CORONAVIRUS ADVISORY INFORMATION:

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CITY COUNCIL

Devin T. Murphy, Mayor
Maureen Toms, Mayor Pro Tem
Cameron Sasai, Council Member
Anthony Tave, Council Member
Norma Martínez-Rubin, Council Member

PINOLE CITY COUNCIL MEETING AGENDA

TUESDAY
March 21, 2023
5:00 P.M
Please note: HYBRID MEETING FORMAT
Attend in Person: PINOLE CITY COUNCIL CHAMBERS - 2131 PEAR STREET
OR
Attend VIA ZOOM TELECONFERENCE – Details provided below

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 City Clerk.

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/89335000272

Webinar ID: 893 3500 0272

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 (subject to modification by the Mayor)
- Speakers will be muted until their opportunity to provide public comment.

When the Mayor 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 and press *6 to unmute. To comment with your video enabled, please let the City Clerk know you would like to turn your camera on once you are called to speak.

Written Comments: All comments received **before 3:00 pm the day of the meeting** will be posted on the City's website on the agenda page (Agenda Page Link) and provided to the City Council prior to the meeting. Written comments will not be read aloud during the meeting.

Email comments to comment@ci.pinole.ca.us Please indicate which item on the agenda you are commenting on in the subject line of your email.

Please note: Updated COVID-19 safety protocols will be posted outside the City Council Chambers. Please review this information before entering the Council Chambers.

OTHER WAYS TO WATCH THE MEETING

LIVE ON CHANNEL 26. They are retelecast the following Thursday at 6:00 p.m. The Community TV Channel 26 schedule is published on the city's website at www.ci.pinole.ca.us.

VIDEO-STREAMED LIVE ON THE CITY'S WEBSITE, www.ci.pinole.ca.us. and remain archived on the site for five (5) years.

If none of these options are available to you, or you need assistance with public comment, please contact the City Clerk, Heather Bell at (510) 724-8928 or hbell@ci.pinole.ca.us .

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 City Clerk's Office at (510) 724-8928. Notification 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.

Note: Staff reports are available for inspection on the City Website at www.ci.pinole.ca.us. You may also contact the City Clerk via e-mail at hbell@ci.pinole.ca.us .

Ralph M. Brown Act. Gov. Code § 54950. *In enacting this chapter, the Legislature finds and declares that the public commissions, boards and councils and the other public agencies in this State exist to aid in the conduct of the people's business. It is the intent of the law that their actions be taken openly and that their deliberations be conducted openly. The people of this State do not yield their sovereignty to the agencies, which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments thev have created.*

1. CALL TO ORDER & PLEDGE OF ALLEGIANCE IN HONOR OF THE US MILITARY TROOPS

2. 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.

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't Code § 87105.

4. CONVENE TO A CLOSED SESSION

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

CONFERENCE WITH LABOR NEGOTIATORS

Pursuant to Gov. Code § 54957.6

Agency designated representatives: City Attorney Eric Casher, Human Resources Director Stacy Shell

Unrepresented employee: City Clerk

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

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. PLEASE SEE THE COVERSHEET OF THE AGENDA FOR INSTRUCTIONS ON HOW TO SUBMIT PUBLIC COMMENTS

7. REPORTS & COMMUNICATIONS

A. Mayor Report
   1. Announcements

B. Mayoral & Council Appointments
   1. Community Services Commission **[Action: Consider Appointment (Bell)]**

C. City Council Committee Reports & Communications

D. Council Requests for Future Agenda Items

E. City Manager Report / Department Staff

F. City Attorney Report

8. RECOGNITIONS / PRESENTATIONS / COMMUNITY EVENTS

A. **Proclamations**

1. Nowruz

(15 minute recess for reception in City Hall lobby)

B. **Presentations**

1. California Department of Insurance Presentation
2. Introduction with Local Active Transportation Non-Profit Organization Bike East Bay by Robert Prinz, Advocacy Director

9. CONSENT CALENDAR

All matters under the Consent Calendar are considered to be routine and noncontroversial. These items will be enacted by one motion and without discussion. If, however, any interested party or Council member(s) wishes to comment on an item, they may do so before action is taken on the Consent Calendar. Following comments, if a Council member wishes to discuss an item, it will be removed from the Consent Calendar and taken up in order after adoption of the Consent Calendar.

A. Approve the Minutes of the March 7, 2023 meeting.

B. Receive the March 4, 2023 – March 17, 2023 – List of Warrants in the Amount of $853,010.60 and the March 17, 2023, Payroll in the Amount of $ 569,801.86.

C. Receive the 2022 Annual General Plan Housing Element Progress Report as Required by the State Of California **[Action: Receive and file report (Whalen)]**

D. Second Reading Of An Ordinance Amending Title 2, Administration And Personnel, Of The Municipal Code To Provide The Contra Costa County Fire Protection District With Jurisdiction And Authority To Conduct Fire And Emergency Medical Response Services Within The City Of Pinole **[Action: Waive Second Reading and Adopt Ordinance (Casher)]**

E. Resolution in Support of State Funding For Adult School Classes For Older Adults **[Action: Adopt resolution per staff recommendation (Murray)]**

F. Resolution Expressing Concerns Regarding the Delta Conveyance Project (Delta Tunnel) **[Action: Adopt Resolution per Staff Recommendation (Murray)]**

G. Ordinance Amending Chapter 8.24 and 8.25 of the Pinole Municipal Code to Modify Provisions Concerning Nuisance Abatement Procedures and Related Code Enforcement **[Action: Waive Second Reading and Adopt Ordinance (Casher)]**

H. Approve Resolution Approving Amendment to Purchase and Sale Agreement and Joint Escrow Instructions With LDW Investments For Purchase of 612 Tennent Avenue **[Action: Adopt Resolution per staff Recommendation (Murray)]**

I. Approve Revisions To Council Procedures **[Action: Adopt Resolution per Staff Recommendation (Bell)]**

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. Conduct A Public Hearing And Adopt Resolution Approving, Authorizing And Directing Execution Of A Joint Exercise Of Powers Agreement Relating To The California Municipal Finance Authority And Approving A Plan Of Finance Including The Issuance Of Revenue Bonds By The Authority To Finance And Refinance A 33-Unit Multifamily Rental Housing Facility For The Benefit Of Pinole Housing, L.P., Or Another Entity Created By Satellite Aha Development, Inc., Or Satellite Affordable Housing Associates (Or An Affiliate), And Certain Other Matters Relating Thereto City Seal **[Action: Conduct Public Hearing & Adopt Resolution (Whalen)]**

11. OLD BUSINESS

None

12. NEW BUSINESS

A. Review New City Logo Concepts and Provide Direction **[Action: Discuss and Provide Direction (Epps)]**

B. Framework For New Outdoor Dining Regulations **[Action: Discuss and Provide Direction (Whalen)]**

13. CITIZENS TO BE HEARD (Continued from Item 6) (Public Comments)

Open only 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 for City Council items 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 meeting.*

14. ADJOURNMENT to the Regular City Council Meeting of March 21, 2023 in Remembrance of Amber Swartz.

I hereby certify under the laws of the State of California that the foregoing Agenda was posted on the bulletin board at the main entrance of Pinole City Hall, 2131 Pear Street Pinole, CA, and on the City's website, not less than 24 hours prior to the meeting date set forth on this agenda.

Return to Agenda

Heather Bell, CMC
City Clerk

POSTED: March 17, 2023 at 1:00 pm

Return to Agenda

CITY COUNCIL REPORT

7B1

DATE: MARCH 21, 2023

TO: MAYOR AND MEMBERS OF COUNCIL

FROM: HEATHER BELL, CITY CLERK

SUBJECT: COMMUNITY SERVICES COMMISSION APPOINTMENT

RECOMMENDATION

Staff recommends approval of the recommendation of the Community Services Commission Interview Subcommittee to make an appointment to the Community Services Commission, by minute order.

BACKGROUND

The Community Services Commission is comprised of seven members who must be Pinole residents. The Commission serves in an advisory capacity to the City Council in matters pertaining to public recreation, parks, arts and cultural activities, historical activities, public access television activities, senior and youth activities, and community services. The Commission reviews and recommends policies and procedures governing recreation, park and community services for approval by the City Council; maintains relationships with schools, community and civic organizations; advocates for recreation and community services for the community; and collaborates with civic clubs, nonprofit organizations and citizen groups to provide funds, property and or volunteerism for the development and operation of parks and recreation facilities. The Community Services Commission meets monthly on the 4th Wednesday at 5pm. Commissioners service two-year terms.

There is currently one vacant seat of the Community Services Commission. Several announcements were made to the public that recruitment was open and applications would be accepted by the office of the City Clerk.

One new application was received by Irma Ruport.

The Interview Subcommittee which consists of Council Member Tave and Council member Sasai convened on March 1, 2023, conducted an interview of Ms. Ruport, and are recommending that the Council appoint her for a term of two years to expire on March 21, 2025.

FISCAL IMPACT

There is no fiscal impact associated with this action.

ATTACHMENT

A. Community Services Commission Roster

CITY COUNCIL MEETING
MINUTES
March 7, 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 5:00 p.m. and led the Pledge of Allegiance.

2. LAND ACKNOWLEDGEMENT

Before we begin, we would like to acknowledge the Ohlone people, who are the traditional custodians of this land. We pay our respects to the Ohlone elders, past, present and future, who call this place, Ohlone Land, the land that Pinole sits upon, their home. We are proud to continue their tradition of coming together and growing as a community. We thank the Ohlone community for their stewardship and support, and we look forward to strengthening our ties as we continue our relationship of mutual respect and understanding.

3. ROLL CALL, CITY CLERK'S REPORT & STATEMENT OF CONFLICT

An official who has a conflict must, prior to consideration of the decision: (1) publicly identify in detail the financial interest that causes the conflict; (2) recuse himself/herself from discussing and voting on the matter; and (3) leave the room until after the decision has been made, Cal. Gov. Code § 87105.

A. COUNCILMEMBERS PRESENT

Devin Murphy, Mayor
Maureen Toms, Mayor Pro Tem
Norma Martinez-Rubin, Council Member
Cameron Sasai, Council Member
Anthony Tave, Council Member

B. STAFF PRESENT

Andrew Murray, City Manager
Heather Bell, City Clerk
Eric Casher, City Attorney
Sanjay Mishra, Public Works Director
Lilly Whalen, Community Development Director
Jeremy Rogers, Community Services Director
Maria Picazo, Recreation Manager
Roxane Stone, Deputy City Clerk

City Clerk Heather Bell announced the agenda had been posted on Thursday, March 2, 2023 at 4:00 p.m. with all legally required written notices. No written comments had been received in advance of the meeting.

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

Return to Agenda

4. CONVENE TO A CLOSED SESSION

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

1. PUBLIC EMPLOYEE PERFORMANCE EVALUATION

Gov. Code § 54957
Title: City Clerk

2. CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Gov. Code § 54956.8
Property: 612 Tennent Avenue
Agency negotiator: City Manager Andrew Murray, City Attorney Eric Casher, Community Development Director Lilly Whalen, Suzy Kim (RSG), Sanjay Mishra, Public Works Director
Negotiating Parties: Leonard Williams – LDW Investment Group
Under Negotiation: Price and Terms

PUBLIC COMMENTS OPENED

Rafael Menis, Pinole, spoke to Item 4(1) and suggested the City Clerk had done a good job shifting back from the more formal fully virtual model of the pandemic to a more in-person/hybrid model during the pandemic phase. While he had experienced some difficulties reaching the City Clerk's Office directly, overall the performance of the City Clerk's Office had improved over the past year due to additional staffing and the quality of staff hired.

PUBLIC COMMENTS CLOSED

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

At 7:08 p.m., Mayor Murphy reconvened the meeting into open session and announced there was no reportable action from the Closed Session.

6. CITIZENS TO BE HEARD (Public Comments)

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Rafael Menis, Pinole, updated the City Council on the current COVID-19 case rate for the City of Pinole which had increased since last reported on February 21, 2023, and he urged everyone to continue to wear masks indoors and in crowded settings. He reported the National Weather Service (NWS) issued a Flood Warning for the entire Bay Area for March 9 through March 11 due to an atmospheric river event and he urged residents to make sure they were prepared. He also commented on the reopening of Fire Station 74 on March 4, 2023. He expressed his appreciation to everyone involved in the effort to reopen the fire station including those who supported the passage of Measure X, which provided much needed funding to reopen the fire station.

Return to Agenda

7. REPORTS & COMMUNICATIONS

A. Mayor Report

1. Announcements

Mayor Murphy thanked the community for participating in the Contra Costa County Fire Protection District (CCCFPD) and City of Pinole Ribbon-Cutting Ceremony for the reopening of Fire Station 74. CCCFPD had taken over fire services for the City of Pinole as of March 1, 2023 and he encouraged residents to provide any input on the transition. A joint email from himself and from Contra Costa County Supervisor John Gioia would be distributed to residents about the CCCFPD contract. He also reported he continued to tour Pinole schools, had recently toured Stewart Elementary School to learn more from students and faculty members on how the City could work with the local schools and expressed his appreciation to West Contra Costa Unified School District (WCCUSD) Ward Area-1 Trustee Jamila Smith-Folds for her assistance in coordinating the tours.

Mayor Murphy had also attended the Mayors' Conference at which time a presentation had been provided by the East Bay Municipal Utility District (EBMUD). EBMUD would be celebrating its centennial this year and the same presentation would be made to other local jurisdictions and Neighborhood Councils. He had also attended a meeting of the National Mayors' Alliance to End Childhood Hunger, which consisted of a group of mayors across the country working to take meaningful actions to end childhood hunger nationwide. He reported this was National School Breakfast Week which was germane to the idea of food security.

B. Mayoral & Council Appointments: None

C. City Council Committee Reports & Communications

Mayor Pro Tem Toms reported she had attended the Elks Club Recognition Dinner for West County Police Officers; and the Ribbon-Cutting Ceremony for the reopening of Fire Station 74 and she thanked all voters for the support of Measure X. She had also attended the Mayors' Conference and announced that EBMUD would be celebrating its Centennial on May 21, 2023 at Lake Temescal Regional Recreation Area; more information would be forthcoming.

Mayor Pro Tem Toms also reported that the WestCAT Board meeting for this week had been canceled. With respect to the upcoming winter storm system that was anticipated to impact the Bay Area on March 9 through March 10, she encouraged all residents to visit the Community Warning System (CWS) website at cwsalerts.com to register cell phones for weather alerts and potential evacuation orders.

Council member Tave reported he too had attended the Ribbon-Cutting Ceremony for the reopening of Fire Station 74. As a member of the Hazardous Materials Commission, a committee of Contra Costa County comprised of elected officials and community members, he provided an overview of the numerous projects and items the committee would be working on, which information had also been presented at the latest Mayors' Conference. He had also attended a West Contra Costa Transportation Advisory Committee (WCCTAC) meeting and briefed the Council on the discussions.

Council member Martinez-Rubin reported she had also attended the Ribbon-Cutting Ceremony for the reopening of Fire Station 74, and she too appreciated voters' approval of Measure X funds to allow the fire station to reopen. She had also attended the Elks Club Recognition Dinner for West County Police Officers and she commended the work of Pinole's Fire and Police personnel. In addition, she and the Mayor Pro Tem had interviewed an applicant for a vacancy on the Planning Commission with recruitment to continue through the end of March. Interested applicants were encouraged to apply and more information was available on the City website.

Council member Martinez-Rubin further reported that the Pinole History Museum, whose mission was to enhance the preservation and collection of artifacts that represented Pinole history and culture, would hold its first pop-up history exhibit at Mechanic's Bank in the Pinole Valley Shopping Center, with an exploration of the history of the Ellerhorst Family. This would be the first of many exhibits planned throughout schools and businesses in the City of Pinole. The public was invited to visit the pop-up exhibit and provide input at pinolehistorymuseum.org.

Council member Sasai reported he had also attended the Ribbon-Cutting Ceremony for the reopening of Fire Station 74 and he thanked everyone involved and the public for its support of Measure X. He announced he had been nominated to the Water Education for Latinos Leaders (WELL), an Asian-American Pacific Islanders (AAPI), six-month fellowship program for local elected leaders aimed at helping participants make an impact on California Water Policy while addressing individual community water challenges. This would allow local leaders to engage in water issues through a comprehensive and active exploration of history, governance, public policy, geography and economics and the relationship to human rights and climate change. He also announced he would be hosting weekly office hours at City Hall from 12:00 p.m. to 1:00 p.m. every Tuesday and interested persons should email him directly for scheduling.

In response to the Mayor, City Attorney Eric Casher reported the City Council had been scheduled to meet jointly with the Planning Commission on Tuesday, March 28, 2023.

City Clerk Bell reiterated the recruitment period for the Planning Commission vacancy had been extended to March 31, 2023, with additional communication to go out through social media and the administrator's report. She also clarified that as of April 30, 2023, three additional Planning Commission terms would expire.

D. Council Requests for Future Agenda Items

Council member Sasai requested a presentation on Assembly Bill (AB) 43, including an overview of the legislation and how it could be applied to reduce speed limits in the City's traffic corridors and high risk areas for pedestrian safety as a future agenda item. Consensus given.

Council member Sasai requested a discussion item on the next steps to market and sell the Faria House located at 2100 San Pablo Avenue as a future agenda item.

Mayor Pro Tem Toms understood that discussion could be part of Item 9D and was informed by City Manager Murray that Item 9D, the recommendation to fund a Property and Facilities Master Plan, would look at all of the City's real property and facilities and when adopted by the City Council it would provide a plan on what to do with those properties.

Return to Agenda

If Consent Calendar Item 9D was approved by the City Council, it would likely be another year before it was completed but there was nothing to stop the City Council from taking actions sooner on any existing properties.

Council member Martinez-Rubin preferred to see the request for a future agenda item in context with Item 9D.

ACTION: Motion by Council members Sasai/Tave to have a discussion item on the next steps to market and sell the Faria House located at 2100 San Pablo Avenue as a future agenda item.

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

Council member Martinez-Rubin questioned the sudden interest in selling the Faria House.

In order to provide clarification about what could be discussed at this time, City Attorney Casher explained that Council Requests for Future Agenda Items was only to entertain requests for future agenda items and any discussion of those items must be limited to whether the item should or should not be a future agenda item. As to the motion just made, he understood the request was for a general discussion on the process to undertake and sell the Faria House and what that would entail related to an assessment of the property value. Staff would receive direction from the City Council at that point on whether or not to move forward and discuss the issues surrounding such a decision.

PUBLIC COMMENTS OPENED

Rafael Menis, Pinole, reported on an effort to encourage legislation related to stop gap funding to public transit agencies. The City of Berkeley had created a sample letter to be sent to Senator Nancy Skinner, a member of the Senate Budget Committee. He asked the City Council to consider a future agenda item to draft and send a letter to Senator Skinner regarding funding appropriations to support WestCAT and other regional transportation agencies given the challenges those agencies faced when coming out of the pandemic and due to impacts from changes in ridership patterns.

PUBLIC COMMENTS CLOSED

E. City Manager Report / Department Staff

City Manager Murray reported that City staff was monitoring the upcoming winter storm, a sand bag station would be provided on Plum Street for the public and he encouraged people to avoid dangerous situations. He also reported on the details of a recent side show event which occurred on February 12, 2023 near Pinole Valley Road and the I-80 underpass. After the Police had been called for service and Police Officers had arrived on the scene, the suspected vehicles involved in the event had dispersed and the Police Officers opted to secure the scene.

The City Manager explained that the side show had been a bi-product of a much larger event that had taken place in many cities on the same evening including the City of Vallejo. The Vallejo Police Department and the California Highway Patrol (CHP) had pursued several vehicles from Vallejo along I-80 and a small group had splintered onto Pinole Valley Road. Side shows had become common in recent years and were difficult to prevent and prosecute, although the Pinole Police Department and other law enforcement agencies monitored social media in an attempt to learn about planned events. Drivers participating in side shows could be faced with having their vehicles impounded but it required the Police Department to positively identify the driver. Some action was being taken at the State level to address this issue, with funds in the current state budget for a CHP program to help eliminate side shows and street racing.

There was also additional state legislation such as AB 2000, which made it illegal for a person to participate or engage in a speed contest in an off-street parking facility, which law had gone into effect on January 1, 2023. The Pinole Police Department was engaged with other law enforcement agencies to prosecute the February 12 event to the extent possible.

In response to concerns with street lights out on Pinole Valley Road, City Manager Murray reported street lights in Pinole were owned and maintained by the City or by PG&E. The City established a Landscape and Lighting Assessment District (LLAD) to create improvements along certain sections along Pinole Valley Road from Henry Avenue north of Pinole Valley Road, down to the Pinole Valley Creek undercrossing and down by Pinole Valley High School. As part of the LLAD, a median had been installed with plantings, irrigation and street lights. There were seventeen street lights in the LLAD in a distinct decorative style, which were expensive to replace and involved a long lead time. These street lights had been damaged regularly, with three of the lights having been knocked down. The City Council could specify new street lights if it chose as a lower cost alternative. Public Works staff was also looking into possible relocation of the street lights from the ends of the median.

City Manager Murray advised that street lights with bulbs that had burned out should be reported to the City. If a City street light, it would be replaced within two to three weeks but if a PG&E street light, staff would have to pass on that information to PG&E to address. As to the street lights that had been damaged, the City had been unable to be reimbursed for the costs since it oftentimes involved a hit and run driver, but again staff was considering lower cost alternatives.

City Manager Murray also provided a preview of the tentative agenda items for the March 21, 2023 City Council meeting.

Responding to the Council, City Manager Murray explained the public did not have to know if a street light was owned by the City or PG&E. Anyone who wanted to report any issue with a street light should contact staff via the City's home webpage and follow the links to report any maintenance issues, which would allow staff to address the situation. Staff would inform PG&E of any issues with respect to its street lights. The City currently did not have an automated system but it was part of the current Information Technology (IT) Plan.

F. City Attorney Report

City Attorney Casher reported the Municipal Code Update Subcommittee had recently discussed an update to the City's Sign Ordinance, which had been tentatively scheduled for City Council consideration on April 18, 2023.

Return to Agenda

City Attorney Casher reported the subcommittee had also discussed an update to the Fire Code, to be considered by the City Council as part of Item 10B. He had also attended the Ribbon-Cutting Ceremony for the reopening of Fire Station 74, which had been a great day for the City of Pinole and he thanked all those involved.

8. RECOGNITIONS / PRESENTATIONS / COMMUNITY EVENTS

A. Proclamations

1. American Red Cross Month

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

PUBLIC COMMENTS OPENED

Rolanda Wilson, Contra Costa County, American Red Cross Leadership Council, thanked the City Council for the proclamation and continued support of the American Red Cross and detailed the services and activities the American Red Cross provided. On behalf of its volunteers and those they served, she again thanked the City Council and the City of Pinole for standing with the American Red Cross.

PUBLIC COMMENTS CLOSED

2. Women's History Month

The City Council read into the record a proclamation recognizing Women's History Month.

PUBLIC COMMENTS OPENED

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

PUBLIC COMMENTS CLOSED

3. International Women's Day

The City Council read into the record a proclamation recognizing International Women's Day.

PUBLIC COMMENTS OPENED

Rafael Menis, Pinole, wished everyone a Happy International Women's Day. In particular, he recognized Subhana Ansari for all the work she did as a full-time caregiver, grower of flowers, a local business operator and who also worked half-time for a non-profit organization she helped to create to provide religious education to her community. He suggested it was not just the work of women in public office that influenced society and how it strived towards equity, but women in civil society and those who worked in the private sphere where entrepreneurs, business owners, contractors absent the protections of regular employees or those not paid the same wages as men for the same work were neither equal nor equitable. He added that women also took on additional roles such as caregivers who oftentimes were not equitably compensated in addition to their regular work.

Return to Agenda

PUBLIC COMMENTS CLOSED

4. Disability Awareness Month

The City Council read into the record a proclamation recognizing Disability Awareness Month.

PUBLIC COMMENTS OPENED

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

PUBLIC COMMENTS CLOSED

Mayor Pro Tem Toms thanked the City Council for the Disability Awareness Month proclamation and advised it was also Cerebral Palsy Awareness Month and Down Syndrome Awareness Day on March 21, 2023. She noted that in 1989 the Americans with Disabilities Act (ADA) had been signed into law and was important to many community members. She emphasized the importance in recognizing those with disabilities with inclusion, transportation, housing and job training, which was also extremely important. As a parent of a child with a disability, she advised that those in her sphere appreciated the proclamation and she thanked the City Council on their behalf as well.

B. Presentations

1. CalPERS

David Teykaerts, Chief of Stakeholder Relations, California Public Employees' Retirement System (CalPERS), provided an extensive PowerPoint presentation on CalPERS and the City of Pinole Update dated March 7, 2023, which included an overview of the unprecedented market dynamics and market volatility and the issues that impacted CalPERS' investment performance and the economics of the world and national stage. Those impacts included correlated asset classes, rising rates, asset valuations, talent competition, funding shortfall, geopolitics, high inflation, climate change and disruptive tech.

Mr. Teykaerts also highlighted the Total Net Investment Returns over time for 30 years to one year; Public Employees' Retirement Fund (PERF) Asset Allocation; how the CalPERs Board monitored the fund and employer contribution rate impacts based on 10-Year Projections – Funded Status and Public Agency Employer Rates; City of Pinole's Pension Plans and description of the two components of the employer contributions which included the normal cost and the Unfunded Accrued Liability (UAL); and Actuarial Valuation Overview for the most recent valuation as of June 30, 2021, and the approximate 7.5 percent asset return in Fiscal Year (FY) 2021/22, which would be reflected in the June 30, 2022 valuation. The Projected UAL Payments (rounded to the nearest $10,000); Total Employer Contributions (Normal Cost and UAL Payment); Funded Status for City and Comparable Plans at June 30, 2021 and the Pension Outlook Tool and other budgeting and analytical tools available on the CalPERS website were also highlighted.

Responding to the Council, Mr. Teykaerts again walked through the UAL and clarified the City could pay off its UAL as many cities had done, with the primary method via Pension Obligation Bonds.

As an example, Mr. Teykaerts stated that any city that took out a $100 million Pension Obligation Bond in 2022 and paid off its UAL had been faced with generating another UAL since the investment return would not be high enough to hit that threshold. There was no legislation preventing a city from paying off its UAL but it was not possible for a city to be super-funded and overpay where it did not have to pay the normal cost the next year, which was part of the Public Employees' Pension Reform Act (PEPRA) law passed in 2011.

Mr. Teykaerts explained that if investment returns came in negative for one year that was something that occurred, but a negative CalPERS return or sub-expectation return two years in a row would reopen conversations. He suggested the best strategy for a city or public agency to deal with this situation would be for the City to work with its finance team and CalPERS actuaries or any other consultant to review strategic ways to allocate funds into the plans that made the most sense. He had spoken with the City's actuary prior to the meeting and his quick assessment was that PEPRA members who had been hired after January 1, 2013, were not the issue in terms of costs since they were generally younger employees, with the pension formulas for those employees less rich. The City's actuary had suggested the City would do well to consider allocating more money to the Classic Plan employees who had been with the City longer as soon as possible. There had been no discussion of a grace period or a program where there could be long-term relief since from an actuarial perspective, every day delayed interest accrued, which was a challenge for everyone.

Possible options could be consideration of a 115 Trust or an additional discretionary payment to CalPERS to be applied to a plan chosen by the City. It was also clarified the approximate 7.5 percent asset return in Fiscal Year (FY) 2021/22 to be reflected in the June 30, 2022 valuation was worse than a plus 23 was good and it would take multiple good years to climb out of that hole, which had occurred in 2008 when CalPERS had a much worse year, with a negative 24 due to the recession and which had taken years to recover. CalPERS was trying to be more aggressive in its investment strategies to get the returns needed to dig out of this hole.

PUBLIC COMMENTS OPENED

Rafael Menis, Pinole, pointed out the City had taken out Pension Obligation Bonds in 2006 and was still paying for those bonds due to a balloon payment interest structure. The City had created a 115 Trust that was being used to offset increasing pension costs and would continue to do so but possibly the City Council could consider accelerating disbursements from that fund to offset the increased costs; however, it was unknown whether the discount rate would be met in future years. He asked for clarification on CalPERS' overall more aggressive higher investment approach to seek higher returns to offset bad years like this year, but private equities and private assets had often had higher fees for not necessarily higher return, and in the worse-case scenarios some private category investments could be outright fraudulent and result in complete loss of investment assets. He asked what steps CalPERS was taking to ensure that as it invested more aggressively it was not taking on the risk of complete loss. He asked what steps were being taken to track the increased risks and future benefits and at what point changes would be made to change back. He wanted to know what safeguards would be in place to offset the risks since the City and everyone else would have to pay in the event of a failure.

PUBLIC COMMENTS CLOSED

Mr. Teykaerts explained that CalPERS invested in public equity through the largest blue chip private equity funds in the world, and was not a fly-by-night operation risking total loss. If the investments did not play out CalPERS would certainly readjust. Given CalPERS was such a large financial entity, it ran on a four-year cycle and conducted a disciplined review of the investment pie, global economic macro landscape and decisions around asset allocation, which was a self-imposed policy CalPERS had as an organization.

CalPERS was a long-term investor looking to fund investments for generations but the question was whether CalPERS would benefit from the risks taken in private equity, which was why CalPERS used external managers described as the best of the best in the industry. Also, CalPERS Chief Investment Officer (CIO) had come from private equity and had done amazing things with Canadian investment funds, and CalPERS had other leadership with private equity experience.

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 February 21, 2023 meeting.

B. Receive the February 18, 2023 – March 3, 2023 – List of Warrants in the Amount of $251,090.41 and the March 3, 2023 Payroll in the Amount of $559,984.94

C. Award a Contract for $188,000 to GHD, Inc. to Develop an Active Transportation Plan (ATP) – Capital Improvement Plan (CIP) Project IN2106 [**Action: Adopt Resolution per Staff Recommendation (Mishra)]**

D. Report on City-Owned Properties and Recommendation to Fund a Property and Facilities Master Plan as Part of the FY 2023/24 – 2027/28 Capital Improvement Plan **[Action: Receive Report and Provide Direction (Mishra)]**

PUBLIC COMMENTS OPENED

Rafael Menis, Pinole, spoke to Item 9C, and commented that most of the costs on Page 80 of the agenda packet and the concept plans for the streets identified had not included the initial Request for Proposals (RFPs), with the costs having spiked related to those items being added after the initial consultation. Page 86 of the agenda packet related to GHD's Financial Condition under the paragraph heading Litigation and Bankruptcy referred to the City of Palo Alto, which may be a typographical error that needed to be corrected and clarified. Page 99 of the agenda packet referred to a public survey that would be available in English and Spanish but given the City had several non-English speaking residents, the survey should also be made available in Tagalog and Cantonese.

As to Item 9D, Mr. Menis asked whether the proposed Property and Facilities Master Plan would allow for a priority ranking as was done with a matrix that had been adopted during a discussion of capital projects during the February 7, 2023 City Council meeting, which could be a way to address the challenges of the Faria House. He noted the caretakers' house in Pinole Valley Park had been listed as a park use and asked for clarification since he understood it was a residential use.

Maria Alegria, Pinole, also speaking to Item 9D, commented on the inventory of City-owned property and asked whether the City had an inventory of the assessed value of the properties and if so, whether that should be included in the plan. She sought more information on the specific zoning for the properties specifically the caretaker's house, the parcel adjacent to School Street on Pear Street, the community corner parcel, the Faria House, the Fowler House at 2548 Charles Street, the Post Office at 2101 Pear Street and the vacant lot on Donegal Road.

Cordell Hindler, Richmond, stated he had comments he had hoped to share with the City Council during the February 21, 2023 meeting but would wait to provide those comments until the end of this meeting agenda. He otherwise agreed with the comments that Mr. Menis had provided related to Item 9C, and agreed the survey should be made available in several languages such as Cantonese and Mandarin.

PUBLIC COMMENTS CLOSED

Mayor Pro Tem Toms referenced the motion as shown on Page 17 of Item 9A, the February 21, 2023 City Council meeting minutes and her understanding the motion was to read*: Motion by Council members Sasai/Tave to direct staff to organize and host an informational event and send out invitations to tenants and landlords in Pinole and have conversations about Just Cause Eviction policies and include rent stabilization as part of that conversation.*

City Clerk Bell advised she would have to check the videotape of the meeting to clarify the motion. The minutes could be continued to the next meeting of the City Council or the minutes could be amended once staff had the opportunity to review the videotape.

