employee parking and location of public parking lots.
14
- 15 • Condition 30 would require the outdoor area to be surrounded by a 6-foot high
16 fence with one point of entry for patrons, with the design to be reviewed and
17 approved by the Planning Manager. The Planning Commission would be
18 updated on the approved fence design.
19

20 PUBLIC HEARING OPENED

21
22 LISA ANCIRA, Business Owner/Applicant, 2529 San Pablo Avenue, was excited
23 about the potential for the space that would add to what was available in Pinole. The
24 proposal for alcohol service in the outdoor dining area would be consistent with the
25 East Bay Coffee Company brand. She acknowledged staff recognition that the
26 business had been a good neighbor and a great addition to Old Town Pinole.
27

28 Mr. Hanham advised no comments had been received via e-mail for this item
29

30 PUBLIC HEARING CLOSED

31
32 The Planning Commission discussed the application and offered the following
33 comments and/or direction to staff:
34

- 35 • Cautiously supported the idea and the potential that this would be a unique
36 situation if indeed it would be the first time alcohol sales would be permitted
37 in an outdoor dining area; recognized the outdoor dining area would be fenced
38 in and the outdoor dining area directly linked to the main restaurant; and
39 supported the idea but also acknowledged other businesses may want the
40 same privilege but may not own or lease their outdoor spaces. (Wong)
41
- 42 • Understood that some businesses located on Fitzgerald Drive such as Mel's
43 Diner allowed alcohol service in an expanded outdoor dining area; recognized
44 the property was unique in that it had outdoor space that would expand the
45 property as opposed to other establishments in Old Town Pinole; and

recommended that staff review the Planning Commission comments from its July 27, 2020 meeting related to the fence design prior to staff's approval of the fence design. (Kurrent)

- Recommended staff review whether any Design Guidelines for the downtown would be applicable to the fence design prior to staff approval; clarified with staff the Specific Plan for the Downtown Core Area would also be reviewed to ensure compliance with design standards; and supported the staff advisement to the Planning Commission of the approved fence design. (Murphy)
- Mel's Diner had an approved temporary use permit for outdoor dining in the parking lot due to COVID-19 restrictions for indoor dining. (Wong)
- Remained concerned with the proximity of the fence to the sidewalk which should be taken into consideration as part of the discussions of the fence design; and noted that many establishments in Pinole had been allowed to have outdoor dining subject to a temporary use permit due to COVID-19 restrictions but staff was uncertain how many involved the sale of alcohol. (Flashman)

Mr. Hanham clarified that all of the temporary use permits for outdoor dining had also been allowed to sell alcohol. Once COVID-19 restrictions were lifted, the temporary use permits would be null and void and the establishments required to stop the sale of alcohol as part of outdoor dining. Businesses desirous to continue would be required to obtain approval from the Planning Commission for a CUP for outdoor dining and/or outdoor alcohol service. Once the Planning Commission had approved the CUP for outdoor dining for East Bay Coffee Company during its July 27 meeting, the temporary use permit the business had for outdoor dining became null and void. The business was unable to serve alcohol until the Planning Commission had approved CUP 20-04.

MOTION to adopt Resolution 20-14, a Resolution of the Planning Commission of the City of Pinole, County of Contra Costa, State of California, Approving a Conditional Use Permit to Allow On-Site Alcohol Sales for the East Bay Coffee Company Outdoor Patio Located at 2529 San Pablo Avenue, Pinole, CA 94564, APN: 401-184-015, subject to the Conditions of Approval contained in Exhibit A.

MOTION: Flashman SECONDED: Murphy APPROVED: 4-0-2
ABSENT: Moriarty, Ojeda

Chair Kurrent identified the 10-day appeal process of a decision of the Planning Commission in writing to the City Clerk.

Commissioner Moriarty returned to the meeting via teleconference.