Mayor Pro Tem Toms spoke to Item 9D, and suggested the potential for the library to be an asset should be included. In addition to the comments about providing information on the assessed value and zoning of City-owned properties, she agreed it would be helpful to also include any information on restrictions on the property.

ACTION: Motion by Mayor Pro Tem Toms/Mayor Murphy to approve Items 9B and 9C, as shown.

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

Mayor Pro Tem Toms offered a motion, seconded by Council member Martinez-Rubin to approve Item 9D, with consideration of the library site to be analyzed and that the consultant include assessed value, zoning designations and any restrictions.

Return to Agenda

On the motion, Council member Martinez-Rubin spoke to the Bay Trail between San Pablo Avenue and Pinole Valley Road, Pinole Valley Road and Henry Avenue where there was asphalt and roots starting to make the paved area uneven. She asked whether that would be included in the Property and Facilities Master Plan and was informed by City Manager Murray that trails would not be covered under the plan which would only cover property owned by the City, which was vacant land and parks or property with City buildings on them, not roads or other asset collection systems.

Public Works Director Sanjay Mishra clarified the City did not have a master plan to address the locations identified and some of the properties may involve an easement. As an example, a portion of the trail behind Trader Joe's belonged to the City and the City was providing regular maintenance.

City Manager Murray clarified that a master plan process for trails could be added for pedestrian infrastructure as part of the upcoming Capital Improvement Plan (CIP) since there were no planned activities for trails at this time. He also clarified that the Active Transportation Plan (ATP) could identify some improvements but would not necessarily provide an assessment or recommendation for maintenance of all elements of the ATP network and parks would not include trails not related to recreation. As an example, the trail behind Pinole Valley High School at Sara Court and Pinole Valley Road was considered to be pedestrian/bicycle infrastructure outside of the current master plans.

Council member Sasai agreed with the motion as stated. He referenced the Pinole Shores II property and his understanding there was some soil contamination with the site and the property was not on the list of City-owned properties and facilities. He asked for clarification.

Mayor Pro Tem Toms understood the property was in the Long Range Property Management Plan.

City Manager Murray acknowledged the City did not have a catalog of current assets, which was one of the objectives of Item 9D. He would have to review whether or not the Pinole Shores II property had been included in the list of City-owned properties and facilities and reported there was an agreement with a counterparty for that parcel and the City had an obligation to undertake a good faith effort to complete that transaction. It was likely the property would no longer be a City-owned property once a Property and Facilities Master Plan was ultimately prepared.

Council member Sasai also commented that it was difficult to visualize the properties and if members of the public wanted more information they could access the County website ccmap.cccounty.us, which provided details on private and publicly-owned properties.

ACTION: Motion by Mayor Pro Tem Toms/Council member Martinez-Rubin to approve Item 9D, with consideration of the library site to be analyzed and that the consultant include assessed value, zoning designations and any restrictions.

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

Return to Agenda

Mayor Murphy stated that Item 9A would be continued to the meeting of March 21, 2023.

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 parté 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. Introduce an Ordinance Amending Chapters 8.24 and 8.25 of the Pinole Municipal Code to Modify Provisions Concerning Nuisance Abatement Procedures and Related Code Enforcement [**Action: Waive First Reading and Introduce Ordinance (Casher)]**

City Attorney Casher thanked Community Development Director Lilly Whalen and the City's Code Enforcement Officer who had done a great job around code enforcement. He reported this item had been discussed by the Municipal Code Update Subcommittee on multiple occasions.

Community Development Director Lilly Whalen provided a PowerPoint presentation on an ordinance amending Chapters 8.24 and 8.25 of the Pinole Municipal Code to modify provisions concerning Nuisance Abatement Procedures and Related Code Enforcement and provided an overview of the proposed changes in abatement procedures found in Chapter 8.24 to reduce delays in initiating the City's abatement procedures, and changes to Chapter 8.25 intended to provide more effective and efficient procedures to address situations where hazardous and blight conditions were being caused by property owners/occupants leaving debris and/or other obstructions on sidewalks and streets, as outlined in the March 7, 2023 staff report. She asked the City Council to waive the first reading and introduce the ordinance, as described.

PUBLIC HEARING OPENED

Cordell Hindler, Richmond, stated he had reviewed the amendments and had reviewed other cities' ordinances which also worked with the property owner to address any violations. He asked that the City Council waive the first reading and adopt the ordinance as recommended by staff.

Rafael Menis, Pinole, understood as amended the ordinance would eliminate the mandatory courtesy notice and accelerate the abatement process allowing for the appeal process to start immediately. He asked when a courtesy notice was issued and the percentage of time the City received compliance prior to needing to move on to the next steps for abatement. He recalled an abatement action that had come before the City Council some time ago regarding trees, at which time the City Council had acted as the Board of Appeals for that item. He asked for clarification if the amendment to the ordinance included elimination of the Board of Appeals and if that meant a property owner no longer had the right to appeal to the City Council and must appeal to the Contra Costa Superior Court.

Mr. Menis also referenced Page 145 of the agenda packet and the chart of the abatement process, which referenced the Board of Appeals whereas elsewhere in the ordinance and March 7, 2023 staff report, the Board of Appeals had been eliminated and replaced with a single appeal officer. He asked staff to provide clarification.

Return to Agenda

Anthony Vossbrink, Pinole, found the presentation difficult to follow given the size of the font for the PowerPoint. He asked whether the number of Hearing Officers were being reduced down to one Hearing Officer arbitrarily appointed by the City Manager and asked who would hold that individual accountable. He cited a code enforcement situation where a property owner had been cited and had been unable to dispute the claim. He asked about the code enforcement programs of other comparable sized cities and cited the City of Hercules as a similar sized population as Pinole with similar types of challenges. With respect to City-owned property violations, he asked who would be responsible for code violations. As an example with respect to the caretaker's house, he questioned whether the house was considered to be a park or residential property since there were code violations along the trail that was being used as a dumping ground, there was the need for weed abatement and debris had been left from tree branches.

PUBLIC HEARING CLOSED

Community Development Director Whalen explained that when the City's new permitting software was online she would have a better idea of the percentage of compliance after the first courtesy notice or notice of violation was issued, which system she hoped would be onboard in the summer. She also clarified the Pinole Municipal Code (PMC) stated the City Manager may select the composition of the Board of Appeals, the number of members had not been defined and one independent Hearing Officer would serve on the Board of Appeals, the process that had been followed for the past year. A consultant would have to be contracted to serve as the Hearing Officer to ensure that person was not a City employee and involved in the code enforcement case. She also clarified staff had not reviewed the nuisance abatement procedures for other cities given the proposed amendments were considered to be minor in nature. A more comprehensive update would involve a comparison to other cities.

Mayor Pro Tem Toms clarified with the Community Development Director that a code enforcement item would come back to the City Council if the City Council wanted to place a lien on the property for reimbursement of abatement costs, and the City Council would not act as the Board of Appeals.

Council member Sasai asked about the decision-making process for the courtesy notice being optional and asked that the reference to "right-sized action" be defined.

Community Development Director Whalen explained that "right-sized action" was intended to give staff the ability to appropriately assess and handle a specific code enforcement case. As an example, for outdoor storage with dilapidated buildings and items that would take time to address, staff recognized that the property owner needed ample time to comply with the code. For health and safety issues, immediate attention was required and staff would move towards eliminating the courtesy notice and move straight towards an order for abatement. Courtesy notices were used as a tool to reach out to the property owner after receiving a complaint to set up an inspection of the issue.

Mayor Murphy clarified with the Community Development Director photographs of properties in the PowerPoint presentation included two properties in the City of Pinole which involved cases where the City had achieved compliance. One of the photographs depicted a fair amount of outdoor storage accumulation and construction materials and retaining walls in a City street without permits.

Mayor Murphy asked whether cities may replace fines with community service, which could be an option for abatement and was informed by Community Development Director Whalen that some jurisdictions had incorporated community service for some violations. As an example, the clean-up of graffiti one may have caused. There could be other possible options and staff could return with recommendations.

Mayor Murphy commented that when the item returned along with more information on what other jurisdictions had done to address code enforcement, he wanted to see how cities had integrated community service as a restorative practice around nuisance issues and the success of those restorative practices, particularly since this was about keeping the community safe and in his opinion the best way to learn about safety would be through community service.

Mayor Murphy also commented he had spoken with some residents who found some of the amendments to the ordinance to be cruel and who had questioned why a courtesy notice would not be issued. He asked why issuing a courtesy notice was problematic for City staff.

Community Development Director Whalen commented that in some cases where there was a high level of public safety concern around a particular issue there was a fair amount of non-responsiveness to City notices. For repeat violators who did not respond to courtesy notices and where there may be a health and safety hazard, the City may want to skip the 14-day courtesy notice and order the property owner to abate the condition. Part of the staff recommendation was the elimination of the mandatory order to show cause hearing and retain the ability to appeal notice and order but keep the issuance of courtesy notices as a practice.

Mayor Murphy expressed concern with the loose interpretation of the law without issuance of the courtesy notice that had been in place in the City for some time. He asked how long a courtesy notice had been mandatory and Community Development Director Whalen stated she would have to research that information.

Mayor Murphy also wanted to know how many people responded to the courtesy notices as opposed to those who were repeat offenders. He asked staff to provide the additional data requested.

Mayor Pro Tem Toms reported the Municipal Code Update Subcommittee had discussed the courtesy notice. The 14-day courtesy notice was the current process to correct the nuisance and then an investigation and a second 14-day courtesy notice would follow. The streamlined process would still have the 14-day courtesy notice and staff could end it if there was a responsive property owner. She suggested 14-days was a reasonable period of time and if more time was needed by the property owner that would be acceptable if communicated to staff. She suggested the solution would happen sooner if the process was streamlined. She pointed out that the City had a lot of code enforcement issues that were not addressed since the City had to wait out the calendar.

Council member Martinez-Rubin commented that she had walked around the City and had received informal complaints about unkempt front yards and yards with vehicles, whether the unit was owned or a rental and whether the property owner was responsive. She agreed that any data on non-responsive property owners and owners that were not on-site would be helpful to better understand the situation. She was inclined to believe that property owners not on-site had kept their properties in less than ideal conditions for themselves or for renters.

Return to Agenda

Mayor Murphy reiterated the additional data points would be helpful in deciding how to move forward when the item returned. He understood the intent of updating the PMC but wanted to see the data. He cited the situation where a member of the public had addressed the City Council during the February 21 meeting and had raised concerns with the safety of trees and there were questions about property ownership and responsibility. He was unsure of the status of that situation and suggested it was possible the City may have made a mistake in that case. If the PMC was to become more stringent, the City must hold itself to the higher standard as well. He wanted to see the case studies that warranted a change in the law.

City Manager Murray agreed that having more data on the lived experience would better inform the conversation. Staff could return with more information on the rate of compliance with the courtesy notice process and the rate and speed of compliance if the courtesy notice process was not included. He otherwise commented that staff had been in contact with the member of the public who had addressed the City Council at its February 21 meeting. He added it was up to the City Council whether or not to proceed to waive the first reading of the ordinance with the condition that additional information would come back or the item could be continued.

City Attorney Casher commented that there were times when there had been no response to the courtesy notice and if there was a shorter time involved the property owner could be fined, moving the issue forward rapidly. He agreed that additional information could be provided in the staff report for the second reading and while typically it would be a consent item it could be pulled for discussion or the City Council could continue the item to another first reading.

Council member Martinez-Rubin offered a motion to waive the first reading and introduce an ordinance amending Chapters 8.24 and 8.25 of the Pinole Municipal Code to modify provisions concerning nuisance abatement procedures and related code enforcement.

On the motion, Council member Tave requested an amendment to accept the first reading and allow staff the opportunity to return with the data points requested.

City Clerk Bell restated the initial motion to waive the first reading and introduce an ordinance amending Chapters 8.24 and 8.25 of the Pinole Municipal Code to modify provisions concerning nuisance abatement procedures and related code enforcement, and clarified that the motion meant that the ordinance would not be read verbatim at the public meeting.

With that clarification, Council member Tave seconded the motion, as originally stated.

ACTION: Motion by Council members Martinez-Rubin/Tave to Waive the First Reading and Introduce an Ordinance Amending Chapters 8.24 and 8.25 of the Pinole Municipal Code to Modify Provisions Concerning Nuisance Abatement Procedures and Related Code Enforcement.

Vote:	**Passed**	**4-1**
	Ayes:	**Toms, Martinez-Rubin, Sasai, Tave**
	Noes:	**Murphy**
	Abstain:	**None**
	Absent:	**None**

Return to Agenda

City Attorney Casher clarified in response to the Mayor that the item would return at the next City Council meeting as a Consent Calendar item.

B. Introduction and First Reading of an Ordinance to Amend Title 2, Administration and Personnel, of the Municipal Code to Provide the Contra Costa County Fire Protection District with Jurisdiction and Authority to Conduct Fire and Emergency Medical Response Services within the City [**Action: Waive First Reading and Introduce Ordinance (Casher)]**

City Attorney Casher provided a PowerPoint presentation for the first reading of an ordinance to amend Title 2, Administration and Personnel, of the Pinole Municipal Code (PMC) to provide the Contra Costa County Fire Protection District (CCCFPD/Con Fire) with jurisdiction and authority to conduct fire and emergency medical response services within the City. He provided an overview of the Fire Services Agreement and the PMC, which referenced the duties and responsibilities of the Fire Chief, and highlighted the amendments to the Ordinance. He recommended the City Council introduce and waive the first reading of the ordinance, as described.

Responding to Council member Martinez-Rubin, City Attorney Casher clarified the term of the agreement with the CCCFPD would be five years.

PUBLIC HEARING OPENED

Maria Alegria, Pinole, asked who valley residents should contact in the event neighbors were not doing what was required. She also asked how reporting would be provided to the City Council and the community about this change to the CCCFPD. She asked that the community be educated about this change, particularly given the need to address defensible spaces in the summer months, and she suggested that landlords of homes should also be contacted given the need to keep the valley area safe from potential fires. She otherwise supported the ordinance.

Cordell Hindler, Richmond, agreed with the comments from the previous speaker. He asked for clarification as to who the community should contact either the Pinole Fire Chief or the CCCFPD. He also commented on the upcoming fire season and agreed that residents, landlords and schools should be educated on wildfires. He supported the ordinance as presented.

PUBLIC HEARING CLOSED

Mayor Murphy stated the Mayor's Office could be contacted in the event of an emergency and City Manager Murray explained that the code enforcement program within the Community Development Department dealt with weed abatement issues and notices regarding defensible space in advance of wildfire season and any concerns could be addressed with that Department. Concerns with respect to weed abatement on City property, parks and open spaces could be addressed to the Public Works Department or the City Manager's Office. He added the contract provided that CCCFPD provide quarterly reports, with the information to be provided to the City Council and residents. One of the benefits of this new agreement was that the CCCFPD had more robust tools for capturing activity data, with more information on the calls for service for the two fire stations.

Return to Agenda

Mayor Pro Tem Toms offered a motion, seconded by Council member Tave to introduce and waive the first reading of an Ordinance to Amend Title 2, Administration and Personnel, of the Municipal Code to provide the Contra Costa County Fire Protection District with jurisdiction and authority to conduct fire and emergency response services within the City for the term of the agreement.

On the motion, Mayor Murphy asked staff to clarify whether or not the CCCFPD would consider a Community Emergency Response Team (CERT) Program in the future.

City Manager Murray advised that the CCCFPD did not offer a CERT Program. If the City wanted to have a CERT Program in the community it would be the responsibility of a City Department. He and the Chief of Police were discussing implementation of that program and recommendations could be provided as part of the upcoming budget process.

ACTION: Motion by Mayor Pro Tem Toms/Council member Tave to Introduce and Waive the First Reading of an Ordinance to Amend Title 2, Administration and Personnel, of the Municipal Code to Provide the Contra Costa County Fire Protection District with Jurisdiction and Authority to Conduct Fire and Emergency Response Services within the City for the term of the agreement.

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

11. OLD BUSINESS: None

12. NEW BUSINESS

A. Review City Council Meeting Procedures **[Action: Discuss Report and Provide Direction (Murray)]**

City Manager Murray explained that the City Council reviewed its meeting procedures each year and considered revisions. Staff had proposed some edits for clarification, which were not substantive in nature and were as shown in the March 7, 2023 staff report. He recommended the City Council review the City Council Meeting Procedures, discuss proposed revisions and provide direction to staff.

PUBLIC COMMENTS OPENED

Rafael Menis, Pinole, referenced Attachment A to the March 7, 2023 staff report, Page 156 of the agenda packet and suggested the revisions proposed under Citizens to be Heard should not include a reference to the "County." On Page 158 (b) Consent Calendar, he stated the language changes which modified the reference to "routine or noncontroversial" to now read "routine and noncontroversial" was inaccurate since some items on the Consent Calendar were routine and perhaps controversial and some items were non-routine but noncontroversial, and he offered examples to support his recommendation that the language in that section remain as written.

Mr. Menis also referenced Page 158 (c) Public Comment, and suggested the language that had been stricken in this section should be reinserted as a matter of the Brown Act and public policy in that having questions being asked by the public was a net benefit both to the City Council and to the community by allowing for a broader range of items to be brought up by the public, and allowed a more thorough consideration by the City Council and City staff on any given topic.

Maria Alegria, Pinole, clarified with the City Clerk that recommended changes would be discussed at this time with the item to be brought back for formal approval on the Consent Calendar at the next meeting of the City Council. As to the agenda preparation, she suggested there should be discretion by the Mayor to decide what recognitions, proclamations or presentations should be considered rather than requiring approval from the full City Council. She asked that the Roll Call, City Clerk Report & Statement of Conflict of the City Council meeting agendas be amended to also include "Norms of Behavior." She suggested the Conflict of Interest clause under this same heading should be amended to include "potential conflicts of interest" to follow the language under California Government Code Section §87105, as defined, and which should be spelled out.

As to Exhibit A, Norms of Behavior, Ms. Alegria asked that the resolution contained in Exhibit A be revisited annually with a link to the City Council agenda and a clause added for the City Council to have the ability to censure a City Council member who violated the Norms of Behavior. In addition, she asked that the procedures also be reviewed to ensure consistency with the PMC related to the City Manager's responsibilities.

Cordell Hindler, Richmond, found the fact that the public had to wait for two hours until the completion of the Closed Session items for this meeting to be unacceptable. He had spoken with the City Clerk for the City of Berkeley and had been informed that Berkeley's meeting agendas were posted the Friday prior to the meeting date, which was beneficial for the public to see any items of interest. He had also spoken with other Mayors in West County and suggested speakers should be allowed to complete their comments when addressing the City Council. He otherwise liked the revisions that allowed the public to speak on proclamations.

Anthony Vossbrink, Pinole, suggested more could be done with meeting protocols to have the City Council and City staff do its due diligence to be responsive, attentive, assertive and proactive to public concerns, issues, questions and problems, and be more open and transparent with the public and City government. He wanted to see more done, such as the repair of City roads and infrastructure with detailed numbers. He noted the Police Department was to provide a report to the Traffic and Pedestrian Safety (TAPS) Committee and the City Council on traffic safety going back to 2019 with data on recorded incidents, violations, speeding, citations and the like, although that had yet to be scheduled. He emphasized the public took the time to identify those issues for the City Council and there should be protocols in place other than what had been stated as to what could or could not be discussed in response to a member of the public regardless of the hour. He found there had been no accountability and half of the time speakers had been ignored with no responses to concerns provided in writing.

PUBLIC COMMENTS CLOSED

Council member Tave referenced the amendments to Attachment A of the staff report, Section 6. Agenda Preparation, as shown on Page 155 of the agenda packet, and suggested staff bring back a reasonable date for Council review of future agenda items, with the Mayor and City Manager to confer on an achievable date for future agenda items.

City Manager Murray understood Council member Tave was seeking a separate process to set a timeline for items that did not have a date certain.

Council member Tave commented that if he requested a recycled water feasibility study, as a future agenda item as an example, he would like to have it come back with a date certain within a reasonable timeline.

City Manager Murray explained that when a future agenda item was being requested and approved, an achievable date certain with real time had been discussed and would not apply to items in a pending list. As an example, consideration of a Just Cause Eviction Ordinance included a date certain, which was a feasible approach as opposed to going back and adding another step that was not needed.

Council member Tave wanted to recognize there could be impacts to staff time and coming back with an achievable date certain would allow for multiple items to come back.

Mayor Murphy suggested they could do both; decide on a date certain through a motion and circle back with the City Manager and the Mayor to determine what was realistic.

Council member Tave suggested the fifth sentence of Section 6. Agenda Preparation as shown on Page 155 of the agenda packet be revised to read: *The City Council can establish a date certain, a reasonable date be discussed and brought back to Council, for a future agenda item when it approves a future agenda item.*

Mayor Pro Tem Toms referenced the fact that regular meetings started at 6:00 p.m., although the City Council meetings had oftentimes started at 5:00 p.m. and were not called out as a Special Meeting. She suggested the meeting start time should be changed permanently to 5:00 or 6:00 p.m.

Mayor Pro Tem Toms also commented that the placement of Items 7. Reports and Communications and 8. Recognitions / Presentations / Community Announcements had been changed on the meeting agenda some time ago and had been moved closer to the beginning of the meeting, and when there were guests that item had been shifted. She asked whether or not the item should remain as shown on the meeting agenda near the beginning of the meeting or be moved to the end of the meeting agenda.

Mayor Murphy understood the 6:00 p.m. start time occurred prior to the integration of the hybrid meeting model and a start time of 5:00 p.m. allowed people to call in. As to whether Agenda Items 7 and 8 should be switched, he suggested Item 8, Recognitions / Presentations / Community Announcements should be considered prior to Item 7, Reports & Communications.

Council member Martinez-Rubin was willing to wait to see how the changes worked out.

Mayor Murphy referenced Page 156 and the revisions under Section 6. Citizens to be Heard, and suggested the first sentence of the paragraph should be revised to read: *Citizens may provide comments to the City Council on any matter*.

Mayor Pro Tem Toms disagreed and noted as an example that school issues or issues related to other jurisdictions were not under the City's purview.

Mayor Murphy reiterated his recommended revision to Section 6. He also spoke to Page 158 (b) Consent Calendar, and agreed the first sentence should include the initial language that had been stricken, and which read: *Items listed under the "Consent Calendar" are considered to be routine or noncontroversial and will be enacted, approved, received or adopted by one motion in the form as shown on the agenda.* As to Section (c), Public Comment, he noted that was the time for citizens to ask questions and residents should be encouraged to ask questions via email, if possible.

City Manager Murray clarified the strikeout language, as shown in Section (c) Public Comment and as shown on Pages 158 and 159 of the agenda packet as part of Attachment A, was from an earlier version of edits and had not been proposed.

Council member Martinez-Rubin clarified that anyone could be asked to make public comment on any topic that was not an agenda item and suggested it was a disservice to discuss matters not under the City's jurisdiction. She suggested a document or guidelines could be shared with the public about what was generally speaking the area of the City's jurisdiction, which would be helpful to the public and to the City Council.

Mayor Murphy offered a motion to amend Page 156 and the revisions under Section 6. Citizens to be Heard, to read: *Citizens may provide comment to the City Council on any matter not listed as an agenda item on this Council meeting's agenda.*

On the motion, Council member Martinez-Rubin suggested the same section be revised to read: *Citizens may provide public comment to the City Council on any matter within the jurisdiction of the City not listed as an agenda item on this Council meeting's agenda.*

Council member Sasai seconded the Mayor's motion, as stated.

ACTION: Motion by Mayor Murphy/Council member Sasai to amend Page 156 of the agenda packet, Section 6, Citizens to be Heard of Attachment A to read:

> **Citizens may provide comment to the City Council on any matter not listed as an agenda item on this Council meeting's agenda.**

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

ACTION: Motion by Mayor Pro Tem Toms/Mayor Murphy to switch the order of Agenda Items 7 and 8, as shown on Page 156 of the agenda packet of Attachment A.

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

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In response to the comments regarding the language for the Consent Calendar, as shown on Page 158 of the agenda packet, specifically whether to retain the phrase "routine or noncontroversial," which had been stricken or the staff recommended language reading "routine and noncontroversial," City Clerk Bell explained that another option could be to consider the phrase "routine and/or noncontroversial."

ACTION: Motion by Mayor Pro Tem Toms/Mayor Murphy to amend the first sentence of (b) Consent Calendar as shown on Page 158 of the agenda packet of Attachment A, to read:

> **Items listed under the "Consent Calendar" are considered to be routine and/or noncontroversial and will be enacted, approved, received or adopted by one motion in the form as shown on the agenda.**

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

As to the meeting start time, City Clerk Bell recommended the City Council consider an earlier start time. Staff had not been polling City Council members since staff had been providing an agenda forecast and the City Council had consistently been meeting at 5:00 p.m.

City Attorney Casher advised that Chapter 2.12.010 of the PMC provided that the meeting start time for City Council meetings was 6:00 p.m. and if that were to be changed, it could be changed in the Council Meeting Procedures or through an amendment to the PMC.

City Clerk Bell added that a Special Meeting agenda could be considered if the City Council wanted to consider the 5:00 p.m. start time as another option.

ACTION: Motion by Mayor Pro Tem Toms/Mayor Murphy to change the City Council meeting start time to 5:00 p.m. and direct the City Attorney to return to the City Council with an amended ordinance.

Vote:	**Passed:**	**4-1**
	Ayes:	**Murphy, Toms, Martinez-Rubin, Sasai**
	Noes:	**Tave**
	Abstain:	**None**
	Absent:	**None**

Council member Tave offered a motion for staff to come back with language surrounding the reasonable date certain language to address his comments with respect to Section 6, Agenda Preparation as shown on Page 155 of the agenda packet, and City Clerk Bell advised that the language could be implemented and brought back to the City Council.

B. Options for City-Sponsored Fourth of July Celebration for 2023 **[Action: Receive Report and Provide Direction (Rogers)]**

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Community Services Director Jeremy Rogers and Recreation Supervisor Maria Picazo provided a PowerPoint presentation on the options for the City-sponsored Fourth of July celebration for 2023 as outlined in the March 7, 2023 staff report. A brief video of a drone display was presented to the City Council. The City Council was asked to receive the report on the options and provide direction to staff.

ACTION: Motion by Mayor Murphy/Council member Tave to extend the City Council meeting to 11:30 p.m.

Vote:	**Passed:**	**4-1**
	Ayes:	**Murphy, Toms, Sasai, Tave**
	Noes:	**Martinez-Rubin**
	Abstain:	**None**
	Absent:	**None**

Council member Martinez-Rubin clarified with the Community Services Director that the drone show displayed in the City of Fresno had been paid for by a minor league baseball team.

Council member Sasai again clarified with the Community Services Director the costs of the fireworks shows for the City of Pinole and a potential joint show with the City of Hercules, which he would like to see hosted at Fernandez Park, and while the City of Hercules was interested in hosting a joint event the location of the fireworks show had not been determined.

City Manager Murray clarified, as stated in the staff report, that there were issues with having a fireworks display on land for several reasons. A smaller scale fireworks show at a lower elevation may be possible at Pinole Valley High School or a larger scale fireworks show at Bay Front Park. Permits would be required for a fireworks show to be displayed at Bay Front Park where the fireworks would be directed over the water.

Council member Tave commented on the community's expectations that the fireworks display in 2022 would have been visible from Fernandez Park but that had not occurred. He asked whether or not the larger scale fireworks show would be visible at Bay Front Park and whether food trucks would be allowed as part of a larger community event.

Community Services Director Rogers suggested starting small since the City did not have the staff for a larger scaled community event as had been done in the past. Speaking with the vendor, he had been informed that a fireworks display would be visible from Bay Front Park, and City Manager Murray understood the only fireworks that had been visible inland in 2022 were those that were shot from a higher elevation, and he hoped to have the ability to select which elevations the fireworks would be launched to, making it more visible from other locations. In 2022, a Geographic Information System (GIS) analysis had been done and had concluded that the fireworks would be visible but that had been inaccurate. Staff would conduct an analysis with the vendor to ensure the issues with respect to visibility of the 2022 fireworks display was not repeated.

In response to the Mayor Pro Tem, Community Services Director Rogers confirmed the lower elevation fireworks display would involve a longer duration.

PUBLIC COMMENTS OPENED

Rafael Menis, Pinole, understood the costs for the drone show included staff costs while the fireworks shows had not and if those costs were included he asked whether the fireworks display would be more comparable in cost to the drone show.

Cordell Hindler, Richmond, suggested the City of Pinole consider splitting the costs of a fireworks display with the City of Hercules since Hercules was willing to host a joint event.

Anthony Vossbrink, Pinole, stated he had polled around 100 residents before and after the 2022 fireworks display. He did not support a partnership with the City of Hercules for a fireworks display since the 2022 event had benefitted Hercules residents whereas the view for Pinole residents had been obstructed other than the top 100 to 200 feet of the display. He suggested the City Council had not disclosed the costs for Police and Fire personnel for the 2022 event and referenced issues related to traffic congestion and a lack of information on the location for viewing and parking. He suggested the cost for the 2022 event was much more than budgeted since it had not taken into account the additional costs for fire and police. He recommended no fireworks display for 2023, and recommended that the money be diverted to infrastructure or a combination of other family events in downtown Pinole with potentially a mini-fireworks show at Fernandez Park or Pinole Valley High School.

PUBLIC COMMENTS CLOSED

Council member Martinez-Rubin wanted to see more options for celebrations that did not involve fireworks given the contradictions in air quality, climate and environmental issues and since fireworks produced impacts to oxygen and to the Bay. She recalled the City had received a grant in the amount of $40,000 in the past which would help for more than a one-night event. She suggested funds not be used for fireworks but be considered for other items in the budget. She did not see a fireworks display as an urgent item and pointed out that many cities considered non-fireworks options. She also cited the list of activities planned for Earth Day during the month of April and the interest in involving the public at different times for different activities. She asked staff to return with a list of feasible options.

Council member Martinez-Rubin added that she imagined City employees would prefer to spend their Fourth of July holiday at their homes and she would like to provide that for them and for that reason, along with the overall expense of a fireworks display beyond what was a reasonable amount, she preferred to consider options beyond what staff had presented.

Council member Sasai liked the idea of a drone light show but he had received little community input to support that expense given other community events throughout the year. As to a joint fireworks display with the City of Hercules, he was aware of the community's displeasure that the 2022 fireworks display had been held in Hercules and not Pinole. He sought more details for a large as opposed to a smaller scaled fireworks display and more information on different options as Council member Martinez-Rubin had suggested.

Mayor Pro Tem Toms also did not support a joint fireworks display with the City of Hercules and pointed out that fireworks displays in Hercules and Richmond could be enjoyed by Pinole residents. With the Earth Day, Car Show and Veterans Day events there would be a number of community events in Pinole. She agreed the cost was significant even for a 20-minute drone light show and she preferred to see the money spent to enhance other programs the City was sponsoring whether National Night Out, Earth Day or the Car Show.

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Council member Tave supported a larger scaled fireworks display at Bay Front Park. He had attended the 2022 fireworks event and acknowledged the number of disappointed residents. He preferred that San Pablo Avenue be shut down on the Fourth of July to allow the community to patronize local businesses and enjoy community events. He suggested the City should reset, do the fireworks show as intended and show the community the City could handle a large scale event for the Fourth of July holiday, which was important to the community. He wanted to see the City consider a larger scaled event that could be scaled back when considering other Fourth of July activities such as the drone light show.

Mayor Murphy clarified with the Community Services Director the approximate $68,000 budgeted for community events was current until the end of the fiscal year; the drone light show option had come about out of City Council decisions in 2022 regarding alternatives to fireworks displays; and event planning had been done in-house and staff had not considered hiring an outside event planner for an outside festival.

ACTION: Motion by Council member Tave/Mayor Murphy to extend the City Council meeting to 11:45 p.m.

Vote:	**Passed:**	**4-1**
	Ayes:	**Murphy, Toms, Sasai, Tave**
	Noes:	**Martinez-Rubin**
	Abstain:	**None**
	Absent:	**None**

ACTION: Motion by Council member Tave/Mayor Murphy for a Large Fireworks Show at Bay Front Park at 600 feet in height on the Fourth of July.

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

13. CITIZENS TO BE HEARD (Continued from Item 6) (Public Comments)
Only open to members of the public who did not speak under the first Citizens to be Heard, Agenda Item 6.
***Citizens may speak under any item not listed on the Agenda**. The time limit is 3 minutes and is subject to modification by the Mayor. Individuals may not share or offer time to another speaker. Pursuant to provisions of the Brown Act, no action may be taken on a matter unless it is listed on the agenda, or unless certain emergency or special circumstances exist.*
The City Council may direct staff to investigate and/or schedule certain matters for consideration at a future Council meeting.

Anthony Vossbrink, Pinole, suggested the City Council made a mistake voting for the fireworks display and had not done its due diligence. He cited a large breach on the Bay Front Trail, which could be subject to public accidents and was unsure whether it was the responsibility of the East Bay Regional Park District (EBRPD), Union Pacific or the City. Nothing had been done to address the potential hazard. He also suggested the discussion on the fireworks display should have been tabled to the next meeting of the City Council to allow for more public input.

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Mr. Vossbrink asked that the City address the light outages up and down Pinole Valley Road from Henry Avenue to the Pinole Library and the light poles that were in need of repair and asked when the light poles would be replaced. He also reported on needed repairs to lights along Adobe Road at the turnabout in front of the dog park, and stated the women's restroom was inoperable, a spotlight above the roof at the dog park was inoperable, the grove lights did not work and trash cans had not been repaired or replaced. He also requested consideration of a future agenda item for the City to consider a satellite police station on Fitzgerald Drive.

Mayor Murphy reported the City Manager had provided a status report on lighting at the beginning of the meeting and City Manager Murray again briefed everyone on his report. He reiterated the public may communicate any concerns with respect to street lighting with the Public Works Department.

Cordell Hindler, Richmond, suggested the City Clerk had done an amazing job preparing agendas and packets but his voice had not been heard for this meeting given that he had to wait until the City Council returned from Closed Session, which in his opinion had shown a lack of transparency. He also wanted it noted for the record that it had been his idea for the City to consider a proclamation for Black History Month and to recognize the Pinole Valley High School Spartan Football Team. As a future agenda item, he requested a presentation on plans for the Port of Oakland as it was coming out of the pandemic.

14. **ADJOURNMENT** to the Regular City Council Meeting of March 21, 2023 in Remembrance of Amber Swartz.

At 11:38 p.m., Mayor Murphy adjourned the meeting to the Regular City Council Meeting of March 21, 2023 in Remembrance of Amber Swartz.

Submitted by:

_____

Heather Bell, CMC
City Clerk

Approved by City Council:

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9B

WARRANT LISTING

By Vendor Name

City of Pinole, CA

Payment Dates 3/4/2023 - 3/17/2023

Payable Number	Payment Number	Payment Date	Account Number	Description (Payable)	Amount
Vendor: 4LE00 - 4LEAF, INC.					
J1909A55-R	101526	03/10/2023	100-465-42101	BLDG INP III, CE, BO SERVICES	13,024.00
J1909A55-R	101526	03/10/2023	212-462-42101	BLDG INP III, CE, BO SERVICES	26,678.00
J1909A56	101526	03/10/2023	100-465-42101	CE, BO, BLDG III, PERMIT TECH JANUARY 2023	13,464.00
J1909A56	101526	03/10/2023	212-462-42101	CE, BO, BLDG III, PERMIT TECH JANUARY 2023	33,806.56
				Vendor 4LE00 - 4LEAF, INC. Total:	**86,972.56**
Vendor: PRO18 - ADT COMMERCIAL					
MARCH 2023	101594	03/17/2023	209-553-42108	TINY TOTS ALARM	93.20
				Vendor PRO18 - ADT COMMERCIAL Total:	**93.20**
Vendor: ALA08 - ALAMEDA COUNTY SHERIFF'S OFFICE					
290131-0223-7706	101527	03/10/2023	100-221-42301	POST SUPERVISORY COOURSE	425.00
				Vendor ALA08 - ALAMEDA COUNTY SHERIFF'S OFFICE Total:	**425.00**
Vendor: 2063 - ALLIANT INSURANCE SERVICES, INC.					
2188424	101528	03/10/2023	100-116-42101	BROKER BENEFITS	2,083.33
				Vendor 2063 - ALLIANT INSURANCE SERVICES, INC. Total:	**2,083.33**
Vendor: ALL14 - ALLSTAR FIRE EQUIPMENT, INC.					
245906	101529	03/10/2023	100-231-42107	TRADITIONAL COMPOSITE HELMET MEDALLION FIRE	598.41
				Vendor ALL14 - ALLSTAR FIRE EQUIPMENT, INC. Total:	**598.41**
Vendor: 2463 - AMANDA VASQUEZ					
03132023	101595	03/17/2023	100-221-42302	MILEAGE REIMBURSEMENT TO POLICE ACADEMY	61.57
				Vendor 2463 - AMANDA VASQUEZ Total:	**61.57**
Vendor: 2005 - ANIMAL DAMAGE MANAGEMENT, INC					
6375C	101530	03/10/2023	100-345-42108	BASEBALL FIELDS PEST CONTROL	250.00
				Vendor 2005 - ANIMAL DAMAGE MANAGEMENT, INC Total:	**250.00**
Vendor: ROD01 - ANNETTE RODRIGUEZ					
FEBRUARY 2023	101531	03/10/2023	209-552-43802	EXERCISE CLASSESS PSC	90.00
				Vendor ROD01 - ANNETTE RODRIGUEZ Total:	**90.00**
Vendor: ARA01 - ARAMARK UNIFORM SERVICES					
860105970 02282023	101532	03/10/2023	100-342-44410	MONTHLY STATEMENT-GENERAL MAINTENANCE	372.31
860105970 02282023	101532	03/10/2023	100-343-44410	MONTHLY STATEMENT-GENERAL MAINTENANCE	1,895.42
860105970 02282023	101532	03/10/2023	500-642-44410	MONTHLY STATEMENT-GENERAL MAINTENANCE	1,116.94
939388000 02282023	101532	03/10/2023	100-231-42107	LAUNDRY SERVICES FIRE, PSC AND WPCP	137.81
939388000 02282023	101532	03/10/2023	100-231-42107	LAUNDRY SERVICES FIRE, PSC AND WPCP	137.81
939388000 02282023	101532	03/10/2023	209-552-43804	LAUNDRY SERVICES FIRE, PSC AND WPCP	189.06
939388000 02282023	101532	03/10/2023	209-552-43804	LAUNDRY SERVICES FIRE, PSC AND WPCP	181.19
939388000 02282023	101532	03/10/2023	209-552-43804	LAUNDRY SERVICES FIRE, PSC AND WPCP	193.88
939388000 02282023	101532	03/10/2023	209-552-43804	LAUNDRY SERVICES FIRE, PSC AND WPCP	193.88
939388000 02282023	101532	03/10/2023	500-641-44410	LAUNDRY SERVICES FIRE, PSC AND WPCP	328.44

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Payable Number	Payment Number	Payment Date	Account Number	Description (Payable)	Amount
939388000 02282023	101532	03/10/2023	500-641-44410	LAUNDRY SERVICES FIRE, PSC AND WPCP	428.46
939388000 02282023	101532	03/10/2023	500-641-44410	LAUNDRY SERVICES FIRE, PSC AND WPCP	349.53
939388000 02282023	101532	03/10/2023	500-641-44410	LAUNDRY SERVICES FIRE, PSC AND WPCP	349.53
				Vendor ARA01 - ARAMARK UNIFORM SERVICES Total:	**5,874.26**
Vendor: ATT01 - AT&T					
000019535974	101533	03/10/2023	525-118-43101	PD PHONE	3,077.64
				Vendor ATT01 - AT&T Total:	**3,077.64**
Vendor: 2419 - BARG COFFIN LEWIS & TRAPP, LLP					
47625	101596	03/17/2023	207-344-42102	MONSANTO LEGAL MATTER	354.00
				Vendor 2419 - BARG COFFIN LEWIS & TRAPP, LLP Total:	**354.00**
Vendor: BAR40 - BARRY EVANS STUDIO					
9832	101597	03/17/2023	100-111-42101	PHOTO SESSION DIGITAL FILE	157.31
				Vendor BAR40 - BARRY EVANS STUDIO Total:	**157.31**
Vendor: BAY04 - BAY AREA BARRICADE SVC.					
0038929	101534	03/10/2023	100-342-42514	24X30 CORRUGARED BLK/WHT CY SIGNS	131.70
				Vendor BAY04 - BAY AREA BARRICADE SVC. Total:	**131.70**
Vendor: BAY34 - BAY AREA NEWS GROUP- EAST BAY					
0001369362	101535	03/10/2023	100-112-42514	LEGAL ADS	159.30
0001369362	101535	03/10/2023	100-112-42514	LEGAL ADS	136.80
0001369362	101535	03/10/2023	212-461-42514	LEGAL ADS	519.75
0001369362	101535	03/10/2023	212-461-42514	LEGAL ADS	519.75
0001369362	101535	03/10/2023	212-461-42514	LEGAL ADS	262.80
				Vendor BAY34 - BAY AREA NEWS GROUP- EAST BAY Total:	**1,598.40**
Vendor: BAY29 - BAY POWER LLC					
3464	101536	03/10/2023	500-641-42107	COGEN TROUBLESHOOTING AND EMISSIONS WPCP	836.00
				Vendor BAY29 - BAY POWER LLC Total:	**836.00**
Vendor: 2634 - BRANDON HEARNE					
03072023	101598	03/17/2023	500-641-42301	COMMERCIAL DRIVER PERMIT DMV WPCP	89.00
				Vendor 2634 - BRANDON HEARNE Total:	**89.00**
Vendor: 1654 - BRINK'S INCORPORATED					
12223285	101599	03/17/2023	100-115-42101	TRANSPORTATION FINANCE	250.62
				Vendor 1654 - BRINK'S INCORPORATED Total:	**250.62**
Vendor: CAL04 - CALCON SYSTEMS,INC.					
53156	101600	03/17/2023	500-641-42107	SERVICE CALL WPCP	1,600.00
				Vendor CAL04 - CALCON SYSTEMS,INC. Total:	**1,600.00**
Vendor: CALA3 - CALIFORNIA GENERATOR SERVICE					
61170	101601	03/17/2023	500-641-42107	GENERATOR SERVICE WPCP	2,440.00
61171	101601	03/17/2023	500-641-42107	GENERATOR SERVICE WPCP	1,580.00
61172	101601	03/17/2023	500-641-42107	GENERATOR SERVICE WPCP	1,580.00
				Vendor CALA3 - CALIFORNIA GENERATOR SERVICE Total:	**5,600.00**
Vendor: PER03 - CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTM					
100000017097083	101602	03/17/2023	100-117-41004	ANNUAL UNFUNDED ACCR LIAB MIS CLASSIC	122,253.58
100000017097091	101602	03/17/2023	100-117-41004	ANNUAL UNF ACCRUED LIAB SAFETY CLASSIC	146,841.25
100000017097101	101602	03/17/2023	100-117-41004	ANNUAL UNF ACCRUED LIAB PEPRA SAFETY FIRE	137.08
100000017097111	101602	03/17/2023	100-117-41004	ANNUAL UNF ACCRUED LIAB PEPRA SAFETY PD	859.08
100000017097119	101602	03/17/2023	100-117-41004	ANNUAL UNF ACCRUED LIAB PEPRA MISC	486.25
				Vendor PER03 - CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTM Total:	**270,577.24**

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Payable Number	Payment Number	Payment Date	Account Number	Description (Payable)	Amount
Vendor: CAL01 - CALTEST ANALYTICAL LAB					
705801	101537	03/10/2023	500-641-44305	MERCURY TRACE LEVEL LAB WPCP	104.50
706005	101603	03/17/2023	500-641-44305	CHEMICALS SUPPLIES LAB WPCP	655.50
				Vendor CAL01 - CALTEST ANALYTICAL LAB Total:	**760.00**
Vendor: CCP03 - CCP INDUSTRIES					
IN03223689	101538	03/10/2023	100-343-44410	MASK AND GLOVES CY	432.78
				Vendor CCP03 - CCP INDUSTRIES Total:	**432.78**
Vendor: 2229 - CHAPLIN AND HILL INVESTIGATIVE SERVICES LLC					
C&HIS 22-31_1	101604	03/17/2023	100-221-42101	INVESTIGATION PD	2,329.75
				Vendor 2229 - CHAPLIN AND HILL INVESTIGATIVE SERVICES LLC Total:	**2,329.75**
Vendor: CIT08 - CITY MECHANICAL, INC					
90790	101539	03/10/2023	100-343-42108	HVAC POST OFFICE	784.29
				Vendor CIT08 - CITY MECHANICAL, INC Total:	**784.29**
Vendor: COL02 - COLE-PARMER INSTRUMENT CO					
3375594	101540	03/10/2023	500-641-44305	LAB SUPPLIES WPCP	204.14
				Vendor COL02 - COLE-PARMER INSTRUMENT CO Total:	**204.14**
Vendor: COM20 - COMCAST					
0050875-02232023	101605	03/17/2023	100-117-43105	CABLE CH	26.08
0210511-02162023	101541	03/10/2023	100-222-43105	PD CABLE	173.13
0253131-02092023	101541	03/10/2023	100-231-43105	CABLE CH	10.67
0413784-02182023	101541	03/10/2023	525-118-42105	TINY TOTS NETWORK INTERNET	146.80
0419492-03022023	101605	03/17/2023	525-118-43101	INTERNET SWIM CENTER	141.89
167900825	101606	03/17/2023	525-118-43101	INTERNET PD	888.41
				Vendor COM20 - COMCAST Total:	**1,386.98**
Vendor: CON56 - CONCENTRA MEDICAL CENTERS					
78353563	101607	03/17/2023	100-116-42101	DOT PHYSICAL WPCP	91.00
				Vendor CON56 - CONCENTRA MEDICAL CENTERS Total:	**91.00**
Vendor: 2626 - CONSOR NORTH AMERICA, INC.					
N202830CA.00-31	101542	03/10/2023	325-342-47205	RO1710 PRELIMINARY DESIGN SERVICES	303.28
				Vendor 2626 - CONSOR NORTH AMERICA, INC. Total:	**303.28**
Vendor: CONA7 - CONTRA COSTA FAMILY JUSTICE ALLIANCE					
2022PIN-06-1	101543	03/10/2023	100-222-42101	POLICE CHIEF ASSOCIATION CONTRIBUTION PD	375.14
				Vendor CONA7 - CONTRA COSTA FAMILY JUSTICE ALLIANCE Total:	**375.14**
Vendor: COR12 - CORELOGIC SOLUTIONS LLC					
82165083	101608	03/17/2023	525-118-42510	RELAQUEST CITYWIDE USAGE SOFTWARE	704.41
				Vendor COR12 - CORELOGIC SOLUTIONS LLC Total:	**704.41**
Vendor: 1445 - CORTEZ TIRES AND AUTO REPAIR					
19487	101609	03/17/2023	100-221-42107	ELECTIRC REPAIR TAIL LIGHT	260.00
				Vendor 1445 - CORTEZ TIRES AND AUTO REPAIR Total:	**260.00**
Vendor: 2152 - DEROTIC EMERGENCY EQUIPMENT					
NO-2838	101544	03/10/2023	100-231-42107	7-INCH ROUND HEADLIGHT KIT FIRE	1,117.81
				Vendor 2152 - DEROTIC EMERGENCY EQUIPMENT Total:	**1,117.81**
Vendor: 1443 - DIESEL DIRECT WEST, INC.					
85002700	101545	03/10/2023	100-10602	ULSD CLEAR GASOLINE FIRE	766.00
85013721	101545	03/10/2023	100-10601	GASOLINE UNL CY	2,863.55
85013743	101545	03/10/2023	100-10602	ULSD CLEAR GASOLINE FIRE	639.76
				Vendor 1443 - DIESEL DIRECT WEST, INC. Total:	**4,269.31**

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Payable Number	Payment Number	Payment Date	Account Number	Description (Payable)	Amount
Vendor: 2020 - DOCUSIGN, INC.					
111100062195	101610	03/17/2023	525-118-42106	ESIGNATURE PREMIER SUPPORT	14,605.92
				Vendor 2020 - DOCUSIGN, INC. Total:	**14,605.92**
Vendor: EBM01 - EBMUD					
388057-02272023	101546	03/10/2023	100-343-43102	1960 Sarah Dr--Irrigation Use Only	260.34
464596-02272023	101546	03/10/2023	100-345-43102	2310 Park St--Fernandez Park Baseball Field	700.56
465395-022272023	101546	03/10/2023	100-345-43102	1095 Nob Hill Ave--Parks & Gardens--Meadow Park	260.34
465422-02272023	101546	03/10/2023	500-641-43102	80 TENNENT AVE--WASTE WATER TREATMENT PLANT	3,502.59
465569-02272023	101546	03/10/2023	209-558-43102	601 Tennent Ave--Memorial Hall	105.04
465922-02272023	101546	03/10/2023	100-343-43102	636 Tennent Ave--Irrigation Use Only	60.28
466363-02272023	101546	03/10/2023	100-345-43102	1818 Canyon Dr--Irrigation Use Only	60.28
565167-02272023	101546	03/10/2023	201-343-43102	2100 San Pablo Ave--Offices--Faria House	60.28
				Vendor EBM01 - EBMUD Total:	**5,009.71**
Vendor: 2380 - ELIZABETH A. LYNN					
FEBRUARY 2023	101547	03/10/2023	209-552-43802	POSTURE CLASSESS PSC	41.30
				Vendor 2380 - ELIZABETH A. LYNN Total:	**41.30**
Vendor: 1655 - ENDRESS + HAUSER, INC.					
6002423722	101611	03/17/2023	500-641-44306	CHLORINE SENSOR WPCP	2,681.42
				Vendor 1655 - ENDRESS + HAUSER, INC. Total:	**2,681.42**
Vendor: 1299 - ERIC HOLT					
03032023	101548	03/10/2023	998-20030	RE-ISSUE STALE DATED CK 29379	2,750.07
				Vendor 1299 - ERIC HOLT Total:	**2,750.07**
Vendor: 2628 - FIREFIGHTERS PRINT & DESIGN					
17697	101549	03/10/2023	106-231-42514	STATION BANNER FIRE DPT	558.21
				Vendor 2628 - FIREFIGHTERS PRINT & DESIGN Total:	**558.21**
Vendor: FIS01 - FISHER SCIENTIFIC					
0572326	101550	03/10/2023	500-641-44305	ALCOHOL LAB SUPPLIES WPCP	70.65
0647961	101550	03/10/2023	500-641-44305	ACETATE BUFF LAB SUPPLIES WPCP	495.86
0686041	101550	03/10/2023	500-641-44305	LABSOLUTION ALCONOX WPCP	340.73
				Vendor FIS01 - FISHER SCIENTIFIC Total:	**907.24**
Vendor: 2457 - GEOLINKS					
BD0133524	101612	03/17/2023	525-118-42105	CLEAR FIBER DIA 25MBPS INTERNET FOR WPCP	499.00
				Vendor 2457 - GEOLINKS Total:	**499.00**
Vendor: GLO08 - GLOBALSTAR					
000000046193416	101551	03/10/2023	525-118-43101	WIRELESS UTILITY CHARGES	136.95
				Vendor GLO08 - GLOBALSTAR Total:	**136.95**
Vendor: KEN14 - GREG KENNEDY RN					
116	101552	03/10/2023	100-231-42101	EMS CQI DUTIES FEB 2023 FIRE	2,500.00
				Vendor KEN14 - GREG KENNEDY RN Total:	**2,500.00**
Vendor: HAC01 - HACH COMPANY					
13492473	101613	03/17/2023	500-641-44305	LAB SUPPLIES WPCP	981.21
				Vendor HAC01 - HACH COMPANY Total:	**981.21**
Vendor: HAR01 - HARRINGTON INDUSTRIAL PLASTIC, LLC					
006N6748	101614	03/17/2023	500-641-44306	GAUGE PRES WPCP	202.11
				Vendor HAR01 - HARRINGTON INDUSTRIAL PLASTIC, LLC Total:	**202.11**

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Vendor: HOM01 - HOME DEPOT CREDIT SERVICE					
FEBRUARY 2023	101553	03/10/2023	100-231-42108	CITYWIDE PURCHASES	110.12
FEBRUARY 2023	101553	03/10/2023	100-231-42108	CITYWIDE PURCHASES	306.27
FEBRUARY 2023	101553	03/10/2023	100-231-42108	CITYWIDE PURCHASES	425.97
FEBRUARY 2023	101553	03/10/2023	100-231-42108	CITYWIDE PURCHASES	204.36
FEBRUARY 2023	101553	03/10/2023	100-231-42108	CITYWIDE PURCHASES	257.06
FEBRUARY 2023	101553	03/10/2023	100-231-44306	CITYWIDE PURCHASES	256.05
FEBRUARY 2023	101553	03/10/2023	100-343-44306	CITYWIDE PURCHASES	39.21
FEBRUARY 2023	101553	03/10/2023	100-343-44306	CITYWIDE PURCHASES	6.53
FEBRUARY 2023	101553	03/10/2023	100-343-44306	CITYWIDE PURCHASES	26.54
FEBRUARY 2023	101553	03/10/2023	100-343-44306	CITYWIDE PURCHASES	54.58
FEBRUARY 2023	101553	03/10/2023	100-343-44306	CITYWIDE PURCHASES	46.57
FEBRUARY 2023	101553	03/10/2023	100-343-44306	CITYWIDE PURCHASES	33.07
FEBRUARY 2023	101553	03/10/2023	100-345-42514	CITYWIDE PURCHASES	70.18
FEBRUARY 2023	101553	03/10/2023	100-345-44306	CITYWIDE PURCHASES	21.17
FEBRUARY 2023	101553	03/10/2023	100-345-44306	CITYWIDE PURCHASES	162.26
FEBRUARY 2023	101553	03/10/2023	100-345-44306	CITYWIDE PURCHASES	34.87
FEBRUARY 2023	101553	03/10/2023	209-554-44306	CITYWIDE PURCHASES	28.34
FEBRUARY 2023	101553	03/10/2023	500-642-42514	CITYWIDE PURCHASES	32.60
				Vendor HOM01 - HOME DEPOT CREDIT SERVICE Total:	**2,115.75**
Vendor: 2624 - HUNT EQUIPMENT, LLC.					
03072023	101554	03/10/2023	212-462-34232	REFUND BL PROCESSING FEE 22-10831	60.00
				Vendor 2624 - HUNT EQUIPMENT, LLC. Total:	**60.00**
Vendor: 2625 - I C REFRIGERATION SERVICE, INC.					
03072023	101555	03/10/2023	212-462-34232	REFUND BUSINESS LICENSE PROCESSING FEE 23-08841	60.00
				Vendor 2625 - I C REFRIGERATION SERVICE, INC. Total:	**60.00**
Vendor: IED02 - IEDA, INC.					
24080	101615	03/17/2023	100-116-42101	LABOR RELATIONS MARCH 2023	2,436.39
				Vendor IED02 - IEDA, INC. Total:	**2,436.39**
Vendor: CUL03 - ISING'S CULLIGAN-LIVERMORE					
379X08744802	101556	03/10/2023	500-641-44305	DEIONIZATION SERVICE WPCP	507.85
				Vendor CUL03 - ISING'S CULLIGAN-LIVERMORE Total:	**507.85**
Vendor: MOO14 - ISSAC MOORE					
FEBRUARY 2023	101557	03/10/2023	209-552-43802	EXERCISE CLASSES PSC	315.00
				Vendor MOO14 - ISSAC MOORE Total:	**315.00**
Vendor: JWE01 - J. W. ENTERPRISES - NORTH					
248383	101616	03/17/2023	100-551-42511	PORTABLE TOILET RENTAL RECREATION	142.77
				Vendor JWE01 - J. W. ENTERPRISES - NORTH Total:	**142.77**
Vendor: 1285 - JACKSON LEWIS P.C.					
8208524	101617	03/17/2023	100-116-42102	ERMA MATTER PROFESSIONAL SERVICES PD	403.00
8208529	101617	03/17/2023	100-116-42102	EMAR MATTER PROFESSIONAL SERVICES PD	558.00
				Vendor 1285 - JACKSON LEWIS P.C. Total:	**961.00**
Vendor: COR15 - JACQUELINE L CORL-SEIDEL					
FEBRUARY 2023	101558	03/10/2023	209-552-43802	EXERCISE CLASSES PSC	440.65
				Vendor COR15 - JACQUELINE L CORL-SEIDEL Total:	**440.65**
Vendor: 1611 - JANICE M. BYER					
FEBRUARY 2023	101559	03/10/2023	209-552-43802	EXERCISE CLASSES	495.00
				Vendor 1611 - JANICE M. BYER Total:	**495.00**
Vendor: JAN92 - JAN-PRO OF THE GREATER BAY AREA					
16536	101560	03/10/2023	209-554-42108	JANITORIAL SERVICES PYC	456.00
16537	101560	03/10/2023	209-552-42108	JANITORIAL SERVICES PSC	422.00

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16538	101560	03/10/2023	209-552-43810	JANITORIAL SERVICES PSC KITCHEN	405.00
				Vendor JAN92 - JAN-PRO OF THE GREATER BAY AREA Total:	**1,283.00**
Vendor: KEL09 - KELLER CANYON LANDFILL					
4212-000031901	101561	03/10/2023	500-641-44302	SLUDGE REMOVAL WPCP	4,695.49
				Vendor KEL09 - KELLER CANYON LANDFILL Total:	**4,695.49**
Vendor: KEN09 - KENNEDY AND ASSOCIATES, INC.					
22-069	101562	03/10/2023	100-341-42101	830 SPA PRELIMINARY REVIEW PW PL21-0090	524.25
				Vendor KEN09 - KENNEDY AND ASSOCIATES, INC. Total:	**524.25**
Vendor: LAN15 - LANGUAGE LINE SERVICES					
10955986	101563	03/10/2023	100-223-42101	OVER THE PHONE INTERPRETATION PD	99.64
				Vendor LAN15 - LANGUAGE LINE SERVICES Total:	**99.64**
Vendor: LEA01 - LEAGUE OF CALIFORNIA CITIES					
5042	101564	03/10/2023	100-110-42301	MEMBERSHIP DUES FOR EAST BAY DIVISION	200.00
5042	101564	03/10/2023	100-110-42401	MEMBERSHIP DUES FOR EAST BAY DIVISION	250.00
643483	101564	03/10/2023	100-110-42401	MEMBERSHIP DUES	7,538.00
INV-02376	101618	03/17/2023	100-341-42401	2023 LOCAL STREETS AND ROADS ASSESSMENT	300.00
				Vendor LEA01 - LEAGUE OF CALIFORNIA CITIES Total:	**8,288.00**
Vendor: 2635 - LINDA SEGUNDO					
03092023	101619	03/17/2023	100-222-42302	HOTEL AND TRAINING PD	848.49
03092023	101619	03/17/2023	100-222-42303	HOTEL AND TRAINING PD	257.00
				Vendor 2635 - LINDA SEGUNDO Total:	**1,105.49**
Vendor: 2391 - MARIA CABRERA					
03092023	101620	03/17/2023	100-221-42303	PETTY CASH REIMBURSEMENT PD	30.00
03092023	101620	03/17/2023	100-221-42303	PETTY CASH REIMBURSEMENT PD	30.00
03092023	101620	03/17/2023	100-221-42303	PETTY CASH REIMBURSEMENT PD	30.00
03092023	101620	03/17/2023	100-221-42514	PETTY CASH REIMBURSEMENT PD	20.79
03092023	101620	03/17/2023	100-221-44301	PETTY CASH REIMBURSEMENT PD	40.00
				Vendor 2391 - MARIA CABRERA Total:	**150.79**
Vendor: 2238 - MARKISHA GUILLORY					
02152023	101565	03/10/2023	100-115-42302	MEAL ALLOTMENT, HOTEL AND MILEAGE	456.23
02152023	101565	03/10/2023	100-115-42302	MEAL ALLOTMENT, HOTEL AND MILEAGE	58.50
02152023	101565	03/10/2023	100-115-42302	MEAL ALLOTMENT, HOTEL AND MILEAGE	85.15
02152023	101565	03/10/2023	100-115-42303	MEAL ALLOTMENT, HOTEL AND MILEAGE	102.00
				Vendor 2238 - MARKISHA GUILLORY Total:	**701.88**
Vendor: MEY01 - MEYERS NAVE, A PROFESSIONAL CORPORATION					
199791	101621	03/17/2023	100-20011	GENERAL SERVICES CODE ENFORCEMENT	4,599.00
200647	101621	03/17/2023	100-20011	CITY ATTORNEY SERVICES	18,660.75
200649	101621	03/17/2023	100-20011	CITY COUNCIL MEETINGS	3,186.00
200650	101621	03/17/2023	100-20011	PUBLIC RECORDS ACT REQUESTS	2,772.00
200651	101621	03/17/2023	100-20011	RISK MANAGEMENT	248.00
200652	101621	03/17/2023	100-20011	PINOLE SHORES II CR	2,800.50
200653	101621	03/17/2023	100-20011	COVID-19	432.00

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200654	101621	03/17/2023	100-20011	GENERAL SERVICES PUBLIC WORKS	2,320.00
200655	101621	03/17/2023	100-20011	MVP CONSTRUCTION LLC DISPUTE	1,377.00
200656	101621	03/17/2023	100-20011	GENERAL SERVICES CITY CLERK	310.00
200657	101621	03/17/2023	100-20011	GENERAL SERVICES POLICE	8,242.65
200658	101621	03/17/2023	100-20011	GENERAL SERVICES LABOR AND EMPLOYMENT	4,850.50
200659	101621	03/17/2023	100-20011	GENERAL SERVICES CODE ENFORCEMENT	2,827.92
200660	101621	03/17/2023	100-20011	GENERAL SERVICES COMMUNITY DEVELOPMENT	2,455.00
200661	101621	03/17/2023	100-20011	GENERAL SERVICES RECREATIONAL	252.00
200662	101621	03/17/2023	100-20011	HOUSING SUCCESSOR RDA AFFORDABLE	621.00
201475	101621	03/17/2023	100-20011	CITY COUNCIL MEETINGS	1,944.00
201476	101621	03/17/2023	100-20011	PUBLIC RECORDS ACT REQUESTS	1,191.00
201479	101621	03/17/2023	100-20011	GENERAL SERVICES FINANCE	372.00
201480	101621	03/17/2023	100-20011	FINANCE ANNUAL AUDIT LETTERS	124.00
201481	101621	03/17/2023	100-20011	GENERAL SERVICES PW	1,352.00
201482	101621	03/17/2023	100-20011	MVP CONSTRUCTION LLC DISPUTE	765.00
201483	101621	03/17/2023	100-20011	GENERAL SERVICE POLICE	6,394.93
201484	101621	03/17/2023	100-20011	GENERAL SERVICES LABOR AND EMPLOYMENT	1,969.00
201486	101621	03/17/2023	100-20011	GENERAL SERVICES COMMUNITY DEVELOPMENT	2,432.00
201487	101621	03/17/2023	100-20011	GENERAL SERVICES FIRE	2,625.00
201488	101621	03/17/2023	100-20011	GENERAL SERVICES RECREATIONAL	196.00
201489	101621	03/17/2023	100-20011	HOUSING SUCCESSOR RDA AFFORDABLE	1,380.00
201948	101621	03/17/2023	100-20011	CITY ATTORNEY SERVICES	12,000.00
201949	101621	03/17/2023	100-20011	PINOLE SHORES II CR	4,995.00
201950	101621	03/17/2023	100-20011	COVID-19	463.00
201951	101621	03/17/2023	100-20011	GENERAL SERVICES CODE ENFORCEMENT	5,031.00
				Vendor MEY01 - MEYERS NAVE, A PROFESSIONAL CORPORATION Total:	**99,188.25**
Vendor: 1139 - MICHAEL BAKER INTERNATIONAL, INC.					
1171948	101566	03/10/2023	212-461-42101	PROFESSIONAL SERVICES NOV.28-JAN. 29, 2023	15,501.00
				Vendor 1139 - MICHAEL BAKER INTERNATIONAL, INC. Total:	**15,501.00**
Vendor: 2441 - NELSON CONNECTS					
6415391	101567	03/10/2023	100-341-42103	ADMINISTRATIVE ASSISTANT PW	1,473.12
				Vendor 2441 - NELSON CONNECTS Total:	**1,473.12**
Vendor: 2631 - OAKLAND FIRESAFE COUNCIL					
03072023	101568	03/10/2023	100-231-42514	Contribution	1,000.00
				Vendor 2631 - OAKLAND FIRESAFE COUNCIL Total:	**1,000.00**
Vendor: OFF09 - OFFICE OF THE SHERIFF CCC					
23-3179	101569	03/10/2023	100-222-42101	ACRYLIC PLAQUE PD	60.70
				Vendor OFF09 - OFFICE OF THE SHERIFF CCC Total:	**60.70**
Vendor: OLI01 - OLIVERS TOWING INC					
21-10765-13	101570	03/10/2023	100-221-42107	STORAGE FEE PD	280.00
				Vendor OLI01 - OLIVERS TOWING INC Total:	**280.00**