1 **2. Design Review DR17-10, Tentative Parcel Map TSM17-01,**
2 **Development Agreement DA17-01: Four new single-family residences,**
3 **four-lot subdivision, and Development Agreement for public**
4 **improvements.**

5
6 **Request:** Consideration of a design review, Tentative Parcel Map, and
7 Development Agreement request to develop the vacant lot
8 identified as APN 402-013-060 at the end of Hazel Street. The
9 project proposes the subdivision of the lot into four new parcels,
10 development of a single-family residence on each new parcel,
11 and execution of a Development Agreement to make public
12 improvements, including the extension of Hazel Street.

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14 **Applicant:** Baljit Dhaliwal
15 1068 Turquoise Drive
16 Hercules, CA 94547

17
18 **Location:** Hazel Street (APN: 402-013-060)

19
20 **Planner:** David Hanham

21
22 Mr. Hanham outlined the request for design review, Tentative Parcel Map, and
23 Development Agreement request to develop the vacant lot identified as APN 402-
24 013-060 at the end of Hazel Street. The project proposed the subdivision of the lot
25 into four new parcels, development of a single-family residence on each new parcel,
26 and execution of a Development Agreement (DA) to make public improvements,
27 including the extension of Hazel Street. The DA was not ready for review at this time
28 which impacted the Tentative Parcel Map and Design Review. All of the actions
29 involved a recommendation to the City Council since the DA must be approved by
30 the City Council.

31
32 Mr. Hanham requested the Planning Commission continue the item to the regularly
33 scheduled Planning Commission meeting of September 28, 2020. He also reported
34 a number of comments had been received for the item which would be read into the
35 record.

36
37 Responding to the Commission, Mr. Hanham clarified the following:

- 38
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 - 40 • Projects that had been included in the Pinole Capital Improvement Program
41 (CIP) related to this project involved improvements to the City's capital
42 improvement structure and storm drain requirements the City would be paying
43 for, as examples, all of which would be detailed in the DA.

44 Commissioners looked forward to seeing the complete package for the project and
45 the improvements to Hazel Street, with a request the packet for the item be provided

1 to Commissioners in a timely manner prior to the next Planning Commission meeting.

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3 PUBLIC HEARING OPENED

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5 The following speakers submitted written comments via email that were read into the
6 record and to be filed with the agenda packet for this meeting: **Don McKinney,**
7 **Alvaro Gomez, Michelle Thompson,** and **Rafael Menis.**

8
9 Mr. Hanham confirmed the Planning Commission Design Review Subcommittee
10 could review the project prior to Planning Commission consideration with a meeting
11 required to be scheduled in the next few weeks; however, new Subcommittee
12 members would have to be appointed which could not be done at this time since the
13 item had not been agendaized. The former members of the Subcommittee could meet
14 to review the item with a replacement assigned to replace former Chair Brooks. He
15 understood that with the existing Planning Commission at six members, three
16 Commissioners serving on the Subcommittee would not constitute a quorum or
17 violate Brown Act regulations.

18
19 Chair Kurrent expressed the willingness to serve in replacement of former Chair
20 Brooks, along with Commissioners Flashman and Ojeda to serve on the Planning
21 Commission Design Review Subcommittee, with Mr. Hanham advising that a
22 meeting should be held in-person to allow review of materials which could be
23 accommodated at the City Hall Offices. As an alternative, the meeting could be
24 conducted via Zoom with a PowerPoint presentation prepared for the project.

25
26 There was consensus that the Planning Commission Design Review Subcommittee
27 meeting be held remotely via Zoom with staff to contact members of potential meeting
28 dates.

29
30 **MOTION** to Continue Design Review DR17-10, Tentative Parcel Map TSM17-01,
31 Development Agreement DA17-01: Four new single-family residences, four-lot
32 subdivision, and Development Agreement for public improvements, to a date
33 certain of September 28, 2020, with the Planning Commission Design Review
34 Subcommittee to meet prior to the September 28, 2020 Planning Commission
35 meeting.

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37 **MOTION: Murphy**

SECONDED: Moriarty

APPROVED: 5-0-1

ABSENT: Ojeda

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40 **3. Water Efficient Landscape Ordinance Update (ZCA 20-03)**

41
42 **Request:** Consideration of amendments to the Pinole Municipal Code to
43 update regulations regarding water efficiency landscape
44 requirements under Chapter 15.54 for consistency with State
45 law. Consideration shall be made on whether to recommend
46 adoption of the amendments to City Council.