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Vendor: 2636 - OLIVIA ROJO					
03092023	101624	03/17/2023	100-110-42514	COUNCIL DINNER REIMBURSEMENT	119.00
				Vendor 2636 - OLIVIA ROJO Total:	**119.00**
Vendor: O'R01 - O'REILLY AUTOMOTIVE, INC					
FEBRUARY 2023	101571	03/10/2023	100-343-44306	CITYWIDE PURCHASES	71.83
FEBRUARY 2023	101571	03/10/2023	100-343-44306	CITYWIDE PURCHASES	41.90
FEBRUARY 2023	101571	03/10/2023	100-343-44306	CITYWIDE PURCHASES	-41.90
FEBRUARY 2023	101571	03/10/2023	100-343-44306	CITYWIDE PURCHASES	185.89
FEBRUARY 2023	101571	03/10/2023	209-554-42107	CITYWIDE PURCHASES	171.96
FEBRUARY 2023	101571	03/10/2023	500-641-44306	CITYWIDE PURCHASES	78.97
				Vendor O'R01 - O'REILLY AUTOMOTIVE, INC Total:	**508.65**
Vendor: OTI01 - OTIS ELEVATOR COMPANY					
100401079091	101572	03/10/2023	209-554-42108	MAINTENANCE MARCH 2023 PYC	184.16
100401079617	101572	03/10/2023	100-222-42108	MAINTENANCE MARCH 2023 SAFETY BLDG.	124.60
				Vendor OTI01 - OTIS ELEVATOR COMPANY Total:	**308.76**
Vendor: PAC55 - PACIFIC SITE MANAGEMENT					
62500	101573	03/10/2023	100-222-42108	MONTHLY LANDSCAPE SERVICES	125.93
62500	101573	03/10/2023	100-231-42108	MONTHLY LANDSCAPE SERVICES	337.43
62500	101573	03/10/2023	100-343-42108	MONTHLY LANDSCAPE SERVICES	180.02
62500	101573	03/10/2023	100-345-42108	MONTHLY LANDSCAPE SERVICES	5,787.95
62500	101573	03/10/2023	200-342-42108	MONTHLY LANDSCAPE SERVICES	335.81
62500	101573	03/10/2023	201-343-42108	MONTHLY LANDSCAPE SERVICES	548.93
62500	101573	03/10/2023	209-552-42108	MONTHLY LANDSCAPE SERVICES	204.23
62500	101573	03/10/2023	209-553-42108	MONTHLY LANDSCAPE SERVICES	212.31
62500	101573	03/10/2023	209-557-42108	MONTHLY LANDSCAPE SERVICES	212.31
62500	101573	03/10/2023	310-347-42108	MONTHLY LANDSCAPE SERVICES	62.16
62500	101573	03/10/2023	310-348-42108	MONTHLY LANDSCAPE SERVICES	65.37
				Vendor PAC55 - PACIFIC SITE MANAGEMENT Total:	**8,072.45**
Vendor: 2629 - PAIGE ARNONE, LLC.					
01	101574	03/10/2023	100-221-42304	VIRTUAL YOGA PROGRAM PD	4,995.00
				Vendor 2629 - PAIGE ARNONE, LLC. Total:	**4,995.00**
Vendor: LON02 - PATRICIA LONG					
FEBRUARY 2023	101575	03/10/2023	209-552-43802	JAN AND FEB CWLD	346.85
				Vendor LON02 - PATRICIA LONG Total:	**346.85**
Vendor: 2630 - PET FOOD EXPRESS, LLC					
112-2301PN	101576	03/10/2023	100-221-42514	FOOD FOR MILO PD	60.07
15-2301PN	101576	03/10/2023	100-221-42514	FOOD FOR MILO PD	53.49
				Vendor 2630 - PET FOOD EXPRESS, LLC Total:	**113.56**
Vendor: PGE01 - PG&E					
3879-02272023	101577	03/10/2023	200-342-43103	N COR RAMONA ST AND PINOLE VALLEY RD	146.65
4256-02272023	101577	03/10/2023	500-641-43103	11 TENNANT AVE	67,160.05
7547-02272023	101577	03/10/2023	100-222-43103	880 Tennent Ave-Public Safety Facility	3,490.46
7547-02272023	101577	03/10/2023	100-223-43103	880 Tennent Ave-Public Safety Facility	698.09

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7547-02272023	101577	03/10/2023	100-231-43103	880 Tennent Ave-Public Safety Facility	2,792.38
9929-02242023	101577	03/10/2023	201-343-43103	790 PINOLE SHORES DR-NEW METAL BUILDING	38.24
9961-02272023	101577	03/10/2023	209-552-43103	2500 CHARLES ST-SENIOR CENTER	3,405.03
				Vendor PGE01 - PG&E Total:	**77,730.90**
Vendor: JAR01 - PINOLE GOODYEAR					
INV065230	101625	03/17/2023	100-343-44306	TIRES SERVICE CY	20.00
				Vendor JAR01 - PINOLE GOODYEAR Total:	**20.00**
Vendor: PIT01 - PITNEY BOWES GLOBAL FINANCIAL SERVICES LLC					
3105965526	101626	03/17/2023	100-111-42203	RENTAL DIGITAL MAILING SYSTEM	476.87
				Vendor PIT01 - PITNEY BOWES GLOBAL FINANCIAL SERVICES LLC Total:	**476.87**
Vendor: 1009 - PRECISION IT CONSULTING					
13197	101627	03/17/2023	525-118-47102	LENOVO THINKPAD LAPTOP CITY CLERK	1,441.56
13208	101627	03/17/2023	525-118-42101	AGREEMENT BILLABLE SUPPORT	70.00
13238	101627	03/17/2023	525-118-42101	AGREEMENT SERVICES	29,000.00
13238	101627	03/17/2023	525-118-42105	AGREEMENT SERVICES	820.00
13238	101627	03/17/2023	525-118-42105	AGREEMENT SERVICES	995.00
13238	101627	03/17/2023	525-118-42106	AGREEMENT SERVICES	128.31
13238	101627	03/17/2023	525-118-42106	AGREEMENT SERVICES	536.06
13239	101627	03/17/2023	525-118-42106	AGREEMENT SERVICE OFFICE 365 FEBRUARY 2023	3,406.85
				Vendor 1009 - PRECISION IT CONSULTING Total:	**36,397.78**
Vendor: 2388 - PRESTIGE PRINTING AND GRAPHICS					
83429	101578	03/10/2023	212-462-42201	BUSINESS CARDS FOR BLDG. OFFICIAL	134.41
				Vendor 2388 - PRESTIGE PRINTING AND GRAPHICS Total:	**134.41**
Vendor: R&S01 - R & S ERECTION OF RICHMOND, INC.					
107700C	101628	03/17/2023	106-231-42514	ROLL UP DOORS AT FIRE STATION 74	1,417.50
107754C	101579	03/10/2023	100-231-42108	ROLL UP DOOR SERVICE FIRE	885.00
				Vendor R&S01 - R & S ERECTION OF RICHMOND, INC. Total:	**2,302.50**
Vendor: 2453 - RAY'S ELECTRIC					
2	101629	03/17/2023	215-342-47205	SAFETY IMPROVEMENTS CONSTRUCTION CIPRO1714	39,615.00
				Vendor 2453 - RAY'S ELECTRIC Total:	**39,615.00**
Vendor: 2440 - RINCON CONSULTANTS, INC.					
45708	101580	03/10/2023	212-461-42101	TRANSLATION INTERPRETATION SERVICES	7,321.03
				Vendor 2440 - RINCON CONSULTANTS, INC. Total:	**7,321.03**
Vendor: ROS08 - RSG, INC.					
I009347	101630	03/17/2023	750-463-42101	REAL ESTATE OPEN LISTING BROKER SERVICE	58.75
I009501	101630	03/17/2023	750-463-42101	REAL ESTATE OPEN LISTING BROKER SERVICE	293.75
I009856	101630	03/17/2023	285-464-42101	HOUSING CONSULTING SERVICES	8,988.75
I009856	101630	03/17/2023	750-463-42101	HOUSING CONSULTING SERVICES	3,300.00
				Vendor ROS08 - RSG, INC. Total:	**12,641.25**
Vendor: 2481 - S & G CARPET AND MORE					
009439	101581	03/10/2023	106-231-42514	CARPET FOR FIRE STATION 74	3,108.67
				Vendor 2481 - S & G CARPET AND MORE Total:	**3,108.67**

Return to Agenda

Payable Number	Payment Number	Payment Date	Account Number	Description (Payable)	Amount
Vendor: SBC05 - SBCA TREE CONSULTING					
22-3551	101582	03/10/2023	106-345-47203	TREE SURVEY	1,800.00
				Vendor SBC05 - SBCA TREE CONSULTING Total:	**1,800.00**
Vendor: 1714 - SHERRI D. LEWIS					
CC017PINOLE-FY2022/23	101583	03/10/2023	100-112-42101	PREPARE MINUTES FOR CC MTG. 2212023	1,087.50
PC06PINOLE-FY2022/23	101583	03/10/2023	212-461-42514	PLANNING COMMISION MINUTES 02132023	825.00
				Vendor 1714 - SHERRI D. LEWIS Total:	**1,912.50**
Vendor: 2632 - SHIPLEY POOL SERVICE					
16272	101631	03/17/2023	209-557-42108	MONTHLY MAINTENANCE SWIM CENTER	3,312.50
				Vendor 2632 - SHIPLEY POOL SERVICE Total:	**3,312.50**
Vendor: 2048 - SONIC.NET, LLC					
1005737268	101632	03/17/2023	525-118-42105	SOFTWARE MAINTENANCE	455.74
				Vendor 2048 - SONIC.NET, LLC Total:	**455.74**
Vendor: SQU00 - SQUARE DEAL GARAGE					
42612	101584	03/10/2023	100-343-42107	REPAIRS FOR TRUCK 52 CY	1,788.68
42709	101633	03/17/2023	100-343-42107	REPAIR ON TIRE	25.00
				Vendor SQU00 - SQUARE DEAL GARAGE Total:	**1,813.68**
Vendor: STA42 - STAPLES BUSINESS CREDIT					
1647286531	101634	03/17/2023	100-111-42201	OFFICE SUPPLIES CITYWIDE	55.95
1647286531	101634	03/17/2023	100-111-42201	OFFICE SUPPLIES CITYWIDE	54.82
1647286531	101634	03/17/2023	100-111-42201	OFFICE SUPPLIES CITYWIDE	53.77
1647286531	101634	03/17/2023	100-111-42201	OFFICE SUPPLIES CITYWIDE	25.34
1647286531	101634	03/17/2023	100-111-42201	OFFICE SUPPLIES CITYWIDE	8.38
1647286531	101634	03/17/2023	100-111-42201	OFFICE SUPPLIES CITYWIDE	4.13
1647286531	101634	03/17/2023	100-111-42201	OFFICE SUPPLIES CITYWIDE	223.90
1647286531	101634	03/17/2023	100-111-42201	OFFICE SUPPLIES CITYWIDE	102.03
1647286531	101634	03/17/2023	100-111-42201	OFFICE SUPPLIES CITYWIDE	161.30
1647286531	101634	03/17/2023	100-111-42201	OFFICE SUPPLIES CITYWIDE	99.12
1647286531	101634	03/17/2023	100-112-42201	OFFICE SUPPLIES CITYWIDE	43.89
1647286531	101634	03/17/2023	100-112-42201	OFFICE SUPPLIES CITYWIDE	17.66
1647286531	101634	03/17/2023	100-112-42201	OFFICE SUPPLIES CITYWIDE	55.65
1647286531	101634	03/17/2023	100-112-42201	OFFICE SUPPLIES CITYWIDE	50.14
1647286531	101634	03/17/2023	100-116-42201	OFFICE SUPPLIES CITYWIDE	54.29
1647286531	101634	03/17/2023	100-116-42201	OFFICE SUPPLIES CITYWIDE	32.07
1647286531	101634	03/17/2023	100-222-42201	OFFICE SUPPLIES CITYWIDE	61.00
1647286531	101634	03/17/2023	100-222-42201	OFFICE SUPPLIES CITYWIDE	31.83
1647286531	101634	03/17/2023	100-222-42201	OFFICE SUPPLIES CITYWIDE	30.72
1647286531	101634	03/17/2023	100-341-42201	OFFICE SUPPLIES CITYWIDE	23.55
1647286531	101634	03/17/2023	100-341-42201	OFFICE SUPPLIES CITYWIDE	69.15
1647286531	101634	03/17/2023	212-461-42101	OFFICE SUPPLIES CITYWIDE	15.57
1647286531	101634	03/17/2023	212-462-42201	OFFICE SUPPLIES CITYWIDE	157.06
1647286531	101634	03/17/2023	212-462-42201	OFFICE SUPPLIES CITYWIDE	61.41
1647286531	101634	03/17/2023	212-462-42201	OFFICE SUPPLIES CITYWIDE	13.77
				Vendor STA42 - STAPLES BUSINESS CREDIT Total:	**1,506.50**
Vendor: STE20 - STERICYCLE, INC.					
3006374345	101585	03/10/2023	100-222-42101	MEDICAL WASTE PD	126.28
8003528426	101635	03/17/2023	100-116-42101	SHREDDING SERVICE FOR HR	341.59
				Vendor STE20 - STERICYCLE, INC. Total:	**467.87**
Vendor: 2436 - STRATEGIC ENERGY INNOVATIONS					
4406	101586	03/10/2023	212-461-42101	SUPPORT CLIMATE CORPS INTERN	4,650.00
4407	101586	03/10/2023	212-461-42101	CLIMATE CORPS SUPPORT INTERN	4,650.00
				Vendor 2436 - STRATEGIC ENERGY INNOVATIONS Total:	**9,300.00**

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Payable Number	Payment Number	Payment Date	Account Number	Description (Payable)	Amount
Vendor: 1253 - TARAH ORNELAS					
888	101587	03/10/2023	209-552-43809	NEWSLETTER PRINTING PSC	305.90
				Vendor 1253 - TARAH ORNELAS Total:	**305.90**
Vendor: 1702 - TELEFLEX LLC					
9505865213	101588	03/10/2023	100-231-42104	NEEDLE SET AND STABILIZER FIRE	1,475.18
				Vendor 1702 - TELEFLEX LLC Total:	**1,475.18**
Vendor: EDJ01 - THE ED JONES CO., INC.					
52557	101636	03/17/2023	100-221-42514	BADGE ENGRAVING PD	768.58
				Vendor EDJ01 - THE ED JONES CO., INC. Total:	**768.58**
Vendor: TRA20 - TRANSUNION RISK AND ALTERNATIVE DATA SOLUTIONS, INC.					
263397-202301-1	101637	03/17/2023	525-118-42510	JANUARY 2023 DATA SEARCH PD	153.20
263397-202302-1	101637	03/17/2023	525-118-42510	FEBRUARY 2023 DATA SEARCH PD	154.40
				Vendor TRA20 - TRANSUNION RISK AND ALTERNATIVE DATA SOLUTIONS, INC. Total:	**307.60**
Vendor: 2633 - TRB AND ASSOCIATES, INC.					
4615	101638	03/17/2023	100-465-46126	CODE ENFORCEMENT HEARING	360.00
4670	101638	03/17/2023	212-462-42101	PERMIT TECHINICIAN SERVICES	4,080.00
				Vendor 2633 - TRB AND ASSOCIATES, INC. Total:	**4,440.00**
Vendor: 2365 - TRIPEPI, SMITH AND ASSOCIATES, INC.					
9641	101639	03/17/2023	100-111-42101	PROFESSIONAL SERVICES	2,373.75
9642	101639	03/17/2023	100-111-42101	PROFESSIONAL SERVICES	3,071.25
				Vendor 2365 - TRIPEPI, SMITH AND ASSOCIATES, INC. Total:	**5,445.00**
Vendor: UNI38 - UNIVAR USA INC					
50969542	101640	03/17/2023	500-641-44303	SOD BISULFITE WPCP	7,882.11
				Vendor UNI38 - UNIVAR USA INC Total:	**7,882.11**
Vendor: UNI07 - UNIVERSAL BUILDING SVCS.					
7504	101589	03/10/2023	100-222-42108	JANITORIAL SUPPLIES PD	394.71
7505	101589	03/10/2023	100-343-42108	JANITORIAL SUPPLIES CH	299.92
				Vendor UNI07 - UNIVERSAL BUILDING SVCS. Total:	**694.63**
Vendor: USB06 - US BANK					
495284739	101641	03/17/2023	525-118-42107	RENTAL AGREEMENT FOR COPIERS CITYWIDE	2,501.86
FEBRUARY 2023	101590	03/10/2023	100-20018	CITYWIDE CREDIT CARDS	37,194.20
				Vendor USB06 - US BANK Total:	**39,696.06**
Vendor: 2627 - VALLEJO ELECTRIC MOTOR, INC.					
RI-3513	101591	03/10/2023	500-642-42108	PUMP REPAIRS CY	1,000.00
				Vendor 2627 - VALLEJO ELECTRIC MOTOR, INC. Total:	**1,000.00**
Vendor: LUK00 - VIVIENNE F. KEARSLEY-LUKE					
FEBRUARY 2023	101592	03/10/2023	209-552-43802	GENTLE YOGA PSC	154.70
				Vendor LUK00 - VIVIENNE F. KEARSLEY-LUKE Total:	**154.70**
Vendor: WKH00 - W K HYDRAULICS INC					
8944	101642	03/17/2023	500-641-44306	HOSE 6STEAMBLACK WPCP	214.01
				Vendor WKH00 - W K HYDRAULICS INC Total:	**214.01**
Vendor: WEC01 - WECO INDUSTRIES LLC					
0050585-IN	101593	03/10/2023	500-642-42514	FINNED NOZZLE EXTENSION	-173.00
0050587-IN	101593	03/10/2023	500-642-42514	MANHOLE PROTECTIVE RING CY	352.65
0050588-IN	101593	03/10/2023	500-642-42514	MANHOLE HOOK CY	527.91
0050667-IN	101593	03/10/2023	500-642-42514	NOZZLE HET CARBIDE CY	3,914.54
0050808-IN	101593	03/10/2023	500-642-44306	NOZZLE BULLDOG CY	-3,833.75
0051111-IN	101593	03/10/2023	500-642-42514	MANHOLE HOOK CY	555.79
				Vendor WEC01 - WECO INDUSTRIES LLC Total:	**1,344.14**

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Payable Number	Payment Number	Payment Date	Account Number	Description (Payable)	Amount
Vendor: 2603 - WEST VALLEY CONSTRUCTION CO, INC.					
135813	101643	03/17/2023	500-642-47201	ENGINEERING DESIGN SERVICES SEWER	7,579.50
				Vendor 2603 - WEST VALLEY CONSTRUCTION CO, INC. Total:	**7,579.50**
Vendor: 1520 - WEX BANK					
87729102	101644	03/17/2023	100-221-44301	FUEL PURCHASES PD	250.18
				Vendor 1520 - WEX BANK Total:	**250.18**
Vendor: ZOL02 - ZOLL					
INV00137381	101645	03/17/2023	525-118-42106	FIRE RMS ENTERPRISE 04/01-06/30/23	173.25
				Vendor ZOL02 - ZOLL Total:	**173.25**
				Grand Total:	**853,010.60**

Report Summary

Fund Summary

Fund	Payment Amount
100 - General Fund	507,261.00
106 - MEASURE S-2014	6,884.38
200 - Gas Tax Fund	482.46
201 - Restricted Real Estate Maintenance Fund	647.45
207 - NPDES Storm Water Fund	354.00
209 - Recreation Fund	12,159.49
212 - Building & Planning	99,316.11
215 - Measure C and J Fund	39,615.00
285 - Housing Land Held for Resale	8,988.75
310 - Lighting & Landscape Districts	127.53
325 - City Street Improvements	303.28
500 - Sewer Enterprise Fund	110,431.33
525 - Information Systems	60,037.25
750 - Recognized Obligation Retirement Fund	3,652.50
998 - Payroll Clearing	2,750.07
Grand Total:	**853,010.60**

Account Summary

Account Number	Account Name	Payment Amount
100-10601	Gas Tanks/Corp Yard	2,863.55
100-10602	Gas Tanks/Fire Station	1,405.76
100-110-42301	Travel & Training/Conf-Re...	200.00
100-110-42401	Dues & Pub/Memberships	7,788.00
100-110-42514	Admin Exp/Special Depart	119.00
100-111-42101	Prof Svcs/Professional Ser...	5,602.31
100-111-42201	Office Expense	788.74
100-111-42203	Office Exp/Shipping & Mai...	476.87
100-112-42101	Prof Svcs/Professional Ser...	1,087.50
100-112-42201	Office Expense	167.34
100-112-42514	Admin Exp/Special Depart	296.10
100-115-42101	Prof Svcs/Professional Ser...	250.62
100-115-42302	Travel & Training/Mileage,..	599.88
100-115-42303	Travel & Training/Meal Al...	102.00
100-116-42101	Prof Svcs/Professional Ser...	4,952.31
100-116-42102	Prof Svcs/Attorney Servic...	961.00
100-116-42201	Office Expense	86.36
100-117-41004	Emp Benefits/PERS Retir...	270,577.24
100-117-43105	Utilities/Cable	26.08
100-20011	Accounts Payable/Miscell...	99,188.25
100-20018	Accounts Payable/CalCard	37,194.20
100-221-42101	Prof Svcs/Professional Ser...	2,329.75
100-221-42107	Prof Svcs/Equipment Mai...	540.00
100-221-42301	Travel & Training/Conf-Re...	425.00
100-221-42302	Travel & Training/Mileage,..	61.57
100-221-42303	Travel & Training/Meal Al...	90.00
100-221-42304	Travel & Training/Officer...	4,995.00
100-221-42514	Admin Exp/Special Depart	902.93
100-221-44301	Other Materials Supp/Fuel	290.18
100-222-42101	Prof Svcs/Professional Ser...	562.12
100-222-42108	Prof Svcs/Building-Structu...	645.24
100-222-42201	Office Expense	123.55
100-222-42302	Travel & Training/Mileage,..	848.49
100-222-42303	Travel & Training/Meal Al...	257.00
100-222-43103	Utilities/Electricity & Pow...	3,490.46
100-222-43105	Utilities/Cable	173.13
100-223-42101	Prof Svcs/Professional Ser...	99.64
100-223-43103	Utilities/Electricity & Pow...	698.09

Account Summary

Account Number	Account Name	Payment Amount
100-231-42101	Prof Svcs/Professional Ser...	2,500.00
100-231-42104	Prof Svcs/Paramedic Servi...	1,475.18
100-231-42107	Prof Svcs/Equipment Mai...	1,991.84
100-231-42108	Prof Svcs/Building-Structu...	2,526.21
100-231-42514	Admin Exp/Special Depart	1,000.00
100-231-43103	Utilities/Electricity & Pow...	2,792.38
100-231-43105	Utilities/Cable	10.67
100-231-44306	Other Materials Supp/Ma...	256.05
100-341-42101	Prof Svcs/Professional Ser...	524.25
100-341-42103	Prof Svcs/Temporary Serv...	1,473.12
100-341-42201	Office Expense	92.70
100-341-42401	Dues & Pub/Memberships	300.00
100-342-42514	Admin Exp/Special Depart	131.70
100-342-44410	Safety Clothing	372.31
100-343-42107	Prof Svcs/Equipment Mai...	1,813.68
100-343-42108	Prof Svcs/Building-Structu...	1,264.23
100-343-43102	Utilities/Water	320.62
100-343-44306	Other Materials Supp/Ma...	484.22
100-343-44410	Safety Clothing	2,328.20
100-345-42108	Prof Svcs/Building-Structu...	6,037.95
100-345-42514	Admin Exp/Special Depart	70.18
100-345-43102	Utilities/Water	1,021.18
100-345-44306	Other Materials Supp/Ma...	218.30
100-465-42101	Prof Svcs/Professional Ser...	26,488.00
100-465-46126	Legal Charges	360.00
100-551-42511	Admin Exp/Equipment Re...	142.77
106-231-42514	Admin Exp/Special Depart	5,084.38
106-345-47203	Improvements/Parks	1,800.00
200-342-42108	Prof Svcs/Building-Structu...	335.81
200-342-43103	Utilities/Electricity & Pow...	146.65
201-343-42108	Prof Svcs/Building-Structu...	548.93
201-343-43102	Utilities/Water	60.28
201-343-43103	Utilities/Electricity & Pow...	38.24
207-344-42102	Prof Svcs/Attorney Servic...	354.00
209-552-42108	Prof Svcs/Building-Structu...	626.23
209-552-43103	Utilities/Electricity & Pow...	3,405.03
209-552-43802	Program Cost/Class Fees	1,883.50
209-552-43804	Program Cost/Food Progr...	758.01
209-552-43809	Program Cost/Newsletter	305.90
209-552-43810	Program Cost/Center Mai...	405.00
209-553-42108	Prof Svcs/Building-Structu...	305.51
209-554-42107	Prof Svcs/Equipment Mai...	171.96
209-554-42108	Prof Svcs/Building-Structu...	640.16
209-554-44306	Other Materials Supp/Ma...	28.34
209-557-42108	Prof Svcs/Building-Structu...	3,524.81
209-558-43102	Utilities/Water	105.04
212-461-42101	Prof Svcs/Professional Ser...	32,137.60
212-461-42514	Admin Exp/Special Depart	2,127.30
212-462-34232	Fees/Issuance/Processing...	120.00
212-462-42101	Prof Svcs/Professional Ser...	64,564.56
212-462-42201	Office Expense	366.65
215-342-47205	Improvements/Streets	39,615.00
285-464-42101	Prof Svcs/Professional Ser...	8,988.75
310-347-42108	Prof Svcs/Building-Structu...	62.16
310-348-42108	Prof Svcs/Building-Structu...	65.37
325-342-47205	Improvements/Streets	303.28
500-641-42107	Prof Svcs/Equipment Mai...	8,036.00
500-641-42301	Travel & Training/Conf-Re...	89.00

Account Summary

Account Number	Account Name	Payment Amount
500-641-43102	Utilities/Water	3,502.59
500-641-43103	Utilities/Electricity & Pow...	67,160.05
500-641-44302	Other Materials Supp/Slu...	4,695.49
500-641-44303	Other Materials Supp/Ch...	7,882.11
500-641-44305	Other Materials Supp/Lab...	3,360.44
500-641-44306	Other Materials Supp/Ma...	3,176.51
500-641-44410	Safety Clothing	1,455.96
500-642-42108	Prof Svcs/Building-Structu...	1,000.00
500-642-42514	Admin Exp/Special Depart	5,210.49
500-642-44306	Other Materials Supp/Ma...	-3,833.75
500-642-44410	Safety Clothing	1,116.94
500-642-47201	Improvements/Building	7,579.50
525-118-42101	Prof Svcs/Professional Ser...	29,070.00
525-118-42105	Prof Svcs/Network Maint...	2,916.54
525-118-42106	Prof Svcs/Software Maint...	18,850.39
525-118-42107	Prof Svcs/Equipment Mai...	2,501.86
525-118-42510	Admin Exp/Software Purch	1,012.01
525-118-43101	Utilities/Telephone	4,244.89
525-118-47102	FF&E/Computer Equipme...	1,441.56
750-463-42101	Prof Svcs/Professional Ser...	3,652.50
998-20030	Wages Payable	2,750.07
	Grand Total:	**853,010.60**

Project Account Summary

Project Account Key		Payment Amount
None		790,315.10
21246142101GP2201		15,501.00
21534247205RO1714		39,615.00
50064247201SS2201		7,579.50
	Grand Total:	**853,010.60**

APPROVED BY: _____
DATE: 3/16/2023

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CITY COUNCIL REPORT

9C

DATE: MARCH 21, 2023

TO: MAYOR AND COUNCIL MEMBERS

FROM: DAVID HANHAM, PLANNING MANAGER

SUBJECT: RECEIVE THE 2022 ANNUAL GENERAL PLAN HOUSING ELEMENT PROGRESS REPORT AS REQUIRED BY THE STATE OF CALIFORNIA

RECOMMENDATION

Receive the 2022 Annual General Plan Housing Element Progress Report as required by the State of California.

SUMMARY

Section 65400 of the State of California Government Code requires cities to provide an annual report to their legislative body (city council), the Governor's Office of Planning and Research (OPR), and the State Department of Housing and Community Development (HCD) on the status of their General Plan Housing Element and progress in its implementation. The General Plan Housing Element Annual Report includes information about a City's progress in meeting identified housing needs and efforts to encourage the maintenance, improvement, and development of new housing opportunities. Staff will forward this 2022 Annual General Plan Housing Element Progress Report to HCD prior to the April 1st deadline in accordance with State law.

BACKGROUND

Every eight years each jurisdiction in California is required to update their Housing Element. The Housing Element is a required component of the General Plan and identifies policies, programs, and actions to create opportunities for the development of new housing and to preserve existing housing stock. State law does not require that jurisdictions develop housing, but rather requires them to adequately plan to meet the existing and projected housing needs of all economic segments of their community.

State Housing Element law focuses on both the production and geographic distribution of new housing units and requires that each municipality strive to meet their "fair share" of the regional need for low- and moderate-income housing. To create a Housing Element showing it can meet the local housing needs, a jurisdiction must first know how much housing it must plan for and estimate how

much will be needed at a variety of affordability levels in order to match the needs of the people who will live there. This process begins with the State determining the total number of new homes needed in the nine-county Bay Area and how affordable those homes need to be based on Area Median Income, which is established on an annual basis. For reference, in 2022 the Area Median Income for Contra Costa County was $142,800 for a 4-person household.

The Association of Bay Area Governments (ABAG) then develops a methodology to distribute a share of the region's housing need to each city/town and county in the region. This need allocation is called the Regional Housing Needs Allocation (RHNA). Each local government must then update its Housing Element to show the locations where housing can be built and the policies and strategies necessary to meet the community's housing needs, including identifying sites that are zoned with enough capacity to meet the RHNA allocation. The process is complete once the State reviews and certifies local Housing Elements.

The City's 2015-2023 Housing Element[1] was adopted on May 19, 2015 and subsequently certified by HCD later the same month. The Housing Element covers the years 2015 through 2023, and includes information about how the City has planned for a RHNA of 297 units during the eight-year period. The Element focuses on the City's ability to provide quality, safe, and affordable housing, as well as aims to achieve a balance between maintaining the existing character of Pinole and providing housing for all economic segments of the community and those with special needs.

The City is currently in the process of finalizing an update to the Housing Element for 2023 to 2031 planning period. This updated Housing Element covers the years 2023 to 2031 and describes how the City plans for meeting housing needs over the 6th Cycle, including a RHNA allocation of 500 units during this period. HCD has reviewed and provided comments on the Housing Element; and revisions to the Housing Element incorporating responses to the comments have been prepared. The revised Housing Element is planned to be presented to Planning Commission for a recommendation on March 27, 2023 and City Council for adoption consideration on April 4, 2023. The revised Housing Element and staff report will be available on the City's agendas and minutes page:
https://www.ci.pinole.ca.us/cms/one.aspx?pageId=14626563

REVIEW & ANALYSIS

The City of Pinole Annual General Plan Housing Element Progress Report for 2022 is included as Attachment 1. The report includes statistics about annual building activity for affordable housing projects, annual building activity for rehabilitated

[1] Available online:
https://p1cdn4static.civiclive.com/UserFiles/Servers/Server_10946972/File/City%20Government/Planning/General%20Plan/2015-2023%20Housing%20Element.pdf

housing units, updated information about the City's RHNA progress, and implementation status of the programs included in the adopted Housing Element.

Housing Activity in 2022. In 2022, the momentum for residential development has continued from the previous year as several residential development applications previously under review have obtained entitlements, building permits were issued to start construction on entitled projects, and interest in creating ADUs and JADUs has continued. The City provided planning (entitlement) approval for 406 new dwelling units, issued building permits for 187 new dwelling units (seven ADUs, one single family home, and 179 units from the Vista Woods senior housing project), and finaled one building permit (issued certificate of occupancy) for a single-family home. Table 1 provides a summary of these projects. The City anticipates further new housing development progress towards the RHNA in 2023 as entitled projects receive building permits and are built out (see Table 3).

Table 1 – Summary of Housing Activity in 2022

Location	Housing Type	Number of New Units	Current Status in 2022		
			Planning Permit Approved	Building Permit Issued	Construction Completed, Occupancy Granted
2511 Ellerhorst St	Single Family	1			●
2987 Higuera Ave	ADU/JADU	1		●	
2326 Estrella Ct	ADU/JADU	1		●	
472 Limerick Rd	Single Family	1		●	
472 Limerick Rd	ADU/JADU	1		●	
10 Doolin Ct	ADU/JADU	1		●	
2661 Doidge Ave	ADU/JADU	1		●	
2416 Hill View Ln	ADU/JADU	1		●	
1309 Belfair Dr	ADU/JADU	1		●	
600 Roble Ave	Multifamily	179		●	
2151 Appian Way	Multifamily	154	●		
2801 Pinole Valley Rd	Multifamily	29	●		
1500 Fitzgerald Dr	Multifamily	223	●		
	TOTAL	594			

Housing Rehabilitation. City staff continues to assist homeowners and provide information at City Hall on rehabilitation assistance resources. In 2022, the City issued and conducted final building inspections for 474 permits to rehabilitate

housing units. Improvements include roofing projects, water heater replacement projects, furnace replacement projects, solar projects, window/patio door replacement projects, and home remodel/addition projects.

These privately initiated residential improvement projects helped to improve the quality and efficiency of the existing housing stock and implement the Housing Element Goals H.2 and H.5 and Policies H.2.4 and H.5.1, noted below.

> **Goal H.5 Energy-Efficiency, Conservation, and Sustainable Residential Development.** *Support energy-efficient design and building practices in order to reduce housing utility expenses, minimize adverse environmental impacts, and provide for sustainability.*
>
> > **Policy H.5.1: 1. *Reduce Energy Consumption.*** *Reduce energy and water consumption in residential buildings by balancing energy-efficient design and water conservation features with cost-effective construction.*
>
> **Goal H.2 Protect Existing Character and Heritage.** *Protect and enhance the integrity and distinctive character and heritage of Pinole encouraging the development of high-quality, well-designed housing and conserving existing housing.*
>
> > **Policy H.2.4 Maintain Existing Housing and Neighborhood Amenities.** Maintain Pinole's lifestyle characteristics by encouraging the maintenance of existing housing stock, and in particular housing with historic value, and preserving the amenities of existing neighborhoods.

Progress towards 5th Cycle RHNA and 6th Cycle RHNA. In general, new units count towards the City's RHNA when building permits for new housing construction have been issued by the local government during the reporting calendar year. The 2022 Housing Element Annual Progress Report is formatted to show unit progress from 2015 to 2023.

However, local governments in the ABAG region may take RHNA credit for new units approved, permitted, and/or built beginning from June 30, 2022 – the start of the 6th Cycle RHNA projection period – and apply it to the 6th Cycle (2023-2031) Housing Element.[2] For these pipeline projects to be counted towards the 6th Cycle Housing Element, ABAG clarifies that a project must receive its certificate of occupancy after June 30, 2022[3]. New units from several major multifamily residential projects (SAHA, Vista Woods, Appian Village, BCRE, and Pinole Vista) have yet to

[2] Department of Housing and Community Development. Review of Adopted 2023-2031 Regional Housing Needs Allocation Plan. https://abag.ca.gov/sites/default/files/documents/2022-01/ABAG%20RHNA%20Plan%20Approval%20-%20Date%20Corrected.pdf
[3] Association of Bay Area Governments. Housing Element Timeline March_22_2022_0. https://abag.ca.gov/tools-resources/digital-library/xxhsg-element-timelinerev-100-percentfinal-1xlsx

be built out and receive certificates of occupancy. Thus, they could be counted as RHNA credit towards the 6th Cycle.

Table 2 below shows the total number of units that have been issued building permits counted in the 5th Cycle and the units issued permits in 2022 that could count towards the 6th Cycle. This includes 179 units in the Vista Woods project, seven ADUs and one single family residence that were permitted in 2022 but have not been built out and issued certificates of occupancy before June 30, 2022. These units could be counted towards progress in the 6th Cycle.

Table 2 – Building Permit Issuance Progress as of 2022

Income Level	Required 5th Cycle RHNA Units	Building Permits Issued 2015-2021 (5th Cycle)	Building Permits Issued 2022, but Not Built as of June 30, 2022 (Count Towards 6th Cycle)
Very Low	80	0	7
Low	48	0	135
Moderate	43	1	37
Above Moderate	126	26	8
TOTAL	297	27	187

Pipeline Projects. There are presently five large development projects in various stages of permitting, which are expected to produce an approximate 618 additional units over the next several years (see Table 3). There is an affordability component to each of these "pipeline" projects, either due to the nature of the project as a 100% affordable development, or the project's compliance with the City's inclusionary housing requirement. If all of these projects are approved and developed at the density and affordability currently proposed the City will be in a very good position to meet the 6th Cycle RHNA. It should be noted pipeline projects can meet the RHNA allocation in all income categories except for very-low income and moderate-income affordability categories. The 2023-2031 Housing Element has identified sufficient capacity and programs to achieve the RHNA for very-low and moderate income housing.

Table 3 – Major Development Projects in "Pipeline"

Pipeline Projects	**Stage**	**Affordability**				**Total**
		Very Low	**Low**	**Moderate**	**Above Mod.**	**Total**
811 San Pablo (SAHA Veteran's Apartments)	Building Permit Under Review	28	5	0	0	33
600 Roble (Vista Woods Senior Apartments)	Building Permit Issued January 2022	7	135	37	0	179

Pipeline Projects	Stage	Affordability				Total
		Very Low	Low	Moderate	Above Mod.	Total
2151 Appian (Appian Village Condominiums)	Building Permit Under Review	0	8	23	123	154
2801 Pinole Valley (Apartments)	Grading Permit Under Review	2	2	0	25	29
1500 Fitzgerald (Apartments)	Entitled October 2022	13	14	0	196	223
TOTAL Estimate Pipeline Units		50	164	60	344	618

FISCAL IMPACT

There is no fiscal impact from receiving the annual report. Individual programs and projects designed to implement the Housing Element goals and objectives are funded through individual programs and project accounts in the City's budget and Capital Improvement Plan.

ATTACHMENT

A. Annual General Plan Housing Element Progress Report for 2022

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Jurisdiction	nole	
Reporting Year	022	(Jan. 1 - Dec. 31)
Planning Period	Cycle	01/31/2015 - 01/31/2023

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Note: "+" indicates an optional field

Cells in grey contain auto-calculation formulas

Table A
Housing Development Applications Submitted

Project Identifier					Unit Types		Date Application Submitted	Proposed Units - Affordability by Household Incomes							
1					2	3	4	5							6
Prior APN+	Current APN	Street Address	Project Name+	Local Jurisdiction Tracking ID+	Unit Category (SFA,SFD,2 to 4,5+,ADU,MH)	Tenure R=Renter O=Owner	Date Application Submitted+ (see instructions)	Very Low-Income Deed Restricted	Very Low-Income Non Deed Restricted	Low-Income Deed Restricted	Low-Income Non Deed Restricted	Moderate-Income Deed Restricted	Moderate-Income Non Deed Restricted	Above Moderate-Income	Total PROPOSED Units by Project
Summary Row: Start Data Entry Below								2	0	2	0	0	0	31	35
360-010-029	360-010-029	2801 Pinole Valley Rd	BCRE Project	PL20-0072	5+	R	4/24/2022	2		2				25	29
360-025-003	360-025-003	2987 Higuera Ave	2987A Higuera Ave	BP21-0276	ADU	O	1/28/2022							1	1
360-031-036	360-031-036	2326 Estrella Ct	2326 Estrella Ct	BP21-0331	ADU	O	4/21/2022							1	1
403-521-017	403-521-017	10 Doolin Ct	10 Doolin Ct ADU	BP21-0168	ADU	O	4/6/2022							1	1
360-134-001	360-134-001	2661 Doidge Ave	2661 Doidge Ave JADU	BP22-0271	ADU	O	11/2/2022							1	1
360-563-012	360-563-012	2416 Hill View Ln	2416 Hill Vew Ln ADU	BP22-0127	ADU	O	11/10/2022							1	1
402-011-036	402-011-036	1309 Belfair Dr	1309 Belfair Dr ADU	BP22-0017	ADU	O	8/17/2022							1	1
															0
															0
															0

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Total Approved Units by Project	Total Disapproved Units by Project	Streamlining	Density Bonus Law Applications		Application Status	Notes
7	8	9	10		11	12
Total APPROVED Units by project	Total DISAPPROVED Units by Project	Was APPLICATION SUBMITTED Pursuant to GC 65913.4(b)? (SB 35 Streamlining)	Ddi the housing development application seek incentives or concessions pursuant to Government Code section 65915?	Were incentives or concessions reqested pursuant to Government Code section 65915 approved?	Please indicate the status of the application.	Notes+
35	0					
29		No	Yes	Yes	Approved	
1		No	No	N/A	Approved	
1		No	No	N/A	Approved	
1		No	No	N/A	Approved	
1		No	No	N/A	Approved	
1		No	No	N/A	Approved	
1		No	No	N/A	Approved	

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Jurisdiction	nole	
Reporting Year	022	(Jan. 1 - Dec. 31)
Planning Period	Cycle	01/31/2015 - 01/31/2023

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Table A2

Annual Building Activity Report Summary - New Construction, Entitled, Permits and Completed Units

Project Identifier					Unit Types		Affordability by Household Incomes - Completed Entitlement								
1					2	3	4							5	6
Prior APN+	**Current APN**	**Street Address**	**Project Name+**	**Local Jurisdiction Tracking ID+**	**Unit Category** (SFA,SFD,2 to 4,5+,ADU,MH)	**Tenure** R=Renter O=Owner	**Very Low-Income Deed Restricted**	**Very Low-Income Non Deed Restricted**	**Low- Income Deed Restricted**	**Low- Income Non Deed Restricted**	**Moderate-Income Deed Restricted**	**Moderate-Income Non Deed Restricted**	**Above Moderate-Income**	**Entitlement Date Approved**	**# of Units issued Entitlements**
Summary Row: Start Data Entry Below							15	0	24	0	23	0	344		406
401-194-010	401-194-010	2511 Ellerhorst St	2511 Ellerhorst St	BP18-0377	SFD	O									0
360-025-003	360-025-003	2987 Higuera Ave	2987A Higuera Ave	BP21-0276	ADU	O									0
360-031-036	360-031-036	2326 Estrella Ct	2326 Estrella Ct	BP21-0331	ADU	O									0
403-500-020	403-500-020	472 Limerick Rd	472 Limerick Rd	BP21-0061	SFD	O									0
403-500-020	403-500-020	472 Limerick Rd	472 Limerick Rd	BP21-0061	ADU	O									0
403-521-017	403-521-017	10 Doolin Ct	10 Doolin Ct ADU	BP21-0168	ADU	O									0
360-134-001	360-134-001	2661 Doidge Ave	2661 Doidge Ave JADU	BP22-0271	ADU	O									0
360-563-012	360-563-012	2416 Hill View Ln	2416 Hill Vew Ln ADU	BP22-0127	ADU	O									0
402-011-036	402-011-036	1309 Belfair Dr	1309 Belfair Dr ADU	BP22-0017	ADU	O									0
402-023-002, 402-023-003, 402-023-007	402-023-002, 402-023-003, 402-023-007	600 Roble Ave	Vista Woods	BP21-0187	5+	R									0
401-240-017, 401-240-018	401-240-017, 401-240-018	2151 Appian Way	Appian Village	PL21-0016	5+	O			8		23		123	4/11/2022	154
360-010-029	360-010-029	2801 Pinole Valley Rd	BCRE Project	PL20-0072	5+	R	2		2				25	5/9/2022	29
426-391-010	426-391-010	1500 Fitzgerald Dr	Pinole Vista Development	PL21-0035	5+	R	13		14				196	10/18/2022	223

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Note: icates an optional field

Cells ontain auto-calculation formulas

Affordability by Household Incomes - Building Permits									Affordability by Household Incomes - Certificates of Occupancy								
7							8	9	10							11	12
Very Low-Income Deed Restricted	Very Low-Income Non Deed Restricted	Low- Income Deed Restricted	Low- Income Non Deed Restricted	Moderate-Income Deed Restricted	Moderate-Income Non Deed Restricted	Above Moderate-Income	Building Permits Date Issued	# of Units Issued Building Permits	Very Low-Income Deed Restricted	Very Low-Income Non Deed Restricted	Low- Income Deed Restricted	Low- Income Non Deed Restricted	Moderate-Income Deed Restricted	Moderate-Income Non Deed Restricted	Above Moderate-Income	Certificates of Occupancy or other forms of readiness (see instructions) Date Issued	# of Units issued Certificates of Occupancy or other forms of readiness
7	0	135	0	37	0	8		187	0	0	0	0	0	0	3		3
								0							1	3/17/2022	1
						1	1/28/2022	1							1	7/7/2022	1
						1	4/21/2022	1							1	10/18/2022	1
						1	4/13/2022	1									0
						1	4/13/2022	1									0
						1	4/6/2022	1									0
						1	11/2/2022	1									0
						1	11/10/2022	1									0
						1	8/17/2022	1									0
7		135		37			1/26/2022	179									0
								0									0
								0									0
								0									0

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	Streamlining	Infill	Housing with Financial Assistance and/or Deed Restrictions		Housing without Financial Assistance or Deed Restrictions	Term of Affordability or Deed Restriction	Demolished/Destroyed Units			Density Bonus				Notes
13	14	15	16	17	18	19	20			21	22	23	24	25
How many of the units were Extremely Low Income?+	Was Project APPROVED using GC 65913.4(b)? (SB 35 Streamlining) Y/N	Infill Units? Y/N+	Assistance Programs for Each Development (may select multiple - see instructions)	Deed Restriction Type (may select multiple - see instructions)	For units affordable without financial assistance or deed restrictions, explain how the locality determined the units were affordable (see instructions)	Term of Affordability or Deed Restriction (years) (if affordable in perpetuity enter 1000)+	Number of Demolished/Destroyed Units	Demolished or Destroyed Units	Demolished/Destroyed Units Owner or Renter	Total Density Bonus Applied to the Project (Percentage Increase in Total Allowable Units or Total Maximum Allowable Residential Gross Floor Area)	Number of Other Incentives, Concessions, Waivers, or Other Modifications Given to the Project (Excluding Parking Waivers or Parking Reductions)	List the incentives, concessions, waivers, and modifications (Excluding Parking Waivers or Parking Modifications)	Did the project receive a reduction or waiver of parking standards? (Y/N)	Notes+
0	0						0		0					
0	N	Y												
0	N	Y												
0	N	Y												
0	N	Y												
0	N	Y												
0	N	Y												
0	N	Y												
0	N	Y												
0	N	Y												
0	N	Y		DB		55				77.2%	6	On-Site Improvements, Development Standards Modification	Yes	
	N	Y		INC		55								
	N	Y		DB		55				20.8%	4	On-Site Improvements, Development Standards Modification	Yes	
	N	Y		DB		55				25.3%	1	Development Standards Modification	Yes	

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Reporting Year	2022	(Jan. 1 - Dec. 31)
Planning Period	h Cycle	01/31/2015 - 01/31/2023

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This table is auto-populated once you enter your jurisdiction name and current year data. Past year information comes from previous APRs.

Please contact HCD if your data is different than the material supplied here

Table B
Regional Housing Needs Allocation Progress
Permitted Units Issued by Affordability

Income Level		1 RHNA Allocation by Income Level	2 2015	2016	2017	2018	2019	2020	2021	2022	2023	3 Total Units to Date (all years)	4 Total Remaining RHNA by Income Level
Very Low	Deed Restricted	80	-	-	-	-	-	-	-	-	7	-	7	73
	Non-Deed Restricted		-	-	-	-	-	-	-	-	-	-		
Low	Deed Restricted	48	-	-	-	-	-	-	-	-	135	-	135	-
	Non-Deed Restricted		-	-	-	-	-	-	-	-	-	-		
Moderate	Deed Restricted	43	-	-	-	-	-	-	-	-	37	-	38	5
	Non-Deed Restricted		-	-	1	-	-	-	-	-	-	-		
Above Moderate		126	-	-	2	2	2	7	9	4	8	-	34	92
Total RHNA		297												
Total Units			-	-	3	2	2	7	9	4	187	-	214	170

Progress toward extremely low-income housing need, as determined pursuant to Government Code 65583(a)(1).

	5 Extremely low-Income Need	2015	2016	2017	2018	2019	2020	2021	2022	2023	6 Total Units to Date	7 Total Units Remaining
Extremely Low-Income Units*	40	-	-	-	-	-	-	-	-	-	-	40

*Extremely low-income houisng need determined pursuant to Government Code 65583(a)(1). Value in Section 5 is default value, assumed to be half of the very low-income RHNA. May be overwritten.

Note: units serving extremely low-income households are included in the very low-income RHNA progress and must be reported as very low-income units in section 7 of Table A2. They must also be reported in the extremely low-income category (section 13) in Table A2 to be counted as progress toward meeting the extremely low-income housing need determined pursuant to Government Code 65583(a)(1).

Please note: For the last year of the 5th cycle, Table B will only include units that were permitted during the portion of the year that was in the 5th cycle. For the first year of the 6th cycle, Table B will only include units that were permitted since the start of the planning period. Projection Period units are in a separate column.

Please note: The APR form can only display data for one planning period. To view progress for a different planning period, you may login to HCD's online APR system, or contact HCD staff at apr@hcd.ca.gov.

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Jurisdiction	Pinole	
Reporting Year	2022	(Jan. 1 - Dec. 31)
Planning Period	5th Cycle	01/31/2015 - 01/31/2023

ANNUAL ELEMENT PROGRESS REPORT
Housing Element Implementation

Note: "+" indicates an optional field

Cells in grey contain auto-calculation formulas

Table C

Sites Identified or Rezoned to Accommodate Shortfall Housing Need and No Net-Loss Law

Project Identifier				Date of Rezone	RHNA Shortfall by Household Income Category				Rezone Type	Sites Description							
1				2	3				4	5	6	7	8		9	10	11
APN	Street Address	Project Name+	Local Jurisdiction Tracking ID+	Date of Rezone	Very Low-Income	Low-Income	Moderate-Income	Above Moderate-Income	Rezone Type	Parcel Size (Acres)	General Plan Designation	Zoning	Minimum Density Allowed	Maximum Density Allowed	Realistic Capacity	Vacant/Nonvacant	Description of Existing Uses
Summary Row: Start Data Entry Below																	

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Jurisdiction	Pinole	
Reporting Year	2022	(Jan. 1 - Dec. 31)

Table D

Program Implementation Status pursuant to GC Section 65583

Housing Programs Progress Report

Describe progress of all programs including local efforts to remove governmental constraints to the maintenance, improvement, and development of housing as identified in the housing element.

1	2	3	4
Name of Program	**Objective**	**Timeframe in H.E**	**Status of Program Implementation**
Conduct An Annual Housing Element Review (H.1.1)	Annual Review of Housing Element per Government Code Section 65583(3).	Annually	Complete for 2022. This report fulfills the requirement for 2022. The City will continue to conduct annual reviews of the Housing Element in subsequent years.
Explore Housing Development Partnerships (H.1.2)	Seek opportunities to work with public agencies and developers.	Ongoing	The City has continued to worked with developers to encourage residential development and affordable units, leading to entitlements for development of housing at 2151 Appian Way (154 units), 2801 Pinole Valley Rd (29 units), and 1500 Fitzgerald Dr (223 units). The City has been working with developers that plan to rehabilitate vacant buildings to accommodate housing units - 612 Tennent Ave (4 units) and 2279 Park St (3 units). The City continues to work with SAHA on permitting to prepare for construction of a 33 unit, 100% affordable housing project on a former redevelopment property.
Periodically Review Residential Development Requirements (H.1.3)	Monitor effectiveness of established regulations needed to streamline housing development.	Ongoing (as necessary)	Regular ongoing discussions on permitting, process, and code update improvements.
Apply Design Review Guidelines (H.2.1)	Apply to new residential development and residential additions to ensure compatibility with surrounding areas.	Ongoing	The City continues to implement the Residential Design Guidelines for residential projects. The City received three residential design review applications in 2022.
Adequate Sites to Meet Regional Fair Share of Housing Growth (H.2.2)	Ensure adequate sites are available to developers and provide an inventory of available sites to developers.	Ongoing	Complete. Three Corridors Specific Plan for San Pablo Avenue, Pinole Valley Road, and Appian Way includes adequate sites available to developers to meet Regional Fair Share of Housing Growth. A detailed inventory of potential residential development sites is included within Table 6.43 and 6.44 of the Housing Element.
Rehabilitation Assistance (H.2.3)	Continue to share information and explore funding sources for rehabilitation of existing housing	Ongoing (annually)	City staff continues to assist homeowners and provide information at City Hall on rehabilitation assistance resources. In 2022, the City issued 474 permits to rehabilitate housing units, including roofing, water heater replacement, furnace, solar, window/patio door replacement, and home remodel/addition projects. The City has been coordinating with the County to develop a BayRen Home+ program to assist homeowners and multifamily property owners to undertake energy efficiency upgrade projects.
Acquisition/Rehabilitation of Blighted or Distressed Properties (H.2.4)	Pursue opportunities to partner with nonprofit housing developers to acquire and rehabilitate blighted or distress properties	Ongoing	The City continues to work with the developer of the 33 unit 100% affordable SAHA project towards construction on the former redevelopment agency property, including the provision of purchase and construction loans. The City is working with a developer to rehabilitate a vacated two unit building into a four unit building at 612 Tennent Ave, with one unit set aside as an affordable unit.
Fee Structure Evaluation (H.3.1)	Review current fees to ensure new development contributes its share of costs	Ongoing	An updated master fee schedule was adopted in 2022 and became effective September 1, 2022.
General Plan Land Uses (H.4.1)	Evaluate land use designations and programs to ensure consistency with overall goals	Annually	The City's GP land use designations are applied to provide direction and flexibility to help meet evolving overall land use goals and policy objectives.
Housing Construction (H.4.2)	Encourage housing construction through a variety of incentives and programs	Ongoing	City staff meets regularly with property owners and developers to encourage additional housing construction at all affordablility levels on available housing opportunity sites. Staff provides owners and developers with assistance in understanding affordable housing requirements and density bonus incentives.
Parcel Consolidation (H.4.4.3)	Facilitate lot consolidation as it relates to housing opportunity sites	Ongoing	City staff meets with property owners and developers to encourage parcel consolidation for housing development.
Second Unit Ordinance (H.4.4.4)	Provide information to the public and review the ordinance to encourage second unit development	Ongoing	Staff regularly receives and responds to questions from the public regarding ADU standards and the permit process.
Homebuyer Programs (H.4.4.5)	Share information about homebuyer programs from County and State	Annually	Inadequate financial resoures available in 2022 to directly assist first-time homebuyers and re-establish the City's homebuyer program. The City refers interested individuals to available County and State programs.
Below Market Rate (BMR) Regulations (H.4.4.6)	Implement and monitor rental and resale affordability controls for units assisted by form RDA	Ongoing	The City continues to use a third-party contractor to monitor affordability control compliance for former City Redevelopment Agency (RDA) assisted housing units.
Technical Assistance to Housing Developers (H.4.4.7)	Exchange information to encourage provision of affordable housing	Ongoing	City staff continued to meet with prospective housing developers in 2022.
Accessible Units for the Physically Disabled (H.4.4.8)	Facilitate programs and projects to meet Federal, State, and local requirements to provide accessible housing for the physically disabled	5% of units built or approved between 2014 and 2023	The City is committed to assisting in the development of new projects that provide accessible housing for the disabled or issuing building permits for projects that improve the accessibiilty of existing housing. In 2022, the City did not receive any new development requests for housing for the physically disabled or accessibility modifications to existing residential units.
Housing for the Homeless (H.4.4.9)	Amend the Zoning Ordinance to provide emergency shelters and supportive and transitional housing	By May 2016	Text amendments were approved in 2016.
Employee Housing (H.4.4.10)	Amend the Zoning Ordinance to identify employee housing as a residential use	By May 2016	Text amendments were approved in 2016.
Prevention of Housing Discrimination (H.4.4.11)	Exchange information to prevent Housing Discrimination	Ongoing	No housing discrimination disputes were brought to the City's attention in 2022.

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Conservation of Affordable Housing Units (H.4.4.12)	**Work to help preserve existing affordable housing supply**	**Through 2017**	**Former RDA assets, and revenues generated from those assets, are maintained in a Low- and Moderate-Income Housing Asset Fund that continues to be used to administer and monitor compliance with affordable housing and loan agreements and provide for affordable housing development.**
Explore Options for Senior Assistance Programs (H.4.4.13)	**Explore program revisions/new programs to provide assistance to help seniors live independently**	**2015-2016**	**Insufficient financial resources were available to establish a City program.**
Energy and Water Conservation (H.5.1.1)	**Support and publicize energy and water conservation programs; promote awareness in conjunction with rehabilitation programs; implement water efficient landscape requirements**	**Ongoing**	**The City continued to provide information on available energy and water conservation programs. The City has integrated the state water efficient landscaping ordinance into the municipal code.**
Water and Sewer Service Priority Allocation for Affordable Housing (H.5.1.2)	**Adopt a policy for water and sewer services to provide priority allocation to affordable housing in event a rationing system is implemented**	**By May 2016**	**Completed in 2016.**

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Reporting Period	2022	(Jan. 1 - Dec. 31)
Planning Period	5th Cycle	01/31/2015 - 01/31/2023

ANNUAL ELEMENT PROGRESS REPORT

Housing Element Implementation

(CCR Title 25 §6202)

Note: "+" indicates an optional field

Cells in grey contain auto-calculation formulas

Table E

Commercial Development Bonus Approved pursuant to GC Section 65915.7

Project Identifier				Units Constructed as Part of Agreement				Description of Commercial Development Bonus	Commercial Development Bonus Date Approved
1				2				3	4
APN	Street Address	Project Name+	Local Jurisdiction Tracking ID+	Very Low Income	Low Income	Moderate Income	Above Moderate Income	Description of Commercial Development Bonus	Commercial Development Bonus Date Approved
Summary Row: Start Data Entry Below									

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Jurisdiction	Pinole	
Reporting Period	2022	(Jan. 1 - Dec. 31)
Planning Period	5th Cycle	01/31/2015 - 01/31/2023

ANNUAL ELEMENT PROGRESS REPORT
Housing Element Implementation

Note: "+" indicates an optional field

Cells in grey contain auto-calculation formulas

Table F

Units Rehabilitated, Preserved and Acquired for Alternative Adequate Sites pursuant to Government Code section 65583.1(c)

Please note this table is optional: The jurisdiction can use this table to report units that have been substantially rehabilitated, converted from non-affordable to affordable by acquisition, and preserved, including mobilehome park preservation, consistent with the standards set forth in Government Code section 65583.1, subdivision (c). Please note, motel, hotel, hostel rooms or other structures that are converted from non-residential to residential units pursuant to Government Code section 65583.1(c)(1)(D) are considered net-new housing units and must be reported in Table A2 and not reported in Table F.

Activity Type	Units that Do Not Count Towards RHNA+ Listed for Informational Purposes Only				Units that Count Towards RHNA + Note - Because the statutory requirements severely limit what can be counted, please contact HCD to receive the password that will enable you to populate these fields.				The description should adequately document how each unit complies with subsection (c) of Government Code Section 65583.1+. For detailed reporting requirements, see the chcklist here:
	Extremely Low-Income+	Very Low-Income+	Low-Income+	TOTAL UNITS+	Extremely Low-Income+	Very Low-Income+	Low-Income+	TOTAL UNITS+	https://www.hcd.ca.gov/community-development/docs/adequate-sites-checklist.pdf
Rehabilitation Activity									
Preservation of Units At-Risk									
Acquisition of Units									
Mobilehome Park Preservation									
Total Units by Income									

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Jurisdiction	
Reporting Period	(Jan. 1 - Dec. 31)
Planning Period	01/31/2015 - 01/31/2023

ANNUAL ELEMENT PROGRESS REPORT
Housing Element Implementation

Note: "+" indicates an optional field

Cells in grey contain auto-calculation formulas

Table F2

Above Moderate Income Units Converted to Moderate Income Pursuant to Government Code section 65400.2

For up to 25 percent of a jurisdiction's moderate-income regional housing need allocation, the planning agency may include the number of units in an existing multifamily building that were converted to deed-restricted rental housing for moderate-income households by the imposition of affordability covenants and restrictions for the unit. Before adding information to this table, please ensure housing developments meet the requirements described in Government Code 65400.2(b).

Project Identifier					Unit Types		Affordability by Household Incomes After Conversion							Units credited toward Above Moderate RHNA		Notes
1					2	3	4							5		6
Prior APN+	Current APN	Street Address	Project Name+	Local Jurisdiction Tracking ID+	Unit Category (2 to 4,5+)	Tenure R=Renter	Very Low-Income Deed Restricted	Very Low-Income Non Deed Restricted	Low- Income Deed Restricted	Low- Income Non Deed Restricted	Moderate- Income Deed Restricted	Moderate-Income Non Deed Restricted	Above Moderate-Income	Total Moderate Income Units Converted from Above Moderate	Date Converted	Notes
Summary Row: Start Data Entry Below																

Return to Agenda

Jurisdiction	Pinole	
Reporting Period	2022	(Jan. 1 - Dec. 31)
Planning Period	5th Cycle	01/31/2015 - 01/31/2023

NOTE: This table must only be filled out if the housing element sites inventory contains a site which is or was owned by the reporting jurisdiction, and has been sold, leased, or otherwise disposed of during the reporting year.

Note: "+" indicates an optional field

Cells in grey contain auto-calculation formulas

ANNUAL ELEMENT PROGRESS REPORT
Housing Element Implementation

Table G
Locally Owned Lands Included in the Housing Element Sites Inventory that have been sold, leased, or otherwise disposed of

Project Identifier						
1				2	3	4
APN	**Street Address**	**Project Name+**	**Local Jurisdiction Tracking ID+**	**Realistic Capacity Identified in the Housing Element**	**Entity to whom the site transferred**	**Intended Use for Site**
Summary Row: Start Data Entry Below						

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Jurisdiction	Pinole	
Reporting Period	2022	(Jan. 1 - Dec. 31)

NOTE: This table is meant to contain an invenory of ALL surplus/excess lands the reporting jurisdiction owns

Note: "+" indicates an optional field
Cells in grey contain auto-calculation formulas

ANNUAL ELEMENT PROGRESS REPORT
Housing Element Implementation

For Contra Costa County jurisdictions, please format the APN's as follows:999-999-999-9

Table H
Locally Owned Surplus Sites

Parcel Identifier				Designation	Size	Notes
1	2	3	4	5	6	7
APN	**Street Address/Intersection**	**Existing Use**	**Number of Units**	**Surplus Designation**	**Parcel Size (in acres)**	**Notes**
Summary Row: Start Data Entry Below						
401-142-011	612 Tennent Ave	Other	2	Excess	0.11	Former residential, units estimated
401-162-001	2301 San Pablo Ave	Vacant		Excess	0.18	Park/plaza

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Jurisdiction	Pinole	
Reporting Period	2022	(Jan. 1 - Dec. 31)
Planning Period	5th Cycle	01/31/2015 - 01/31/2023

NOTE: SB 9 PROJECTS ONLY. This table only needs to be completed if there were lot splits applied for pursuant to Government Code 66411.7 OR units constructed pursuant to 65852.21.
Units entitled/permitted/constructed must also be reported in Table A2. Applications for these units must be reported in Table A.