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2 **Applicant:** City of Pinole

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4 **Location:** Citywide

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6 **Planner:** Justin Shiu

7
8 Contract Planner Justin Shiu provided a PowerPoint presentation of the Water
9 Efficient Landscape Ordinance Update, and recommended the Planning
10 Commission adopt Resolution 20-15 recommending to the City Council the approval
11 of Pinole Municipal Code (PMC) Amendments regarding water efficient landscapes
12 in Chapter 15.54, as proposed in Code Amendment (ZCA) 20-03.

13
14 Responding to the Commission Mr. Shiu and Mr. Hanham clarified:

- 15
16
 - The language in the Water Efficient Landscape Ordinance came directly from
17 State law with no need for regional collaboration at this time.

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19 PUBLIC HEARING OPENED

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21 Mr. Hanham reported no comments had been received via e-mail to be read into
22 the record for this item.

23
24 PUBLIC HEARING CLOSED

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26 The Planning Commission discussed the Water Efficient Landscape Ordinance
27 Update and offered the following comments and/or direction to staff:

- 28
29
 - Recommended General Plan Policies SE9.4 and SE9.5 be outlined and
30 added to the memorandum and presented to the City Council as part of the
31 Planning Commission recommendation. Recommended Section 15.54.026,
32 Landscape Design Plan of Exhibit A include hot links to some of the guidelines
33 mentioned, including the Sunset Western Climate Zone and Fuel Modification
34 Plan Guidelines, and U. C. Berkeley Botanical Garden. Clarified with staff the
35 code enforcement and compliance mechanisms for Section 15.54.036,
36 Landscape and Irrigation Maintenance Schedule. Appreciated the inclusion
37 of standards in Section 15.54.044, Graywater Systems and Section
38 15.54.046, Stormwater Management and Rainwater Retention, and clarified
39 the City provided information on water efficient landscaping in Section
40 15.54.048, Public Education. Staff had discussed handouts that could be
41 provided to the public in the future offering a better sense to homeowners and
42 applicants as to how the Water Efficient Landscaping Ordinance would apply
43 to a specific project, to be considered as a next step. (Moriarty)
 - Appreciated the comments offered by Commissioner Moriarty, applauded the
44 use of graywater systems, and looked forward to the implementation of the
45

ordinance. (Flashman)

- Supported the comments and was excited for the City to align with State requirements. (Wong)
- Clarified the prescriptive checklist option for landscapes 2,500 square feet or less as part of the update and provisions of the State's Model Water Efficient Landscape Ordinance (MWELO), and clarified the State provided a checklist for any landscape project between 500 and 2,500 square feet, with new construction including new landscaping in that range able to use the checklist to meet the performance requirements for water efficient landscaping. The key provisions of MWELO were again detailed. Removal of trees, as an example, would not require adherence to the MWELO unless the tree removal was accompanied by other landscaping work such as a new irrigations system or replanting of an entire area. Clarification of that issue should be noted in the memorandum to the City Council. Noted that some of the equations, as shown on Pages 13 and 14 of Exhibit A, had not, but should be stricken from the document. (Kurrent)
- Appreciated the comprehensive staff report. (Murphy)

MOTION to adopt Resolution 20-15, a Resolution of the City of Pinole Planning Commission Recommending that the City Council Approve Municipal Code Amendments Regulating Water Efficient Landscaping in Chapter 15.54, as Proposed in Code Amendment 20-03 (ZCA 20-03), subject to Exhibit A: Amendments to Chapter 15.54, and subject to:

- A tree removal permit would not trigger compliance with the ordinance unless it triggered landscape changes described in the ordinance.
- Comments expressed by the Planning Commission to be included in a memorandum to the City Council, such as the inclusion of General Plan policies and digital references or hot links, as discussed.