ANNUAL ELEMENT PROGRESS REPORT

Housing Element Implementation

Note: + indicates an optional field

Cells in grey contain auto-calculation formulas

Table I

Units Constructed Pursuant to Government Code 65852.21 and Applications for Lot Splits Pursuant to Government Code 66411.7 (SB9)

Project Identifier				Project Type	Date	Unit Constructed				Notes
1				2	3	4				
APN	**Street Address**	**Project Name+**	**Local Jurisdiction Tracking ID+**	**Activity**	**Date**	**Very Low Income**	**Low Income**	**Moderate Income**	**Above Moderate Income**	**Notes**
Summary Row: Start Data Entry Below										

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Jurisdiction	
Reporting Period	(Jan. 1 - Dec. 31)
Planning Period	e 01/31/2015 - 01/31/2023

NOTE: STUDENT HOUSING WITH DENSITY BONUS ONLY. This table only needs to be completed if there were student housing projects WITH a density bonus approved pursuant to Government Code65915(b)(1)(F)

ANNUAL ELEMENT PROGRESS REPORT

Housing Element Implementation

Note: "+" indicates an optional field

Cells in grey contain auto-calculation formulas

Table J

Student housing development for lower income students for which was granted a density bonus pursuant to subparagraph (F) of paragraph (1) of subdivision (b) of Section 65915

Project Identifier				Project Type	Date	Units (Beds/Student Capacity) Approved							Units (Beds/Student Capacity) Granted Density Bonus	Notes
1				2	3	4							5	6
APN	Street Address	Project Name+	Local Jurisdiction Tracking ID+	Unit Category (SH - Student Housing)	Date	Very Low- Income Deed Restricted	Very Low- Income Non Deed Restricted	Low- Income Deed Restricted	Low- Income Non Deed Restricted	Moderate- Income Deed Restricted	Moderate- Income Non Deed Restricted	Above Moderate- Income	Total Additional Beds Created Due to Density Bonus	Notes
Summary Row: Start Data Entry Below														

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Jurisdiction	Pinole	
Reporting Year	2022	(Jan. 1 - Dec. 31)
Planning Period	5th Cycle	01/31/2015 - 01/31/2023

Building Permits Issued by Affordability Summary		
Income Level		**Current Year**
Very Low	Deed Restricted	7
	Non-Deed Restricted	0
Low	Deed Restricted	135
	Non-Deed Restricted	0
Moderate	Deed Restricted	37
	Non-Deed Restricted	0
Above Moderate		8
Total Units		**187**

Note: Units serving extremely low-income households are included in the very low-income permitted units totals

Units by Structure Type	**Entitled**	**Permitted**	**Completed**
SFA	0	0	0
SFD	0	1	1
2 to 4	0	0	0
5+	406	179	0
ADU	0	7	2
MH	0	0	0
Total	**406**	**187**	**3**

Housing Applications Summary	
Total Housing Applications Submitted:	7
Number of Proposed Units in All Applications Received:	35
Total Housing Units Approved:	35
Total Housing Units Disapproved:	0

Use of SB 35 Streamlining Provisions	
Number of Applications for Streamlining	0
Number of Streamlining Applications Approved	0
Total Developments Approved with Streamlining	0
Total Units Constructed with Streamlining	0

Units Constructed - SB 35 Streamlining Permits			
Income	**Rental**	**Ownership**	**Total**
Very Low	0	0	0
Low	0	0	0
Moderate	0	0	0
Above Moderate	0	0	0
Total	0	0	0

Cells in grey contain auto-calculation formulas

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CITY COUNCIL REPORT

9D

DATE: **MARCH 21, 2023**

TO: **HONORABLE MAYOR AND COUNCIL MEMBERS**

FROM: **ERIC CASHER, CITY ATTORNEY**

SUBJECT: **SECOND READING OF AN ORDINANCE AMENDING TITLE 2, ADMINISTRATION AND PERSONNEL, OF THE MUNICIPAL CODE TO PROVIDE THE CONTRA COSTA COUNTY FIRE PROTECTION DISTRICT WITH JURISDICTION AND AUTHORITY TO CONDUCT FIRE AND EMERGENCY MEDICAL RESPONSE SERVICES WITHIN THE CITY OF PINOLE**

RECOMMENDATION

Staff recommends the City Council waive the second reading and adopt an ordinance amending Title 2 of the Pinole Municipal Code to provide the Contra Costa County Fire Protection District ("Con Fire") jurisdiction and authority to conduct fire and emergency medical response services within the City of Pinole for the term of the Fire Protection Services agreement.

BACKGROUND

On October 10, 2022, the City entered into a Fire Protection Services agreement with Con Fire ("Agreement"). The Agreement became effective January 1, 2023. Pursuant to the Agreement, Con Fire will provide fire and emergency medical response services within the City of Pinole for the term of the Agreement.

The Pinole Municipal Code has several provisions wherein authority for fire service delivery and Municipal Code compliance oversight are delegated to the Pinole Fire Chief. Con Fire is not currently referenced in the Pinole Municipal Code. The proposed ordinance adds a section to the Pinole Municipal Code designating Con Fire as the provider of fire and emergency medical response services within the City of Pinole for the term of the Agreement.

At its regularly scheduled meeting on March 7th, the City Council received a presentation and staff report to introduce and conduct a first reading of an ordinance amending Title 2 of the Pinole Municipal Code to delegate authority to Con Fire to conduct fire and emergency medical response services within the City of Pinole for the term of the Agreement. All councilmembers voted affirmatively. If approved on second read, the ordinance and policy will go in to effect in thirty (30) days.

FISCAL IMPACT

There is no direct fiscal impact of amending Title 2 of the Municipal Code.

ATTACHMENTS

A. March 7, 2023 Staff Report with attached Ordinance

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CITY COUNCIL REPORT

10B

DATE: March 7, 2023

TO: MAYOR AND CITY COUNCIL MEMBERS

FROM: ERIC CASHER, CITY ATTORNEY

SUBJECT: INTRODUCTION AND FIRST READING OF AN ORDINANCE TO AMEND TITLE 2, ADMINISTRATION AND PERSONNEL, OF THE MUNICIPAL CODE TO PROVIDE THE CONTRA COSTA COUNTY FIRE PROTECTION DISTRICT WITH JURISDICTION AND AUTHORITY TO CONDUCT FIRE AND EMERGENCY MEDICAL RESPONSE SERVICES WITHIN THE CITY

RECOMMENDATION

Staff recommends that the City Council introduce and waive the first reading of an Ordinance amending Title 2 of the Pinole Municipal Code to provide the Contra Costa County Fire Protection District ("Con Fire") with jurisdiction and authority to conduct fire and emergency medical response services within the City of Pinole for the term of the Fire Protection Services agreement.

BACKGROUND

On October 10, 2022, the City entered into a Fire Protection Services agreement with the Con Fire (the "Agreement"). The agreement became effective January 1, 2023. Pursuant to the Agreement, Con Fire will provide fire and emergency medical response services within the City of Pinole for the term of the Agreement. Con Fire is not currently referenced in the Pinole Municipal Code.

The Pinole Municipal Code does has several provisions wherein authority for fire service delivery and Municipal Code compliance oversight are delegated to the Pinole Fire Chief. The proposed amendment adds a section to the Pinole Municipal Code designating Con Fire as the provider of fire and emergency medical response services within the City of Pinole for the term of the Agreement.

DISCUSSION

On March 4, 2023, pursuant to the Agreement, the City of Pinole Fire Department will be consolidated with Con Fire, and Con Fire will begin enforcement of all applicable provisions of the City's Building and Fire Codes. While the agreement between the City and Con Fire outlines the duties and responsibilities of both

parties, the City's Municipal Code must be amended to reflect and provide that Con Fire is the authority having jurisdiction within the City with respect to fire and emergency medical response services. City staff worked with representatives from Con Fire to draft the language proposed in the ordinance below.

The attached draft ordinance amends Title 2 of the Municipal Code to provide Con Fire with the duties, responsibilities, and authority currently held by the Pinole Fire Department and Fire Chief. Further, the amendment will provide that all instances and references to the City of Pinole Fire Department or Fire Chief shall heretofore mean and refer to Con Fire and the Con Fire, Fire Chief.

On February 27, 2023, the Municipal Code Update Sub-Committee reviewed the proposed ordinance set forth below, and recommended approval of the draft ordinance, as presented:

> 2.06 FIRE DISTRICT
>
> Notwithstanding the provisions of this Code to the contrary, whenever a function, power, obligation or liability is imposed upon the office of the Fire Chief, either by the general laws of the State of California, by this Code, by an uncodified ordinance or by any administrative rules, regulations, custom or practice of the City of Pinole, and only for the term of any agreement between the City and the Contra Costa County Fire Protection District, the Contra Costa County Fire Chief or designee shall have or exercise such function, power, obligation, or be subject to such liability. The Contra Costa County Fire Protection District shall be fully vested with the requisite legal authority and exclusive responsibility to have or perform such function, power, obligation, or incur such liability. The Contra Costa County Fire Chief shall, at all times and pursuant to agreement with the City, assign officers to the former duties of the Pinole Fire Chief and his or her subordinate officers, and such officers shall possess the requisite licenses, registrations and qualifications for such duties. For the authentication and certification of official acts, documents, records and maps, the Contra Costa County Fire Chief and assigned officers shall use the seal, title and emoluments, if any, of their respective offices.
>
> Any references herein or in any other portion of the Code to the Pinole Fire Department shall heretofore mean and refer to the Contra Costa County Fire Protection District.

Environmental Review

Adoption of the attached Ordinance is exempt from CEQA based on the general rule set forth in CEQA Guidelines Section 15061(b) (3) that CEQA applies only to projects which have the potential for causing a significant effect on the environment.

It can be seen with certainty that there is no possibility that the adoption of the attached and Ordinance will have a significant effect on the environment.

FISCAL IMPACT

There is no direct fiscal impact of amending Title 2 of the Municipal Code.

ATTACHMENTS

A. Draft Ordinance amending Title 2, Administration and Personnel, of the City's Municipal Code

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ATTACHMENT A

ORDINANCE NO. 2023-XX

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PINOLE AMENDING TITLE 2, ADMINISTRATION AND PERSONNEL, OF THE PINOLE MUNICIPAL CODE TO PROVIDE JURISDICTION TO THE CONTRA COSTA COUNTY FIRE PROTECTION DISTRICT TO PROVIDE FIRE SERVICES IN PINOLE PURSUANT TO THE FIRE SERVICES AGREEMENT DATED OCTOBER 10, 2022

WHEREAS, on October 10, 2022 the City of Pinole entered into a Fire Protection Services Agreement with the Contra Costa County Fire Protection District; and

WHEREAS, the Fire Protection Services agreement between the City and the Contra Costa County Fire Protection District becomes effective on January 1, 2023; and

WHEREAS, pursuant to the Fire Protection Services agreement, the Contra Costa County Fire Protection District will assume the obligations, duties, and responsibilities of the Pinole Fire Department; and

WHEREAS, pursuant to the Fire Protection Services agreement, the Contra Costa County Fire Protection District will provide fire and emergency medical response services in the City of Pinole for the term of the Fire Protection Services agreement; and

WHEREAS, in anticipation of the effective date of the Fire Protection Services agreement, and formal transition of services to the Contra Costa County Fire Protection District, the City Council desires to adopt the proposed ordinance and changes to Title 2, Administration and Personnel, of the Pinole Municipal Code.

NOW, THEREFORE, the City Council of the City of Pinole does ordain as follows:

Section 1. Recitals.

The above recitals are true and correct and made a part of this Ordinance.

Section 2. Municipal Code Amendment – Title 2.

Title 2, Administration and Personnel, of the Municipal Code is hereby amended to add Chapter 2.66, as follows, with deletions in ~~strikethrough~~ and additions in underline:

2.66 FIRE DISTRICT

Notwithstanding the provisions of this Code to the contrary, whenever a function, power, obligation or liability is imposed upon the office of the Fire Chief, either by the general laws of the State of California, by this Code, by an uncodified ordinance or by any administrative rules, regulations, custom or practice of the City of Pinole, and only for the term of any agreement between the City and the Contra Costa County Fire

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Protection District, the Contra Costa County Fire Chief or designee shall have or exercise such function, power, obligation, or be subject to such liability. The Contra Costa County Fire Protection District shall be fully vested with the requisite legal authority and exclusive responsibility to have or perform such function, power, obligation, or incur such liability. The Contra Costa County Fire Chief shall, at all times and pursuant to agreement with the City, assign officers to the former duties of the Pinole Fire Chief and his or her subordinate officers, and such officers shall possess the requisite licenses, registrations and qualifications for such duties. For the authentication and certification of official acts, documents, records and maps, the Contra Costa County Fire Chief and assigned officers shall use the seal, title and emoluments, if any, of their respective offices.

Any references herein or in any other portion of the Code to the Pinole Fire Department shall heretofore mean and refer to the Contra Costa County Fire Protection District.

Section 3. Severability.

If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, the remainder of this Ordinance, including the application of such part or provision to other persons or circumstances shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this Ordinance are severable. The City Council of the City of Pinole hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be held unconstitutional, invalid, or unenforceable.

Section 4. California Environmental Quality Act ("CEQA").

The proposed amendments are exempt from CEQA based on the rule set forth in CEQA Guidelines Section 15061(b)(3) that CEQA applies only to projects which have the potential for causing a significant effect on the environment. As a series of text amendments and additions, it can be seen with certainty that there is no possibility that the proposed amendments to the Zoning Code will have a significant effect on the environment.

Section 5. Effective Date.

In accordance with California Government Code Section 36937, this Ordinance shall take effect and be in force on the thirty-first day after adoption.

Section 6. Publication.

Within fifteen (15) days after the passage of this Ordinance the City Clerk shall cause this Ordinance or a summary thereof to be published or to be posted in at least three

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public places in the City of Pinole in accordance with the requirements of California Government Code Section 36933.

PASSED AND ADOPTED on this ____ day of _____ 2023, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

_____
Devin T. Murphy, Mayor

ATTEST:

_____
Heather Bell, City Clerk

APPROVED AS TO FORM:

_____
Eric S. Casher, City Attorney

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CITY COUNCIL REPORT

9E

DATE: MARCH 21, 2023

TO: MAYOR AND COUNCIL MEMBERS

FROM: ANDREW MURRAY, CITY MANAGER

SUBJECT: RESOLTUION IN SUPPORT OF STATE FUNDING FOR ADULT SCHOOL CLASSES FOR OLDER ADULTS

RECOMMENDATION

City staff recommends that the City Council consider adopting a resolution in support of State funding for adult school classes for older adults.

BACKGROUND

At its meeting on February 7, 2023, the City Council approved a future agenda item to consider a resolution in support of State funding for adult school classes for older adults.

REVIEW & ANALYSIS

The proposed resolution notes the following:

- Isolation is a serious challenge facing older adults;
- Education programs are a low-cost way to combat isolation and can save the State money; and
- California had, for decades, a robust network of free education opportunities for older adults through adult schools and community colleges, which was completely defunded in adult schools in 2013 and much reduced in community colleges.

Through the resolution, the City Council would:

1. Recognize that adult education classes for Older Adults are a vital resource for the City of Pinole and for the State of California, and
2. Declare support for adult school classes for older adults, and
3. Resolve that the City of Pinole shall send a letter to State legislators requesting that funding for adult school classes for Older Adults be restored in furtherance of the goals of the Masterplan for Aging, and

4. Further resolve that the City of Pinole shall request that other cities write similar letters.

FISCAL IMPACT

There is no fiscal impact to the City related to Council adopting this resolution.

ATTACHMENT(S)

A: Resolution

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ATTACHMENT A

RESOLUTION NO. 2023-___

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PINOLE, COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA, IN SUPPORT OF STATE FUNDING FOR ADULT SCHOOL CLASSES FOR OLDER ADULTS

WHEREAS, isolation is one of the most serious challenges facing older Americans, as it can lead to physical and mental deterioration and even death; and

WHEREAS, education programs for older adults are a low-cost, effective way to combat isolation and promote healthy aging; and

WHEREAS, physically, mentally and socially stimulating programs such as Older Adult classes reduce the likelihood of participants contracting dementia by 18% (American Journal of Epidemiology, vol. 155, No.12, June 15, 2002); and

WHEREAS, education programs for Older Adults save the state money, as evidenced by a study that showed that improving healthy life expectancy by just one year each decade could save the state 14% on health care between 2007 and 2025 (British Department of Work and Pensions 2009 study, “Building a Society for All Ages,” page 15); and

WHEREAS, Classes for Older Adults need to be free of charge because 16.3% of California seniors live below the poverty line; and

WHEREAS, Older Adult programs provide the support needed for seniors to add significant value to their communities through volunteer work, as demonstrated by an informal study of participants in two West Contra Costa Older Adult programs which found that students in the programs provided about 6,463 hours of service during one school year, at a value of about $76,780 per year; and

WHEREAS, Adult school Older Adult programs provide unique opportunities for inter-generational learning such as living history projects and intergenerational art projects; and

WHEREAS, California had, for decades, a robust network of free education opportunities for Older Adults offered through the state’s adult schools and community colleges which was funded by the state, but which was completely defunded in adult schools in 2013 and has also been much reduced in the community colleges; and

WHEREAS, as a result of the state’s defunding of adult school classes for seniors, West Contra Costa Adult Education, the adult school that serves the Pinole area, closed the St. Callistus senior center in nearby El Sobrante and ceased to provide an instructor for the Pinole Senior Center several years ago, leaving the Pinole area without these services ever since; and

WHEREAS, Governor Gavin Newsom has made healthy aging a priority for the State of California, and has called for the creation of a Masterplan for Aging; and

WHEREAS, one of the five goals of the Masterplan for Aging is Inclusion and Equity, not Isolation; and

WHEREAS, inclusion and equity for seniors, and preventing their isolation, is also a goal of the City of Pinole; and

WHEREAS, adult school and community college classes for older adults are an excellent way to bring seniors into community, prevent isolation, and recognize their potential for learning and growth; and

WHEREAS, some adult schools and community colleges have managed to continue providing some educational services for seniors; and

WHEREAS, were funding restored, California could expand on existing services and rebuild the network of educational services for older adults it once had, thus furthering the goals of the Masterplan for Aging;

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Pinole:

1. Recognizes that adult education classes for Older Adults are a vital resource for the City of Pinole and for the State of California, and
2. Declares support for adult school classes for older adults, and
3. Resolves that the Mayor shall send a letter to State legislators on behalf of the City of Pinole requesting that funding for adult school classes for Older Adults be restored in furtherance of the goals of the Masterplan for Aging, and
4. Further resolves that the City of Pinole shall request that other cities write similar letters.

PASSED AND ADOPTED at a regular meeting of the Pinole City Council held on the 21st day of March 2023 by the following vote:

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

ABSTAIN: COUNCILMEMBERS:

_____
Heather Bell, CMC
City Clerk

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CITY COUNCIL REPORT

9F

DATE: MARCH 21, 2023

TO: MAYOR AND COUNCIL MEMBERS

FROM: ANDREW MURRAY, CITY MANAGER

SUBJECT: RESOLTUION EXPRESSING CONCERNS REGARDING THE DELTA CONVEYANCE PROJECT (DELTA TUNNEL)

RECOMMENDATION

City staff recommends that the City Council consider adopting a resolution expressing concerns regarding the proposed Delta Conveyance Project (Delta Tunnel).

BACKGROUND

At its meeting on February 7, 2023, the City Council approved a future agenda item to consider a resolution expressing concerns regarding the Delta Conveyance Project (Delta Tunnel).

REVIEW & ANALYSIS

The Delta Conveyance Project is the most recent proposal by the California Department of Water Resources (DWR) to update the State Water Project (SWP) infrastructure in the Sacramento-San Joaquin Delta (Delta) to move water to homes, farms, and businesses throughout major regions of the state from the Bay Area to Southern California. Information on the Delta Conveyance Project can be found on the DWR website here: https://water.ca.gov/deltaconveyance

The proposed resolution, which is based on a letter sent from the Contra Costa County Mayors Conference to DWR, notes the following:

- DWR has been actively pursuing unsustainable isolated water conveyance that would remove freshwater flows from the Delta for the benefit of other parts of the state for decades;
- Despite various proposed design changes over the years, the negative impacts on the Delta region are still present in the Delta Tunnel;
- The Draft Environmental Impact Report (DEIR) and Environmental Impact Statement (DEIS) prepared for the Delta Tunnel fail to accurately disclose the full array of environmental, social and economic effects of undertaking this project in our region;

- There would be long-term water quality degradation from removing up to 6,000 cubic feet per second of water from the Sacramento River if the project became operational; and
- That the City believes that alternatives to a tunnel should be studied.

Through the resolution, the City Council expresses its concerns regarding the proposed Delta Conveyance Project and encourages DWR to explore other, more environmentally friendly and affordable, options for making California's water infrastructure more resilient without increasing reliance on Delta exports.

FISCAL IMPACT

There is no fiscal impact to the City related to Council adopting this resolution.

ATTACHMENT(S)

A: Resolution

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ATTACHMENT A

RESOLUTION NO. 2023-___

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PINOLE, COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA, EXPRESSING CONCERNS REGARDING THE DELTA CONVEYANCE PROJECT (DELTA TUNNEL)

WHEREAS, the Department of Water Resources (DWR) has been actively pursuing unsustainable isolated water conveyance that would remove freshwater flows from the Delta for the benefit of other parts of the state for decades; and

WHEREAS, despite various proposed design changes over the years, the negative impacts on the Delta region are still present in the Delta Tunnel; and

WHEREAS, the Delta Tunnel project is so massive that it would disrupt nearly every aspect of life in the Delta; and

WHEREAS, the cost of the Delta Tunnel is alarming and unaffordable; and

WHEREAS, the Draft Environmental Impact Report (DEIR) and Environmental Impact Statement (DEIS) prepared for the Delta Tunnel fail to accurately disclose the full array of environmental, social and economic effects of undertaking this project in our region; and

WHEREAS, constructing a 45-mile long, 39-foot wide tunnel around the Delta would affect thousands of acres of farmland, grasslands, and other existing land uses, disturbing and displacing both human communities and wildlife; and

WHEREAS, thirteen years of construction across 6 counties with more than 4,383,500 truck trips on Delta roads would increase toxic air pollutants, and burden the health of local residents; and

WHEREAS, there would be long-term water quality degradation from removing up to 6,000 cubic feet per second of water from the Sacramento River if the project became operational. Removing about one-third to one-half of the average flow of the river would increase salinity as well as increase the incidence of harmful algal blooms (HABs). Droughts and water demands are already impacting water quality of the Delta and the San Francisco Bay, and the Delta Tunnel would only make those challenges worse; and

WHEREAS, we believe that alternatives to a tunnel that could also provide water supply reliability to areas reliant on the Delta for a portion of their water supplies are available and should be studied. Unfortunately, the DEIR and DEIS only include various versions of the same basic tunnel project. Other, environmentally friendly and affordable ways to make California's water infrastructure more resilient without increasing reliance on Delta exports are sadly ignored. Many of the environmental impacts, as well as the exorbitant cost, could be avoided by pursuing alternative, more sustainable, water projects. These include stormwater capture, groundwater recharge, recycling and reuse, and water conservation;

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NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Pinole does hereby express its concern regarding the proposed Delta Conveyance Project and encourages DWR to explore other, more environmentally friendly and affordable, options for making California's water infrastructure more resilient without increasing reliance on Delta exports.

PASSED AND ADOPTED at a regular meeting of the Pinole City Council held on the 21st day of March 2023 by the following vote:

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

ABSTAIN: COUNCILMEMBERS:

_____
Heather Bell, CMC
City Clerk

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CITY COUNCIL REPORT

9G

DATE: MARCH 21, 2023

TO: HONORABLE MAYOR AND COUNCIL MEMBERS

FROM: ERIC CASHER, CITY ATTORNEY

SUBJECT: ORDINANCE AMENDING CHAPTER 8.24 AND 8.25 OF THE PINOLE MUNICIPAL CODE TO MODIFY PROVISIONS CONCERNING NUISANCE ABATEMENT PROCEDURES AND RELATED CODE ENFORCEMENT

RECOMMENDATION

Staff recommends the City Council waive the second reading and adopt an ordinance amending Chapter 8.24 “Community Preservation” and Chapter 8.25 “Administrative Citations and Penalties” of the Pinole Municipal Code to modify provisions concerning the City’s nuisance abatement procedures and related code enforcement.

BACKGROUND

The City’s nuisance abatement procedures are set forth in Pinole Municipal Code (“PMC”) Chapter 8.24 sections 8.24.050 through 8.24.130. Under the City’s current procedures, Staff is required to issue a courtesy notice of violation to a property owner or occupant advising them of a nuisance condition and providing them with fourteen (14) days to correct the violation before the City may order the correction. The City may then issue a notice and order of violation ordering the correction of the condition within fourteen (14) days if the owner/occupant fails to timely correct the violation before the City can initiate an abatement action. In effect, the current PMC provides a property owner with a minimum of twenty-eight (28) days to correct a violation before the City can initiate an abatement action.

Chapter 8.24 also sets forth the procedures to appeal a notice and order or any action of the City Manager under this code. All matters of appeal are heard before a Board of Appeals, a hearing body comprised of members selected by the City Manager. In the absence of an appeal, City Staff must then set an Order to Show Cause hearing and seek appropriate Board authority to abate the nuisance.

Chapter 8.25 sets forth the City’s administrative procedures for the imposition, enforcement, collection, and administrative review of civil fines related to code enforcement. If a violation pertains to a building, plumbing, electrical, or other similar structural or zoning issue, that does not create an immediate danger to health or

safety, an owner/occupant must be given thirty (30) days to correct or otherwise remedy the violation prior to the imposition of an administrative fine.

The proposed ordinance makes substantive changes to the abatement procedures found in Chapter 8.24 to reduce delay in initiating the City's abatement procedures and provide the City and City Staff more effective and efficient procedures to address situations where hazardous and blight conditions are being caused by property owners/occupants leaving debris and/or other obstructions on sidewalks and in streets. Specifically, the proposed ordinance will provide that the courtesy notice of violation is optional in order to allow Staff to immediately issue a notice of violation if the subject nuisance warrants such action. The proposed ordinance will also amend Chapter 8.24, to eliminate the mandatory Order To Show Cause Hearing before the Board and replace it with a defined Administrative Hearing Officer. Lastly, the proposed ordinance will revise Chapter 8.25 to shorten the time with which a property owner/occupant must correct a violation pertaining to building, plumbing, electrical, or other similar structural or zoning issue, not considered an immediate danger to health or safety, from thirty (30) days to fourteen (14) days.

At its regularly scheduled meeting on March 7th, the City Council received a presentation and staff report to introduce and conduct a first reading of an ordinance to amend Chapter 8.24 and Chapter 8.25 of the Pinole Municipal Code to modify provisions concerning the City's nuisance abatement procedures and related code enforcement. At the meeting, the Council requested additional information related to rates of compliance with courtesy notices and asked that that information be incorporated into the staff report for the second reading of the Ordinance.

Attachment B provides a summary in table form of a survey Staff conducted regarding the abatement procedures in other Contra Costa communities. The survey found that of the thirteen jurisdictions responding to the survey, only one (Brentwood) has mandatory courtesy notice requirements built into their Municipal Codes, and only one (Clayton) has an optional courtesy notice procedure in the Municipal Code. Most jurisdictions in Contra Costa County issue courtesy notices informally as a part of their enforcement procedures. Two jurisdictions (Martinez and San Pablo) do not utilize courtesy notices as a part of their code enforcement practices at all, instead utilizing official Notices of Violation as the first step.

The results of the survey demonstrate that the proposed amendment to the Pinole Municipal Code to cause the required Courtesy Notice to be an optional step would not be out of character with how other nearby communities approach code enforcement. As indicated at the public hearing on March 7, staff would continue to utilize the Courtesy Notice as a best practice first step in outreach to citizens potentially in violation of the Pinole Municipal Code, and reserve the ability to start with a Notice and Order in cases of public health and safety issues.

Attachment C provides a summary of a sampling of code enforcement cases opened in 2022 and the rate of compliance after a courtesy notice is provided. There were 628 total cases in 2022 which began with a Courtesy Notice. Of these cases, 19

(3%) are still open, in process of being resolved and have not received further notices to date. A total of 549 (87%) were closed after achieving compliance with Courtesy Notice(s). A total of 60 cases (10%) were unsuccessfully resolved with a Courtesy Notice and were issued Notices of Violation and Administrative Citations. Of the 60 cases that moved to a Notice of Violation, 24 (40%) were resolved or in process of being resolved after the First Notice of Violation was issued. Of the 60 cases that moved to a Notice of Violation, 15 (25%) were resolved or in process of being resolved after the Second Notice of Violation was issued. Of the 60 cases that moved to a Notice of Violation, 21 (35%) were resolved or in process of being resolved after the Third or subsequent Notices of Violation being issued.

After receiving a presentation and taking public comment, four councilmembers voted affirmatively and one councilmember opposed the proposed ordinance. If approved on second read, the ordinance and policy will go into effect in thirty (30) days.

FISCAL IMPACT

The goal is for the proposed amendments to increase compliance with the law and therefore reduce the amount of Staff time related to code enforcement and fines or penalties collected by the City. Therefore, the fiscal impact of the proposed ordinance cannot be determined with certainty.

ATTACHMENTS

A. March 7, 2023 Staff Report with attached Ordinance
B. Survey of Contra Costa Jurisdiction’s Courtesy Notice Requirements
C. Pinole’s Courtesy Notice Rate of Compliance for Cases Opened in 2022

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CITY COUNCIL REPORT

10A

DATE: **MARCH 7, 2023**

TO: **HONORABLE MAYOR AND COUNCIL MEMBERS**

FROM: **ERIC CASHER, CITY ATTORNEY**

SUBJECT: **INTRODUCE AN ORDINANCE AMENDING CHAPTERS 8.24 AND 8.25 OF THE PINOLE MUNICIPAL CODE TO MODIFY PROVISIONS CONCERNING NUISANCE ABATEMENT PROCEDURES AND RELATED CODE ENFORCEMENT**

RECOMMENDATION

Staff recommends the City Council waive the first reading and introduce an ordinance (Attachment A) amending Chapter 8.24 “Community Preservation” and Chapter 8.25 “Administrative Citations and Penalties” of the Pinole Municipal Code to modify provisions concerning the City’s nuisance abatement procedures and related code enforcement.

BACKGROUND

Chapter 8.24.020 of the Pinole Municipal Code (PMC) defines a variety of activities that constitute a private property nuisance in the City of Pinole. Examples include unlawful outdoor storage, hazardous conditions created by landscaping or vegetation, trash, litter, illegal buildings or structures, and/or violations of the Uniform Building, Electrical, Plumbing, Mechanical, Fire, Abatement of Dangerous Buildings or Uniform Housing Codes. When the City identifies a code violation on private property that is determined to be a “nuisance” the City will initiate an abatement procedure.

The City’s nuisance abatement procedures are set forth in PMC Chapter 8.24.050 through 8.24.130, Community Preservation, Article III. Under the City’s existing nuisance ordinance, upon the determination of a nuisance by the City Manager Staff must issue a courtesy notice to the property owner or occupant advising them of the nuisance condition on the property and providing them with fourteen (14) days to correct the violation before the City may issue a notice of violation. If the owner/occupant fails to correct the violation within fourteen (14) days, the City may then issue a notice and order of violation ordering the correction of the violation within fourteen (14) days. The property owner/occupant has ten (10) days from the notice and order of violation to appeal the City’s findings. All matters of appeal are heard before a Board of Appeals, a hearing body comprised of members selected by the City Manager. If an appeal is timely filed, the City must await the findings of the Board before taking further action. If no appeal is filed, the City must then set an Order to Show Cause hearing and seek appropriate Board authority to abate the nuisance. In

effect, the current PMC provides the property owner a minimum of twenty-eight (28) days to correct the violation before the City can initiate an abatement action.

Chapter 8.25 Administrative Citations and Penalties section of the PMC sets forth the City's administrative procedures for the imposition, enforcement, collection, and administrative review of civil fines related to code enforcement. Upon the notice of violation, PMC Chapter 8.25 authorizes the City to issue administrative citations and penalties in addition to the available abatement procedures, or in lieu thereof. The City may impose up to three (3) civil fines pursuant to Government Code § 53069.4 within twelve (12) months. In addition, the City may impose administrative penalties at $100 per day, up to a total of $1,000. If a violation pertains to a building, plumbing, electrical, or other similar structural or zoning issue, that does not create an immediate danger to health or safety, the person responsible for the continuing violation must be given thirty (30) days to correct or otherwise remedy the violation prior to the imposition of an administrative fine.

The proposed ordinance makes substantive changes to the abatement procedures found in Chapter 8.24 to reduce delay in initiating the City's abatement procedures. Specifically, the proposed ordinance will provide that the courtesy notice of a PMC violation is optional. This will eliminate the mandatory fourteen (14) day courtesy window of time to correct the nuisance and allow Staff to immediately issue a notice of violation if the subject nuisance warrants such action. The proposed ordinance will also amend Chapter 8.24, to eliminate the mandatory Order To Show Cause Hearing before the Board of Appeals, and replace the Board with a defined Administrative Hearing Officer authorized to hear all issues on appeal and order the abatement of any public nuisance as defined in the PMC, or in any state or federal statute, following notice and an opportunity for a hearing. This includes revising Article VI. Graffiti of Chapter 8.24 which currently follows the same appeal procedures.

Lastly, the proposed ordinance will revise Chapter 8.25 to shorten the time with which a property owner/occupant may correct a violation pertaining to building, plumbing, electrical, or other similar structural or zoning issue, not considered an immediate danger to health or safety, from thirty (30) days to fourteen (14) days prior to the imposition of an administrative fine. This change made to the PMC is intended to provide the City and City Staff more effective and efficient procedures to address situations where hazardous and blight conditions are being caused by property owners/occupants leaving debris and/or other obstructions on sidewalks and in streets.

DISCUSSION

Staff generally applies a complaint-based approach to code enforcement. Due to resource constraints, staff generally investigates and seeks correction of violations of the PMC only when they receive a complaint or themselves observe a violation. That includes situations in which City of Pinole Police Department peace officers receive a call about an alleged violation or observe a potential violation in the field.

The PMC has a number of tools in place currently to seek correction of violations. Although effective, those tools can sometimes result in lengthy processes disproportionate to the violation. Staff have identified several existing tools in the Municipal Code that could be modified to address many Code violations more efficiently.

The first are revisions that allow Staff the opportunity to immediately issue a notice of violation if the subject nuisance warrants such action. The second is to replace the hearing body designated as the Board of Appeals with a single individual designated as the Administrative Hearing Officer who is authorized to hear all issues on appeal, review the City's determination of a violation, and order the abatement of any public nuisance as defined in the PMC, or in any state or federal statute, following appropriate notice and opportunity for a hearing consistent with constitutional due process protections. The last is to streamline certain citation procedures.

Working with the City Attorney, Staff is proposing amendments to the Chapters 8.24 and 8.25 of the Municipal Code to:

- Provide that a courtesy notice of violation is an optional step of Staff rather than mandatory as currently provided for under the PMC.
- Allow Staff to immediately issue a notice of violation if the subject nuisance warrants such action.
- Eliminate the mandatory Order To Show Cause Hearing before the designated hearing body, the Board of Appeals.
- Establish a defined Administrative Hearing Officer, authorized to hear all matters of appeal, review the City's determination of a code violation, and order the abatement of any public nuisance following written notice and an opportunity for hearing.
- Replace all appeal procedures before the Board of Appeals stated throughout Chapter 8.24 to be consistent the revised procedures before the Administrative Hearing Officer, including the appeals procedures under Article VI. Graffiti.
- Shorten the time with which a property owner/occupant may correct a violation pertaining to building, plumbing, electrical, or other similar structural or zoning issue, not considered an immediate danger to health or safety, from thirty (30) days to fourteen (14) days prior to the imposition of an administrative fine.

<u>Code Enforcement Procedures</u>

As required by the mandatory courtesy notice of violation provisions to the code enforcement procedures, Staff must provide a property owner and/or occupant at least fourteen (14) days to voluntarily correct any violation of the PMC before the City can serve notice of the violation and order the correction. Once the notice is issued, the party in violation then has fourteen (14) additional days to correct the

violation before the City can institute the Order to Show Cause proceedings confirming the nuisance condition and authorizing abatement actions.

In effect, the PMC as currently written provides a property owner/occupant a minimum of twenty-eight (28) days to correct a violation before the City can initiate abatement proceedings. The proposed Ordinance seeks to avoid unnecessary delay in the City's abatement procedures caused by lengthy processes when the violation itself is a simple matter for which the current processes are sometimes out of proportion. This proposed change ensures that the courtesy notice option will remain available to the City and also provide Staff with the opportunity to immediately issue a notice of violation and initiate the abatement proceedings if the subject nuisance warrants such action. For example, Staff may elect to issue a courtesy notice to encourage voluntary abatement of conditions that do not present an immediate danger to occupants or neighbors such as excessive accumulated outdoor junk and storage which would otherwise require timely and costly clean-up time by the City, before formal enforcement action is taken. Alternatively, Staff could immediately issue a notice of violation for conditions pertaining to building, health and safety issues that pose an immediate danger to health or safety, such as unauthorized additional dwelling units, unauthorized building conversion, and substandard housing matters.

If the person cited requests a hearing, they would present their case in front of a hearing officer designated by the City Manager rather than a Board of Appeals. A hearing officer is typically an impartial person familiar with mediation procedures and/or municipal laws and regulations. If the citation is upheld at the hearing, fines may be imposed as a remedy and Staff may be authorized to abate the condition. The recipient of the citation, if dissatisfied with the result of the administrative hearing officer's decision, maintains the right to appeal to the Contra Costa County Superior Court.

The benefits of this approach are to decrease the amount of administrative process required to seek compliance with local law and eliminate appeals to the Board of Appeal. Instead, appeals would be heard by a hearing officer, while maintaining the appropriate notice and opportunity for a hearing consistent with constitutional due process protections. See Attachment B for diagrams outlining the current nuisance abatement process and the proposed nuisance abatement process.

<u>Administrative Citation Process</u>

Under the current PMC, and State law, the City is authorized to issue an administrative citation process to enforce violations of the PMC, including real property nuisances. This process avoids the need for a finding by the administrative hearing officer, ideally allowing violations to be handled more quickly and without the burden and expense involved in such proceedings. The revisions to the citations provisions related to code enforcement in Chapter 8.25 seek to shorten the time with which a property owner/occupant may correct a violation pertaining to building, plumbing, electrical, or other similar structural or zoning issue, not considered to be

an immediate danger to health or safety, from thirty (30) days to fourteen (14) days prior to the imposition of an administrative fine. This should increase the City's ability to respond to some violations without a significant increase in Staff time devoted to enforcement.

ENVIRONMENTAL STATUS

The proposed text amendments are categorically exempt pursuant to Section 15308 of the California Environmental Quality Act (CEQA) Guidelines; actions by regulatory agencies for the protection of the environment.

FISCAL IMPACT

The goal is for the proposed amendments to increase compliance with the law and therefore reduce the amount of Staff time related to code enforcement and fines or penalties collected by the City. Therefore, the fiscal impact of the proposed ordinance cannot be determined with certainty.

ATTACHMENTS

A. Ordinance Amending Chapter 8.24 "Community Preservation" and Chapter 8.25 "Administrative Citations and Penalties" of the Pinole Municipal Code To Modify Provisions Concerning Nuisance Abatement Procedures and Related Code Enforcement
   Exhibit A: Chapter 8.24 Community Preservation
   Exhibit B: Chapter 8.25 Administrative Citations and Penalties

B. Diagram of existing nuisance abatement process and proposed amended abatement process

ATTACHMENT A

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ORDINANCE NO. 2023-XX

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PINOLE AMENDING CHAPTER 8.24 "COMMUNITY PRESERVATION" AND CHAPTER 8.25 "ADMINISTRATIVE CITATIONS AND PENALTIES" OF THE PINOLE MUNICIPAL CODE TO MODIFY PROVISIONS CONCERNING NUISANCE ABATEMENT PROCEDURES AND RELATED CODE ENFORCEMENT

WHEREAS, the City of Pinole's nuisance abatement procedures following a determination of a nuisance condition upon private property within the City are set forth in Pinole Municipal Code ("PMC") Chapter 8.24 "Community Preservation"; and

WHEREAS, the Code Chapter 8.25 "Administrative Citations and Penalties" sets forth the City's administrative procedures for the imposition, enforcement, collection, and administrative review of civil fines related to code enforcement; and

WHEREAS, the City of Pinole has determined that portions of the PMC related to nuisance procedures and related code enforcement, as currently drafted, do not adequately address the means in which the City now conducts its business; and

WHEREAS, staff have performed a comprehensive review of the PMC to assist the City Council in identifying the aforementioned issues; and

WHEREAS, the City now desires to amend Chapters 8.24 and 8.25 of the PMC to modify provisions concerning nuisance abatement procedures and related code enforcement, specifically to:

a) Provide that a courtesy notice of violation is optional rather than mandatory as currently provided for under the PMC;

b) Allow Staff to immediately issue a notice of violation if the subject nuisance warrants such action;

c) Eliminate the mandatory Order To Show Cause Hearing before the designated hearing body Board of Appeals;

d) Authorize an Administrative Hearing Officer, to hear all matters of appeal, review the City's determination of a code violation, and order the abatement of any public nuisance following written notice and an opportunity for hearing;

e) Replace all appeal procedures before the Board of Appeals to proceed before the Administrative Hearing Officer;

f) Shorten the time with which a property owner/occupant may correct a violation pertaining to building, plumbing, electrical, or other similar structural or zoning issue, not considered an immediate danger to health or safety, from thirty (30) days to fourteen (14) days prior to the imposition of an administrative fine; and

WHEREAS, the City believes that an update of the PMC will enable the City to better enforce laws, rules, and regulations that are designed to protect the health, safety, and welfare of City residents, businesses, and visitors.

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NOW, THEREFORE, the City Council of the City of Pinole does ordain as follows:

Section 1. Recitals.

The above recitals are true and correct and made a part of this Ordinance.

Section 2. Municipal Code Amendment – Chapter 8.24.

Pinole Municipal Code Chapter 8.24 "Community Preservation" sections 8.24.050 through 8.24.380, are hereby amended to read as stated in Exhibit A attached hereto and incorporated herein (deletions in ~~strikethrough~~; additions in underline).

Section 3. Municipal Code Amendment – Chapter 8.25.

Pinole Municipal Code Chapter 8.25 "Administrative Citations and Penalties," is hereby amended to read as stated in Exhibit B attached hereto and incorporated herein (deletions in ~~strikethrough~~; additions in underline).

Section 4. Severability.

If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, the remainder of this Ordinance, including the application of such part or provision to other persons or circumstances shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this Ordinance are severable. The City Council of the City of Pinole hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be held unconstitutional, invalid, or unenforceable.

Section 6. California Environmental Quality Act ("CEQA").

The proposed amendments are exempt from CEQA based on the rule set forth in CEQA Guidelines Section 15061(b)(3) that CEQA applies only to projects which have the potential for causing a significant effect on the environment. As a series of text amendments and additions, it can be seen with certainty that there is no possibility that the proposed amendments to the Zoning Code will have a significant effect on the environment.

Section 7. Effective Date.

In accordance with California Government Code Section 36937, this Ordinance shall take effect and be in force on the thirty-first day after adoption.

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Section 8. Publication.

Within fifteen (15) days after the passage of this Ordinance the City Clerk shall cause this Ordinance or a summary thereof to be published or to be posted in at least three public places in the City of Pinole in accordance with the requirements of California Government Code Section 36933.

PASSED AND ADOPTED on this ____ day of _____ 2023, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

_____
Devin T. Murphy, Mayor

ATTEST:

_____
Heather Bell, City Clerk

APPROVED AS TO FORM:

_____
Eric S. Casher, City Attorney

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EXHIBIT A

Chapter 8.24
Community Preservation

ARTICLE III. ABATEMENT PROCEDURE

Sections:

8.24.050 Notification of nuisance.
8.24.070 Hearing body.
8.24.080 Appeal of notice and order.
8.24.090 Staying of order under appeal.
~~8.24.095 Order to show cause hearing~~.
8.24.100 Hearing procedure.
8.24.110 Action by ~~appeals board.~~ administrative hearing officer.
8.24.120 Abatement by city.
8.24.130 Limitation of filing - judicial action.

8.24.050 NOTIFICATION OF NUISANCE.

When the City Manager has inspected or caused to be inspected any condition on any parcel of land or structure and has found and determined that such condition on such parcel of land or structure is being maintained contrary to one (1) or more of the provisions of this chapter, the City Manager shall commence proceedings to cause the abatement of such condition.

ABATEMENT. May be accomplished by abatement proceedings, citation proceedings or by any other procedures available under state or local law.

The following steps are to be followed in the abatement proceedings process:

A. Step One. The City Manager ~~shall~~ may issue a courtesy notice (letter) to the record owner and/or tenant of the parcel of land, containing (1) a description of the conditions on the property constituting a nuisance, and the applicable code section(s) being violated; (2) an explanation of the action(s) required; (3) a time frame not less than fourteen (14) days in which to abate the conditions or establish and present to the City Manager a schedule for abatement; and (4) a scheduled date for reinspection.

B. Step Two.

1. If abated, the City Manager will document findings and close the case, forwarding a letter of appreciation to the owner and/or tenant for his/her cooperation.
2. If not abated, the City Manager may take either or both of the following actions:

a. Commence criminal proceedings for violations of any provisions of this chapter through the citation process; and/or
b. Issue a second letter in the form of a notice and order to the record owner and/or tenant containing:

i. Reference to the first letter,

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ii. The street address and a legal description sufficient for identification of the parcel of land and structures thereon,
iii. A statement that the City Manager has found the premises or structures to be a nuisance with a brief and concise description of the conditions found to render the building in violation of the provisions of this code and the applicable code sections being violated,
iv. A statement of the action required to be taken as determined by the City Manager,
v. A time frame not less than fourteen days in which to abate the conditions,
vi. A scheduled date for reinspection,
vii. Statements advising that if the abatement work is not commenced within the time specified, the City Manager may proceed to cause the work to be done and charge the costs thereof against the property or its owner, and that the property or its owner shall also be charged for all enforcement costs incurred by the city and shall receive at the conclusion of the enforcement case, a summary of enforcement costs associated with the processing of the case,
viii. Statements advising (A) that any person having any record title or legal interest in the parcel of land may appeal from the notice and order or any action of the City Manager to the ~~Board of Appeals~~ Administrative Hearing Officer, provided the appeal is made in writing and filed with the office of the City Manager within ten days from the date of service of such notice and order (or within five days from such date if the City Manager has determined the condition is such as to make it dangerous to the life, limb, property or safety to the public or adjacent property); and (B) that failure to appeal will constitute a waiver of all right of an administrative hearing and determination of the matter.

C. Alternatively, the City Manager may immediately issue a letter in the form of a notice and order to the record owner and/or tenant whereon the nuisance exists of the existence of such nuisance, and require the abatement of such nuisance. The notice and order issued under this section may be utilized as the notice and order provided it contains all information required to be in Subsection (B) (2) (b) (ii-viii) above.

~~C.~~ D. Service of Notice and Order. The notice and order, and any amended or supplemental notice and order, shall be served upon the record owner and/or tenant and posted on the property; and one copy thereof shall be served on each of the following if known to the City Manager or disclosed from official public records: the holder of any mortgage or deed of trust or other lien or encumbrance of record; the owner or holder of any lease of record; and the holder of any other estate or legal interest of record in or to the building or the land on which it is located. The failure of the City Manager to serve any person required herein to be served shall not invalidate any proceedings hereunder as to any other person duly served to relieve any such person from any duty or obligation imposed by the provisions of this section.

~~D.~~ E. Method of Service. Service of the notice and order shall be made upon all persons entitled thereto either personally or by mailing a copy of such notice and order by certified mail, postage prepaid, return receipt required, to each such person at their address as it appears on the last equalized assessment roll of the county or as known to the City Manager. If no address of any

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such person so appears or is known to the City Manager, then a copy of the notice and order shall be so mailed, addressed to such person, at the address of the parcel of land involved in the proceedings. The failure of any such person to receive such notice shall not affect the validity of any proceedings taken under this section. Service by certified mail in the manner herein provided shall be effective on the date of the mailing.

C. Proof of Service. Proof of service of the notice and order shall be certified to at the time of service by a written declaration under penalty of perjury executed by the persons affecting service, declaring the time, date and manner in which service was made. The declaration, together with any receipt card returned in acknowledgment of receipt by certified mail shall be affixed to the copy of the notice and order retained by the City Manager.

8.24.070 HEARING BODY.

All hearings authorized by or conducted pursuant to this chapter shall be heard by ~~a Board of Appeals~~ an Administrative Hearing Officer, or their designee, who shall hear and rule on objections to abatement of the nuisance. The City Manager ~~may determine the composition of the Board~~ shall designate the Administrative Hearing Officer. No person who has been involved in the enforcement of a particular matter shall ~~sit on the Board~~ serve as the Administrative Hearing Officer. Nothing shall prevent the City Manager from employing a ~~single~~ third-party, neutral hearing officer to perform the duties of the ~~Board~~ Administrative Hearing Officer. Appeals to the ~~Board~~ Administrative Hearing Officer shall be processed in accordance with the provisions contained in Section 8.24.080. Copies of all rules of procedures or regulations adopted by the ~~Board~~ Administrative Hearing Officer shall be delivered to the City Manager, who shall make them freely accessible to the public.

8.24.080 APPEAL OF NOTICE AND ORDER.

A. Any person entitled to service under this article may appeal from any notice and order or any action of the City Manager under this code by filing with the office of the City Manager a written appeal containing:

    1. A street address and a description sufficient for identification of the property and the affected structures thereon;
    2. The names of all appellants participating in the appeal;
    3. A brief statement setting forth the legal interest of each of the appellants in the structure or the property involved in the notice and order;
    4. A brief statement in ordinary and concise language of the specific order of action protested, together with any material facts claimed to support the contentions of the appellant;
    5. A brief statement in ordinary and concise language of the relief sought and the reasons why it is claimed the protested order or action should be reversed, modified or otherwise set aside;
    6. The signatures of all parties named as appellants and their official mailing addresses;
    7. The verification (by declaration under penalty of perjury) of at least one appellant as to the truth of the matters stated in the appeal.

B. The appeal shall be filed within ten days from the date of service of such notice and order or action of the City Manager; provided, however that if the parcel of land or structure is in such condition as to make it dangerous to the life, limb, property or safety of the public or adjacent property, such appeal shall be filed within five days from the date of the service of the notice and order of the City Manager.

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C. As soon as practicable after receiving the written appeal, the ~~secretary of the Board of Appeals~~ City Manager shall fix a date, time and place for the hearing of the appeal by the ~~Board~~ Administrative Hearing Officer . Such date shall not be less than five days nor more than thirty days from the date the appeal was filed with the City Manager. Written notice of the time and place of the hearing shall be given at least five days prior to the date of the hearing to each appellant by the ~~secretary of the Board~~ City Manager either by causing a copy of such notice to be delivered to the appellant personally or by mailing a copy thereof, postage prepaid, addressed to the appellant at the address shown on the appeal.

D. Failure of any person to file an appeal in accordance with the provisions of this code shall constitute a waiver of the right to an administrative hearing and adjudication of the notice and order or any portion thereof.

E. Only those matters or issues specifically raised by the appellant shall be considered in the hearing of the appeal.

8.24.090 STAYING OF ORDER UNDER APPEAL.

Enforcement of any notice and order of the City Manager issued under this code, including the imposition of administrative penalties, shall be stayed during the pendency of an appeal therefrom which is properly and timely filed.

8.24.095 RESERVED.

~~8.24.095 ORDER TO SHOW CAUSE HEARING.~~

~~Where the terms of a notice and order have not been complied with, or where the form of abatement so requires, the City Manager or his/her designee may set an order to show cause hearing (hereinafter, "OSC") before the Board of Appeals. The procedures for providing notice, conducting the hearing, providing a final written determination, and any other relevant actions shall comport with this Chapter.~~

8.24.100 HEARING - PROCEDURE.

Procedure for the conduct of the appeals ~~or OSC~~ hearing shall comply with the provisions of the current edition of the Uniform Code for the Abatement of Dangerous Buildings.

8.24.110 ACTION BY ~~APPEALS BOARD~~ ADMINISTRATIVE HEARING OFFICER.

If the ~~Board of Appeals~~ Administrative Hearing Officer may uphold, modify, or overrule the City Manager's determination of nuisance, and proposed abatement, through the issuance of an administrative decision and order. Where abatement is ordered, the ~~Board~~ Administrative Hearing Officer shall order the City Manager to abate the nuisance. The administrative decision and order shall be served pursuant to Section 8.24.060 of this code. The administrative decision and order shall be served within ten days after the hearing. The administrative decision and order shall be final and conclusive.

8.24.120 ABATEMENT BY CITY.

If such nuisance is not abated as ordered within the abatement period, the manager shall cause the same to be abated by city employees or private contracts. In appropriate circumstances, the Manager shall request the City Attorney to obtain all necessary judicial approval for entry onto the subject premises for

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abatement purposes. The cost, including administrative costs, attorneys fees and other incidental expenses, of abating the nuisance shall be billed to the owner and shall become due and payable thirty days thereafter. The term “administrative costs” shall include, but not be limited to, documenting the nuisance; the actual expenses and costs of the city in the preparation of notices, specifications and contracts, and in inspecting the work; and the costs of printing and mailing required hereunder.

8.24.130 LIMITATION OF FILING - JUDICIAL ACTION.

Any judicial action appealing the ~~Board of Appeals'~~ Administrative Hearing Officer’s decision and order shall be commenced within thirty calendar days of the date of service of the decision.

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Chapter 8.24
Community Preservation

ARTICLE VI. GRAFFITI

Sections:

8.24.300	Declared nuisance.
8.24.310	Abatement.
8.24.320	Graffiti prohibited.
8.24.330	Council to determine costs.
8.24.340	Authority to remove.
8.24.350	Graffiti removal.
8.24.360	Prior consent for removal.
8.24.370	Notice of intention to abate and remove graffiti; form.
8.24.380	Treble damages.

8.24.300 DECLARED NUISANCE.

The defacing of public and private property results in the creation of unsightly graffiti. Graffiti reduces property values, encourages blight, and frequently becomes a forum of gang-related potentially criminal activities.

8.24.310 ABATEMENT.

For the reasons stated in Section 8.24.300, the City Council finds and declares that the presence of graffiti on private or public property constitutes a public nuisance which may be abated as such in accordance with provisions of this chapter, or any other applicable provision of law.

8.24.320 GRAFFITI PROHIBITED.

It is unlawful for any person to intentionally place graffiti upon any private or public property.

8.24.330 COUNCIL TO DETERMINE COSTS.

The City Council shall from time to time determine and fix an amount to be assessed as administrative costs excluding the actual cost of removal of the graffiti.

8.24.340 AUTHORITY TO REMOVE.

Upon discovering the existence of graffiti on private or public property within the City, the City Manager or designee shall have the authority to cause the abatement and removal thereof in accordance with the procedure prescribed in this article.

8.24.350 GRAFFITI REMOVAL.

The City Manager or designee shall determine the type of removal process, which may include, but is not limited to painting out, application of graffiti-resistant paint, washing of surface, sanding or fence plank replacement.

8.24.360 RESERVED.

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8.24.370 NOTICE OF INTENTION TO ABATE AND REMOVE GRAFFITI; FORM.

A. The City Manager shall cause a notice of intention to remove graffiti to be mailed by registered or certified mail to the owner of the real property upon which graffiti has been unlawfully applied. The notice shall advise the following:
    1. If consent to remove the graffiti is provided to the City by the owner, or by any person authorized by the owner, within ten days of mailing the notice, the city shall remove the graffiti at no cost to the owner.
    2. If the owner objects to removal of the graffiti by the city the owner may request a hearing before the ~~Board of Appeals~~ Administrative Hearing Officer in the manner specified in Section 8.24.080.
    3. If within ten days of the mailing of the notice, the graffiti has not been removed and the city has not received from the owner either a consent to remove the graffiti or a written request for a public hearing, then the city shall be entitled to remove the graffiti and assess the costs of administration and removal to the property owner.

B. The notice of intention to remove graffiti shall be in substantially the following form:

NOTICE OF INTENTION TO ABATE AND REMOVE GRAFFITI
_____
_____
_____

Re: Graffiti at (property address)

As owner shown on the last equalized assessment roll of the real property located at _____, you are hereby notified that the undersigned has determined pursuant to Chapter 8.24 of the Pinole Municipal Code that there exists upon said real property certain graffiti which constitutes a public nuisance.

The City of Pinole desires to remove the graffiti as quickly as possible. If within ten (10) days of the mailing of this notice you, or any person authorized by you provides the City with written consent to remove the graffiti, the City shall remove the graffiti at no expense to you as the owner. If within ten (10) days of the mailing of this notice, the graffiti has not been removed and the City has not received from you written consent to remove the graffiti, the City shall determine the graffiti a public nuisance and assess the cost of administration and removal to you without a hearing.

If you object to the removal of the graffiti from your property by the City and/or to the costs which shall be assessed to you pursuant to the terms of this letter, you may request a hearing before the ~~Board of Appeals~~ Administrative Hearing Officer pursuant to Section 8.24.0870 of the Pinole Municipal Code.

If you desire the City to remove the graffiti from your property at no expense to yourself, please provide written consent to the City on or before _____, 2____. A consent form is included with this notice, for your convenience.

Notice mailed: _____

_____
City Manager or designee
City of Pinole

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8.24.380 TREBLE DAMAGES.

Upon entry of a second or subsequent civil or criminal judgment within a two-year period finding that any person is responsible for the unlawful application of graffiti, a penalty in the amount of three times the costs of abatement shall be paid by the violator(s).

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EXHIBIT B

Chapter 8.25
ADMINISTRATIVE CITATIONS AND PENALTIES

Sections:

8.25.010 Street defined. *Definitions.*

8.25.020 Permit – Required.

8.25.030 Permit – Fees. *Exemptions.*

8.25.040 Notice to superintendent – Deposit required – Liability for damage. *Permit – Fees* .

8.25.010 ADMINISTRATIVE CITATIONS AND PENALTIES.

A. Authority. This chapter is adopted pursuant to Government Code §§ 36901 and 53069.4.

B. Goals. This chapter is adopted in order to:

1. Protect the health, safety and welfare of the city and its citizens;

2. Penalize responsible parties who fail or refuse to comply with any city ordinance or fail to promptly abate a public nuisance;

3. Minimize expense and delay where the alternative remedy is to pursue responsible parties in the civil or criminal justice system.

8.25.020 ADMINISTRATIVE CITATIONS.

A. General. This section makes any violation of the provisions of this Code subject to civil fine.

1. This section establishes the administrative procedures for the imposition, enforcement, collection, and administrative review of civil fines pursuant to Government Code § 53069.4 and the city's plenary police power.

2. The issuance of an administrative citation under this section is solely at the city's discretion and is one option the city has to address violations of this code. By adopting this section, the city does not intend to limit its discretion to utilize any other remedy, civil or criminal, for such violations that the city may select in a particular case.

3. The purpose of issuing administrative citations pursuant to this section is to encourage voluntary and complete compliance with the provisions of this code for the protection and benefit of the entire community.

4. Notwithstanding any lease, license or any other instrument or agreement, the owner of any real property has the right to enter upon his or her own property to the extent reasonably necessary to abate any nuisance or correct any violation of this code existing

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thereon. The provisions of this section shall be an implied term of any instrument affecting the right to possession of real property located in the city.

5. Because of the serious blighting conditions that can result affecting the residents' health and safety, this section is intended to impose strict civil liability upon the owners and lessees of real property for all building, housing, fire and health code and zoning violations that occur upon the subject premises.
6. Administrative citations are available as a remedy, in addition to all other legal remedies, criminal or civil, which may be pursued by the city to address any violation of this chapter. Whenever a code enforcement officer, or other official designated by the City Manager, determines that a violation of this chapter has occurred, the official shall have the authority to impose an administrative fine on any person responsible for the violation. If the violation pertains to a building, plumbing, electrical, or other similar structural or zoning issue, that does not create an immediate danger to health or safety, the person responsible for the continuing violation shall be afforded ~~thirty~~ fourteen days to correct or otherwise remedy the violation prior to the imposition of an administrative fine.

B. Form of citation. The administrative citation shall contain the following information:

1. The date of the violation.

2. The address or a description of the location where the violation occurred.

3. The section of the code that was violated along with a description of the violation.

4. The amount of the fine date by which payment must be submitted unless an appeal hearing has been requested.

5. An order prohibiting the continuation or repeated occurrence of the code violation described in the administrative citation.

6. An explanation of the payment and hearing process.

7. The name and signature of the citing official.

8. The name of the person cited.

9. Any other information deemed necessary by the City Manager or City Attorney for enforcement or cost recovery purposes.

C. Service of the citation. The citation shall be personally served upon the citee or shall be sent by certified mail, return receipt requested, to the citee. If the citee is a property owner within the City and cannot be personally served, the citation shall be sent to the property owner by certified mail, return receipt requested at the address where the violation occurred and to the address of record shown on the most recent assessment roll.

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D. Appeal Hearing.

1. The recipient of an administrative citation may request, in writing, a hearing before the ~~Board of Appeals~~ Administrative Hearing Officer established pursuant to section 8.24.070 of this code.

2. The request for hearing shall be filed with the office of the City Manager within thirty days from the date of service of the citation. A copy of the citation and an address for providing notice of the hearing and decision shall be included with the written request.

3. As soon as practicable after receiving the written request for hearing, the City Manager shall fix a date, time and place for the hearing by the ~~Board~~ Administrative Hearing Officer. Such date shall not be less than five days nor more than thirty days from the date the appeal was filed with the City Manager. Written notice of the time and place of the hearing shall be given at least five days prior to the date of the hearing to the party contesting the citation by the City Manager either by causing a copy of such notice to be delivered to the appellant personally or by mailing a copy thereof, postage prepaid, addressed to the citee at the address shown on the request for hearing.

4. The administrative citation and any additional report submitted by the code enforcement officer shall constitute prima facie evidence of the respective facts contained in those documents. The code enforcement officer may provide additional evidence and testimony at the hearing. Non-appearance of the code enforcement officer shall not affect the final decision of the ~~Board~~ Administrative Hearing Officer.

5. At the hearing, the person cited shall be given the opportunity to testify and to present evidence concerning the administrative citation, including any request to reduce the amount of the fine to be imposed. In lieu of appearance, the citee may file a written declaration with the ~~Board~~ Administrative Hearing Officer signed under penalty of perjury prior to the hearing date. A failure to file a written declaration before the hearing or personally attend the hearing will be considered a non-appearance. Non-appearance by the citee shall not affect the final decision of the ~~Board~~ Administrative Hearing Officer.

6. The ~~Board~~ Administrative Hearing Officer shall conduct the hearing pursuant to the applicable procedures of Chapter 8.24 of this code.

7. The ~~Board of Appeals~~ Administrative Hearing Officer.may uphold, modify, or overrule the terms of the administrative citation, including the amount of any fine and the time for making payment of any fine, through a written decision. The written decision shall be served pursuant to Section 8.25.020(C) within ten days after the hearing. The written decision shall be final and conclusive.

E. Amount of fine. A first violation shall be subject to a fine of no more than one hundred dollars. A second violation during the same twelve-month period shall be subject to a fine of no more than two hundred dollars. A third or subsequent violation during the same twelve-month period shall be subject to a fine of no more than five hundred dollars. The City Manager or his/her designee may establish a schedule of fines for specific sections of this Code or may provide a fine for a specific violation.

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F. Payment of Fine.

1. The citee shall pay the fine indicated on the administrative citation by remitting payment to the city within thirty days from the date of service of the citation. This requirement for payment of the fine shall be tolled during the pendency of an appeal of the citation.

2. Where the ~~Board of Appeals~~ Administrative Hearing Officer has sustained the administrative citation and upheld or modified the fine, the citee shall remit payment of the fine to the city as indicated within the ~~Board's~~ Administrative Hearing Officer's written decision.

3. If the fine is not paid within applicable time period, the city may use all available legal means to collect any past due administrative citation fines or late payment charges.

G. Judicial Appeal. Any person aggrieved by the ~~Board of Appeal's~~ Administrative Hearing Officer's decision on an administrative citation may appeal the decision by filing a petition for review in a court of competent jurisdiction pursuant to the provisions set forth in Government Code Section 53069.4.

8.25.030 ADMINISTRATIVE PENALTIES.

A. General.

1. This section is adopted pursuant to Government Code §§ 36901 and 53069.4 and provides an administrative process for imposing and appealing administrative penalties, and for enforcing such penalties.

2. The purpose of this section is to provide for administrative penalties, in addition to all other legal remedies, criminal or civil, which may be pursued by the city to abate a public nuisance.