MOTION: Moriarty

SECONDED: Wong

APPROVED: 5-0-1

ABSENT: Ojeda

F. OLD BUSINESS: None

G. NEW BUSINESS:

- 1. Review of Draft Five Year Capital Improvement Plan for Consistency with the General Plan**

1 **Request:** Review of the Draft 2020/21 – 2024/25 City Capital
2 Improvement Plan for Consistency with the City's
3 General Plan
4

5 **Project Staff:** Misha Kaur
6

7 Senior Project Manager Misha Kaur provided a PowerPoint presentation of the
8 Draft 2020/21 – 2024/25 City Capital Improvement Plan (CIP) for consistency with
9 the General Plan. She asked the Planning Commission to adopt Resolution 20-
10 16, Determining that the Proposed CIP for Fiscal Years 2020-2021 through 2024-
11 2025 was in conformance with the City of Pinole General Plan.
12

13 Responding to the Commission, Ms. Kaur and Tamara Miller, Development
14 Services Director/City Engineer clarified the following:
15

- 16 • The Water Pollution Control Plant Lab Remodel involved an interior project
17 that had no impacts on sea level rise nor a budget that would be
18 appropriate to consider sea level rise.
19
- 20 • The \$54 million Pinole-Hercules Wastewater Treatment Plant Upgrade
21 studied the impacts and potential issues around sea rise at the time, and
22 the engineers based on the data available at that time had suggested the
23 existing levy was adequate to protect the plant from sea level rise for the
24 determinate period in the planning structure. The City of Pinole was in its
25 master planning process at this time and had no plans, projects, or funding
26 to address sea level rise on the plant itself. The lab itself was a hose down
27 facility, everything that went down the drain would go into the treatment
28 plant itself, the entire site was positive drained internally, with the
29 chemicals contained per regulations above sea level rise and stored in
30 locked containers.
31
- 32 • The location of the proposed bocce ball courts was not known at this time
33 but extensive community outreach on potential locations was anticipated.
34 The project could come before the Planning Commission as an
35 informational item as things evolved.
36
- 37 • The Park Master Plan included all things recreational including bicycle
38 facilities near the creek, although the City had limited funds in its budget.
39
- 40 • Replacement of the HVAC units at City Hall and at the Senior Center was
41 detailed further; the City had retained a consultant to provide
42 recommendations on energy conservation and generation improvements
43 at City Hall, the Senior Center and other City facilities. City staff also had
44 conversations with Marin Clean Energy (MCE) about battery storage at
45 City facilities. Electric vehicle charging stations had also been proposed.

- The City Council adopted a Strategic Plan which included goals on building resiliency, self-sufficiency and the like, with the Strategic Plan providing guidance to staff and the community assisting in seeing the CIP evolve over time.
- Staff was aware of the need for the re-development of park restrooms other than those located at Fernandez Park, with the Park Master Plan to address the replacement schedules for all amenities. All of these things must be planned, defined, and budgeted. The Park Master Plan also helped to inform Development Impact Fees and define minimum service levels.

PUBLIC HEARING OPENED

Mr. Hanham reported no comments had been received via e-mail to be read into the record for this item.

PUBLIC HEARING CLOSED

The Planning Commission discussed the Draft Five Year CIP Plan for 2020/21 to 2024/25 and offered the following comments and/or direction to staff:

- Frustrated with the process the Planning Commission was being asked to consider, which was the CIP's consistency with the General Plan as opposed to starting with the General Plan, led to the feeling the bar was low for Pinole. As an example, the rehabilitation of San Pablo Avenue, Pinole Shores south to San Pablo Avenue description of the project was one that was just road maintenance and repair of sidewalks, with an entire regional plan for San Pablo Avenue from Alameda County through to Rodeo. Concerned Pinole was not reaching out to the regional vision. Encouraged the Pinole citizenry to reach higher, look for grants and creative ideas, and not end up doing just the bare minimum. (Moriarty)
- San Pablo Avenue, a route of regional significance, was under the purview of the West Contra Costa Transportation Advisory Committee (WCCTAC). Pointed out the City Council set the vision for the City not the Planning Commission. Concerns with the process would be better expressed to the City Council as a private citizen. (Kurrent)
- Shared the frustrations outlined by Commissioner Moriarty, with everything the same, at a bare minimum, and with things being deferred to the next year while also recognizing the City's budget constraints. Recognized that the bocce ball courts were a new item that would be beneficial to the citizens of Pinole and thanked City leaders for supporting the project. (Wong)

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- Thanked staff for the CIP report but was curious why resiliency and efficiencies were not being considered, particularly given the wildfires and impacts from PG&E Public Safety Power Shutoffs (PSPS). Given the City was near the water, affected by PG&E PSPSs, a more robust improvement plan around climate resiliency should have been identified, such as addressing sea level rise and energy protection sooner rather than later. (Murphy)

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MOTION to adopt Resolution 20-16, a Resolution of the City of Pinole Planning Commission of the City of Pinole, County of Contra Costa, State of California, Determining that the Proposed Capital Improvement Plan (CIP) for Fiscal Years 2020-2021 Through 2024-2025 is in Conformance with the City of Pinole General Plan.

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MOTION: Murphy

SECONDED: Flashman

APPROVED: 5-0-1

ABSENT: Ojeda

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H. CITY PLANNER'S / COMMISSIONERS' REPORT

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1. Verbal Updates of Projects

Mr. Hanham reported that Department Heads had met regarding the Pinole Vista Apartment Complex (former Kmart site) with comments to be forwarded to the applicant. Staff was also working with DeNova Homes for the Making Waves site with a preliminary proposal in its early stages and with staff providing comments to the developer prior to the pre-application phase. Building permits had increased almost 20 percent as compared to 2019, a temporary use permit had been approved for Antler's Restaurant for outdoor dining, and five to six temporary permits had been issued by the City. The City was also considering expanding its Emergency Ordinance for temporary permits for other businesses that complied with social distancing requirements outdoors.

Mr. Hanham also reported he had met with the developer for Pinole Square who was redoing the landscaping plan for the site to show new trees, to be reviewed by staff, and a Parcel Map had been submitted by the developer to merge the parcels, to be reviewed and approved by the City Engineer. In addition, a merged lot project located on Brandt Street had merged two lots into one and had been approved by the City Engineer. The Old Town Parking and Pedestrian Safety Study had been approved in March 2020, but due to COVID-19, presentation to the City Council had been delayed. The study would be presented to the City Council at its September 15, 2020 meeting. Additionally, the City had received comments from the State regarding its Local Early Action Planning (LEAP) Grant, which had been resubmitted, and it was hoped the City would receive funding soon to allow the City to proceed with the Housing Element Update. Further, Dr. Lee's

Office was in the process of pulling permits although there were some issues with trees in the front buckling some infrastructure. Staff was working with the applicant on potential mitigation for the planting of trees based on the arborist's report.

Chair Kurrent inquired of the status of former Chair Brooks' replacement with Mr. Hanham understanding the recruitment process for a new Planning Commissioner had commenced.

Commissioner Moriarty reported that Friends of Pinole Creek Watershed was working in concert with the Watershed Project and the California Coastal Commission for a Coastal Clean-Up Month during the month of September. People were encouraged to go out in family groups every Saturday during the month of September to clean up trash along the creek and down to Bayfront Park. Additional information was available at info@friendsofpinolecreek.org.

Commissioner Murphy expressed hope that all Commissioners, staff, and their families were healthy and safe and not impacted by the wildfires. He provided information from the Contra Costa County Health Services website dashboard resources for COVID-19, and highlighted the Contra Costa County Community Warning System (CWS) with additional information available at cwsalerts.com.

I. COMMUNICATIONS:

The following communication was received, read into the record, and would be filed with the agenda packet for this meeting: **Debbie Cyr.**

Mr. Hanham reported he had responded to Ms. Cyr's comments related to Agenda Item E1 and had encouraged East Bay Coffee Company to contact Ms. Cyr.

J. NEXT MEETING

The next meeting of the Planning Commission to be a Regular Meeting to be held on Monday, September 28, 2020 at 7:00 P.M.

K. ADJOURNMENT: 9:37 P.M

Transcribed by:

Sherri D. Lewis
Transcriber