3. Use of the provisions of this section shall be at the sole discretion of the city.

B. Imposition of administrative penalty.

1. In any notice and order issued by the city pursuant to section 8.24.050 of this code to abate a public nuisance, the city may provide notice of its intent to impose an administrative penalty in an amount up to one hundred dollars per day for a failure to abate the conditions causing a public nuisance.

2. The imposition of the administrative penalty must be appealed in the same manner as an appeal of the notice and order is appealed. All administrative penalties shall be stayed during the pendency of an appeal.

3. The city may include the administrative penalty in any administrative or civil action to seek recovery of costs related to its effort to abate the public nuisance, including seeking payment as a personal obligation of the person responsible for the public nuisance or making the administrative penalty part of a lien for any costs or special assessment on the property subject to an abatement action.

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4. The maximum administrative penalty the city may seek is one hundred thousand dollars.

5. The imposition of an administrative penalty is in addition to any other enforcement power that the city may have to abate the public nuisance, including but not limited to criminal citation, administrative citation, summary abatement, preliminary injunction, or civil action..

C. Appeal. Any person aggrieved by the imposition of an administrative penalty may appeal the final decision by filing a petition for review in a court of competent jurisdiction pursuant to the provisions set forth in Government Code Section 53069.4.

8.25.040 CONTRA COSTA COUNTY MOSQUITO AND VECTOR CONTROL DISTRICT.

Employees of Contra Costa Mosquito and Vector Control District shall have the authority to perform inspections and issue administrative citations, pursuant to the procedures in this chapter, for the limited purpose of mosquito and vector abatement to prevent the spread of the West Nile Virus.

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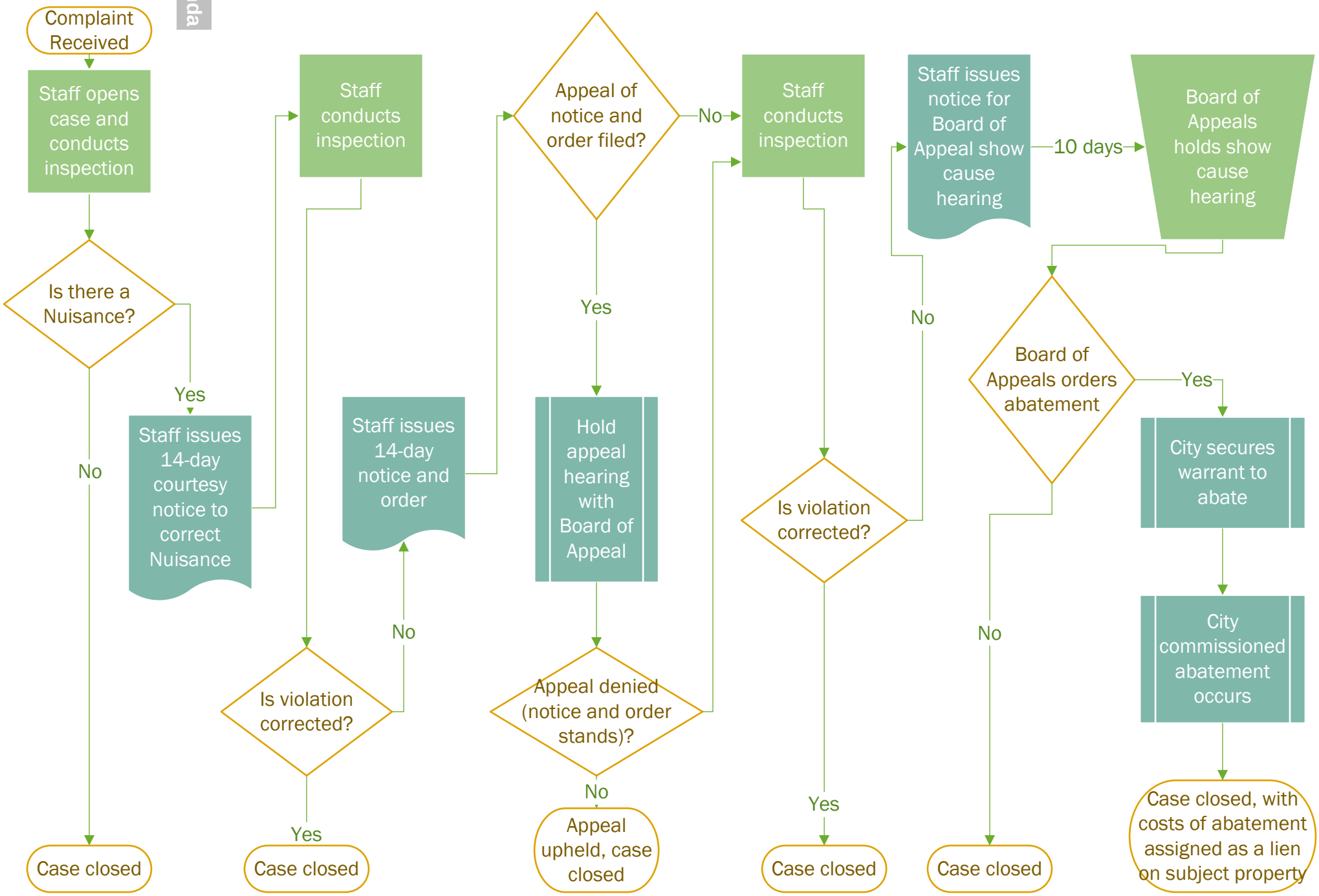
ATTACHMENT B

Current Nuisance Abatement Process



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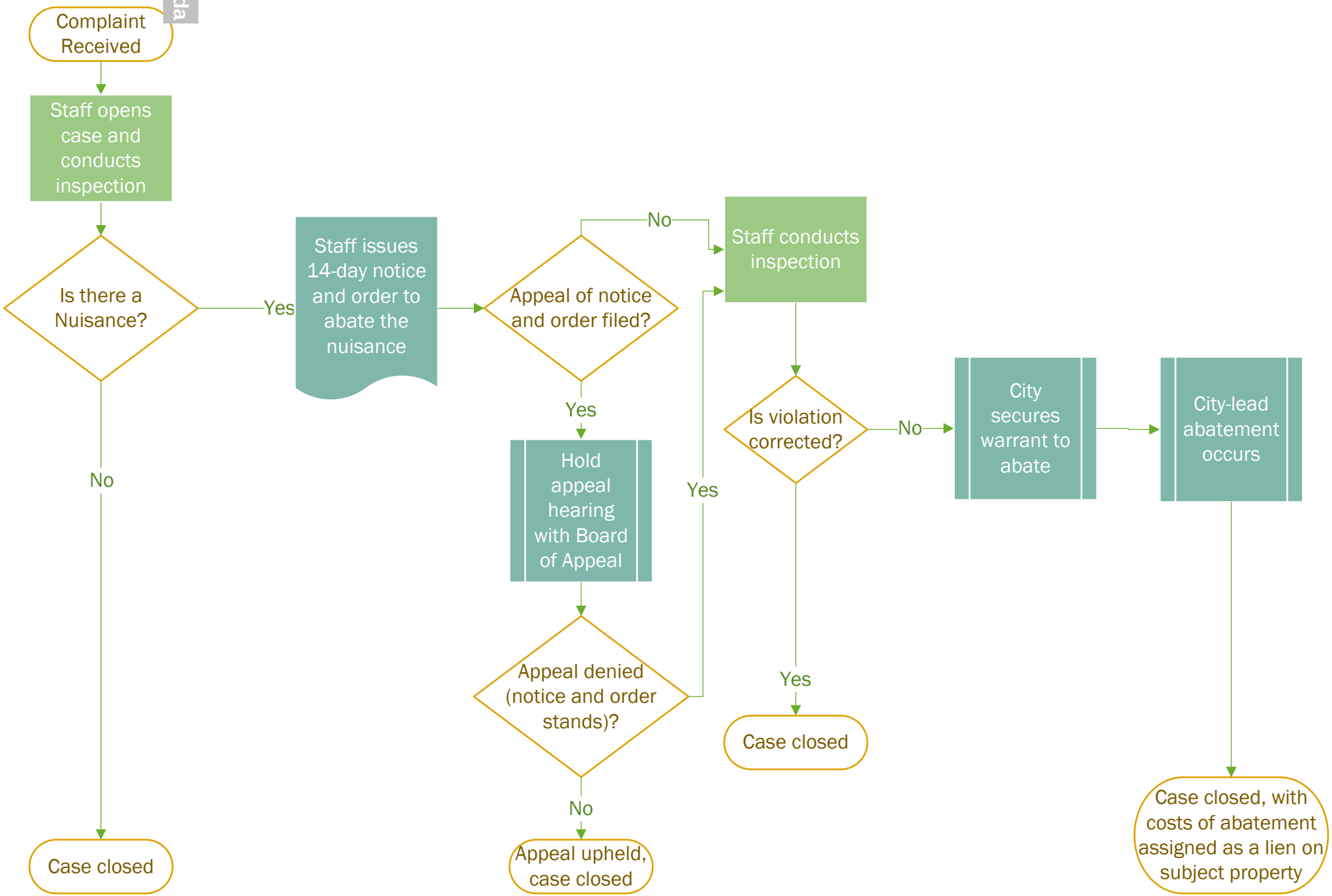
Proposed Streamlined Nuisance Abatement Process



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Attachment B:
Survey of Contra Costa Jurisdictions' Courtesy Notice Requirements

Staff reached out to all Code Enforcement staff in Contra Costa County from March 8 through March 15 inquiring about code enforcement procedures and practices. The specific questions asked were as follows:

1. Does the [*jurisdiction's*] Municipal Code contains specific provisions for issuing courtesy notices?
2. If yes, is the courtesy notice a mandatory or optional step?
3. Please list the typical/general requirements for noticing (step 1, notice and order, step 2, admin citation, etc), and the time period between the steps.

Results of the survey are provided in the Table below.

City	Courtesy Notice a Part of Municipal Code?	If Yes, is Courtesy Notice Mandatory or Optional?	Courtesy Notice (or similar) an informal practice?	Code Process
Antioch	Pending information			
Brentwood	Yes	Mandatory	N/A, is a mandatory part of Code	Courtesy Letter Courtesy Notice 72 hour Notice to Abate Administrative Citation
Clayton	Yes	Optional	N/A is an optional part of Code	*Optional courtesy notice unless imminent threat* Notice of Violation Second Notice of Violation Administrative Citation
Concord	No	N/A-Not mentioned in Code	Yes	*Optional Notify Letter* Notice of Violation Administrative Citation
Danville	No	N/A-Not mentioned in Code	Yes	*Optional Contact* 1st Official Notice of Compliance 2nd Official Notice of Compliance Administrative Citation
El Cerrito	No	N/A-Not mentioned in Code	Yes	*Optional informal courtesy notice unless imminent threat* Compliance Order (i.e., Notice of Violation) Administrative Citation

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Attachment B:
Survey of Contra Costa Jurisdictions' Courtesy Notice Requirements

City	Courtesy Notice a Part of Municipal Code?	If Yes, is Courtesy Notice Mandatory or Optional?	Courtesy Notice (or similar) an informal practice?	Code Process
Hercules	No	N/A-Not mentioned in Code	Yes	*Courtesy knock and notice* Official Notice to Abate if not corrected or no abatement in progress Administrative Citation
Lafayette	No	N/A-Not mentioned in Code	Yes	*Optional informal courtesy notice* Warning Notice Notice of Violation Administrative Citation
Martinez	No	N/A-Not mentioned in Code	No	Notice to Cure Letter Administrative Citation
Moraga	Pending information			
Oakley	Pending information			
Orinda	No	N/A-Not mentioned in Code	Yes	*Optional informal courtesy notice* Notice of Violation Administrative Citation
Pinole	Yes	Mandatory	N/A, is a mandatory part of Code	Mandatory Courtesy Notice Notice and Order Administrative Citation
Pittsburg	Pending information			
Pleasant Hill	No	N/A- Not mentioned in Code	Yes	*Optional courtesy notice (verbal – "Knock & Talk" or "Door Hanger")* 1st Notice to Abate or Show Cause Administrative Citation Compliance Order
Richmond	No	N/A-Not mentioned in Code	Yes	*Optional informal courtesy notice* Notice of Violation Administrative Citation

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Attachment B:
Survey of Contra Costa Jurisdictions' Courtesy Notice Requirements

City	Courtesy Notice a Part of Municipal Code?	If Yes, is Courtesy Notice Mandatory or Optional?	Courtesy Notice (or similar) an informal practice?	Code Process
San Pablo	No	N/A-Not mentioned in Code	No	Notice of Violation *Optional 2nd Notice of Violation* Administrative Citation
Walnut Creek	No	N/A-Not mentioned in Code	Yes	*Optional informal contact to correct issue* Correction Notice *2nd Correction Notice (typical, but not required)* Administrative Citation

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ATTACHMENT C:
Courtesy Notice Compliance Rates for Cases Opened in 2022

The City Council was interested in the code enforcement rates of compliance in Pinole. As mentioned at the March 7, 2023 Council hearing, the City's permitting system is antiquated, has been inconsistently used and is not configured to provide this information precisely. To address this question, staff performed a number of queries. In order to make the task manageable, staff looked at all code enforcement cases opened in the calendar year 2022 that began with a Courtesy Notice. Below is a summary of findings.

Chart 1: All Code Enforcement Cases Opened in 2022 that Began with a Courtesy Notice

There were 628 total cases in 2022 which began with a Courtesy Notice. Of these cases, 19 (3%) are still open, in process of being resolved and have not received further notices to date. A total of 549 (87%) were closed after achieving compliance with Courtesy Notice(s).

Chart 2: Code Enforcement Cases Opened in 2022 that Advanced Beyond Courtesy Notice

A total of 60 cases (10%) were unsuccessfully resolved with a Courtesy Notice and were issued Notices of Violation and Administrative Citations. Of the 60 cases that moved to a Notice of Violation, 24 (40%) were resolved or in process of being resolved after the First Notice of Violation was issued. Of the 60 cases that moved to a Notice of Violation, 15 (25%) were resolved or in process of being resolved after the Second Notice of Violation was issued. Of the 60 cases that moved to a Notice of Violation, 21 (35%) were resolved or in process of being resolved after the Third or subsequent Notices of Violation being issued.

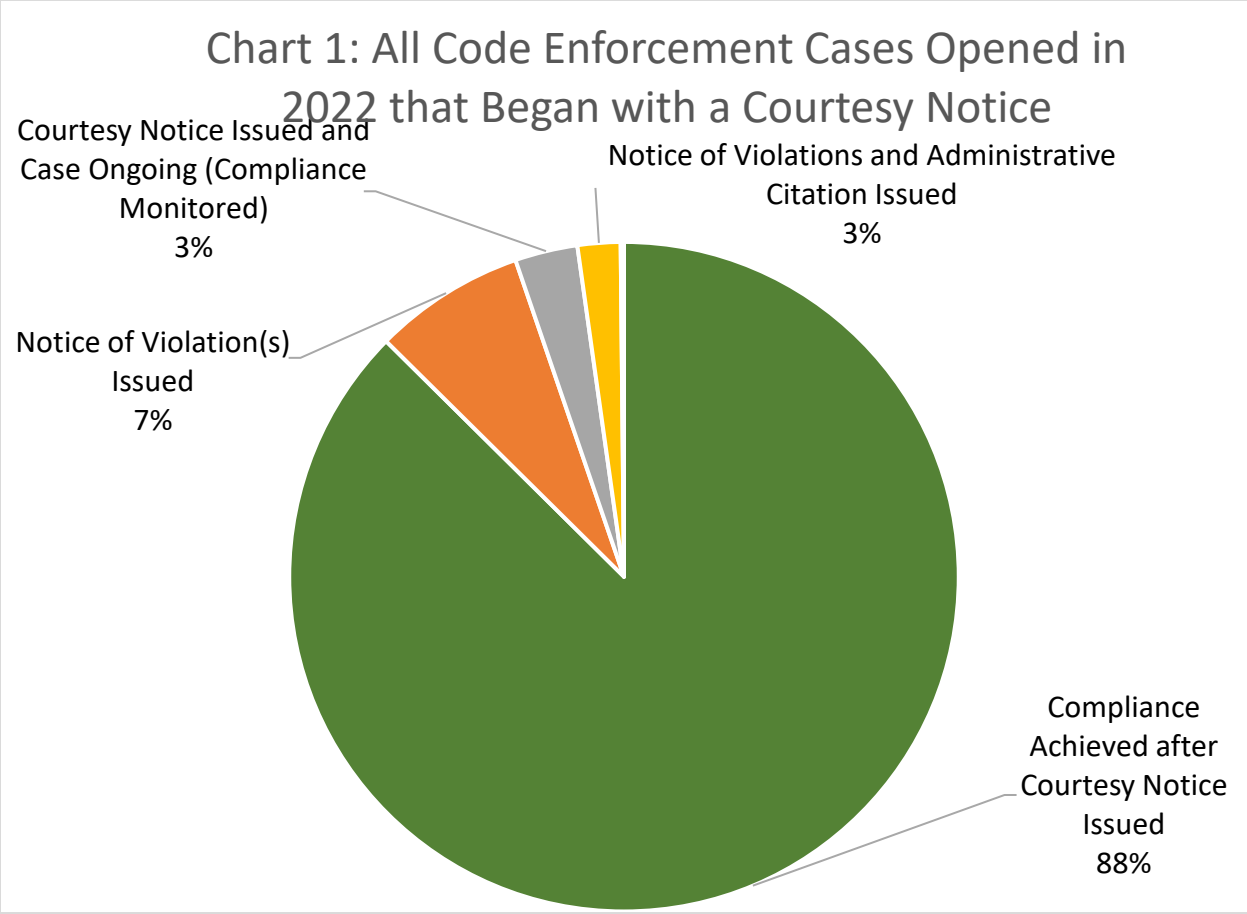
Chart 3: Types and Number of Cases that Moved Beyond Courtesy Notice, Calendar Year 2022

The most prevalent type of code case that moved beyond a courtesy notice in 2022 was work without a permit. This category encompassed both interior and exterior work done without benefit of permits such as additions to homes, new detached dwelling units, foundation and grading work and reroofing. The next most prevalent categories were weed abatement or other overgrown vegetation conditions and outdoor storage accumulation.

Chart 4: Frequency of Notice of Violations by Type of Case, Cases that Moved Beyond Courtesy Notice in Calendar Year 2022

In looking at the frequency of notice of violations by type of case, cases involving work without a permit were resolved or in process of being resolved 54% of the time after a First Notice of Violation, 17% of the time after a Second Notice of Violation and/or Administrative Citation and 35% of the time it took three or more Notices of Violation and/or Administrative Citations to begin resolution of the issue. Weed abatement shows

a similar story to work without a permit, while outdoor storage accumulation has more unsuccessful compliance rates. Cases involving outdoor storage accumulation were resolved or in process of being resolved only 11% of the time after a First Notice of Violation, 33% of the time after a Second Notice of Violation and/or Administrative Citation and 56% of the time it took three or more Notices of Violation and/or Administrative Citations to begin resolution of the issue



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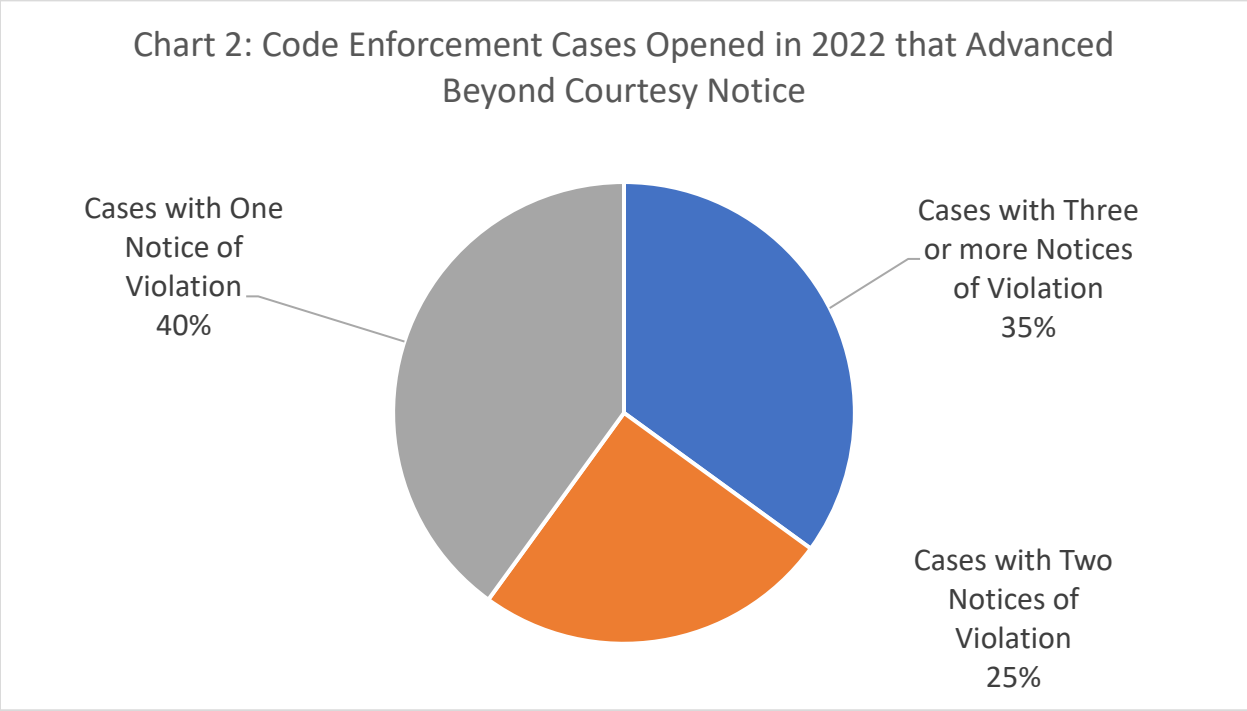
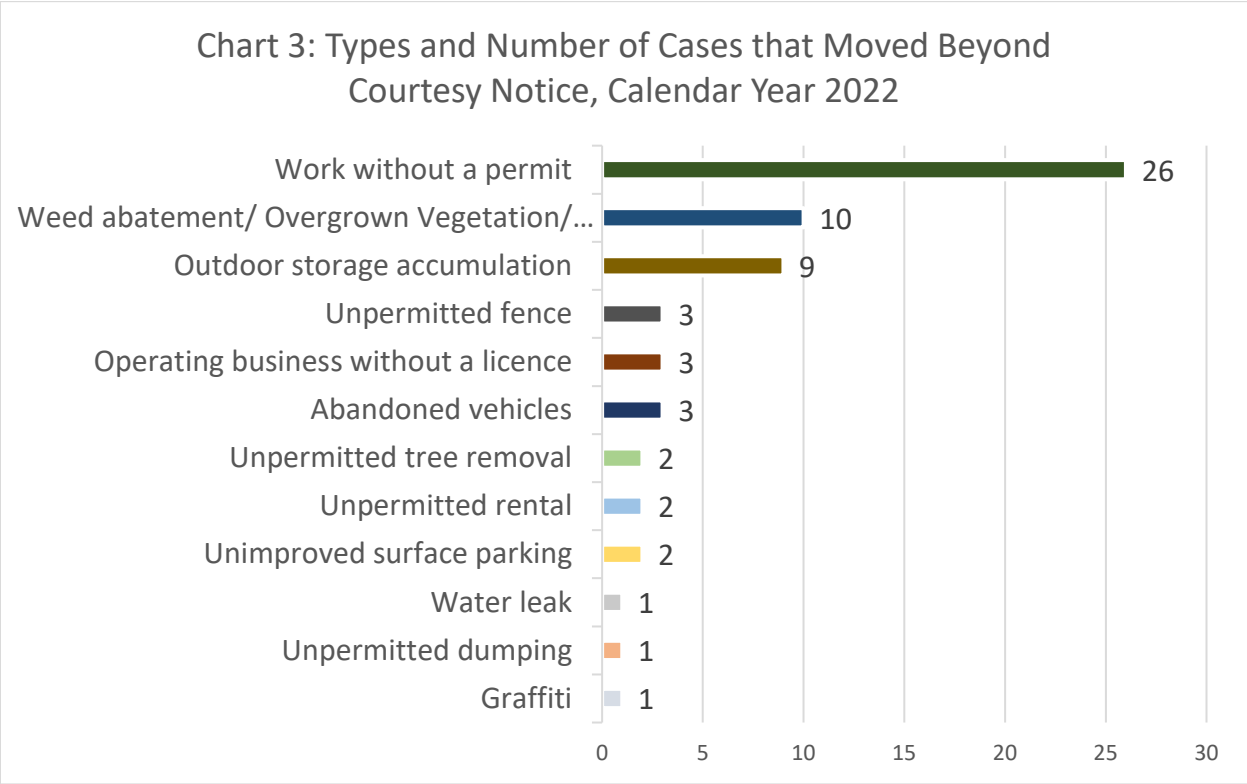
ATTACHMENT C:
Courtesy Notice Compliance Rates for Cases Opened in 2022





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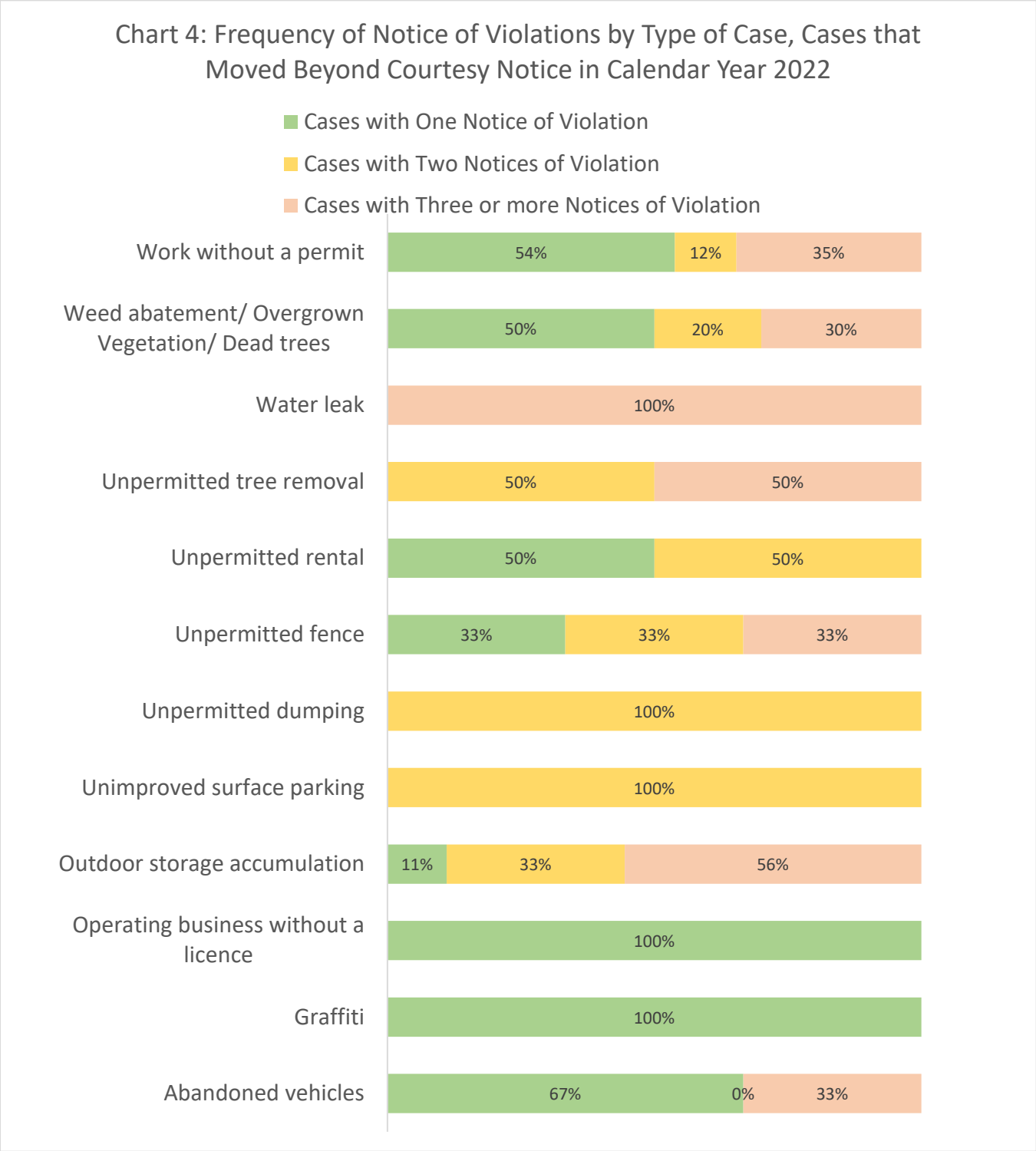
ATTACHMENT C:
Courtesy Notice Compliance Rates for Cases Opened in 2022



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CITY COUNCIL REPORT

9H

DATE: MARCH 21, 2023

TO: MAYOR AND COUNCIL MEMBERS

FROM: ANDREW MURRAY, CITY MANAGER
SANJAY MISHRA, PUBLIC WORKS DIRECTOR

SUBJECT: APPROVE RESOLUTION APPROVING AMENDMENT TO PURCHASE AND SALE AGREEMENT AND JOINT ESCROW INSTRUCTIONS WITH LDW INVESTMENTS FOR PURCHASE OF 612 TENNENT AVENUE

RECOMMENDATION

Staff recommends approving a Resolution Approving Amendment To Purchase And Sale Agreement And Joint Escrow Instructions With LDW Investments For Purchase Of 612 Tennent Avenue.

BACKGROUND

The City entered into a Purchase and Sale Agreement ("PSA") with LDW Investments (the "Buyer") on August 19, 2022 to sell the property located at 612 Tennent (the "Property") to Buyer for $400,000. The City selected the Buyer through an RFP process and determined that, of the responses received, Buyer was the best qualified contractor to develop the Property.

The Buyer has submitted a development application to substantially rehabilitate the Property from a residential duplex into fourplex. It will include one low-income unit that is affordable for 55 years. To date the Buyer has invested a significant amount of predevelopment funds in the project.

Since negotiating the original purchase price, the Buyer has encountered increased loan interest rates, higher materials and labor costs, and fire safety and parking requirements that have significantly increased the Buyer's rehabilitation and financing budget. On January 9, 2023, the Buyer submitted a revised Letter of Interest proposing a reduced purchase price to account for increased renovation and financing costs that were not anticipated at the time the PSA was negotiated.

REVIEW AND ANALYSIS

In January, staff hired Oakwood Appraisal Company to provide a current appraisal for the Property. On February 6th, the City received an updated appraisal for the Property that appraised the as-is market value at $230,000. The City and the Buyer have agreed to lower the purchase price to the fair market value of the Property.

Staff recommends approving the reduced purchase price to avoid delaying the rehabilitation of this Property and support the City's goals to increase housing production. The Buyer has acted in good faith to develop the Property by proactively seeking building permits and making a considerable financial investment to date.

FISCAL IMPACT

Property taxes to the City from the Property will be initially be lower at a lower purchase price, however the County will reassess the Property upon completion of the improvements.

ATTACHMENT(S):

A – Resolution
B.– Amendment to Purchase Agreement

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ATTACHMENT A

RESOLUTION XX-2023

RESOLUTION APPROVING AMENDMENT TO PURCHASE AND SALE AGREEMENT AND JOINT ESCROW INSTRUCTIONS WITH LDW INVESTMENTS FOR PURCHASE OF 612 TENNENT AVENUE

WHEREAS, the City is the owner of certain property located at 612 Tennent Ave. in the City, known as County Assessor's Parcel Number 401-142-011-6 (the "Property"); and

WHEREAS, the City and LDW Investments (the "Buyer") entered into a Purchase and Sale Agreement on August 19, 2022 (the "Purchase Agreement") for the Buyer to purchase the property for Four Hundred Thousand Dollars ($400,000) to renovate the existing structure located on the Property to provide four (4) residential rental units, of which one (1) units will be constructed as an affordable housing unit (the "Project"); and

WHEREAS, since negotiating the original purchase price, the Buyer has encountered increased loan interest rates, higher materials and labor costs, and fire safety and parking requirements that have significantly increased the Buyer's rehabilitation and financing budget; and

WHEREAS, due to the increase in the costs of the Project, the Buyer requested a reduction in the purchase price for the purchase of the Property, and the City hired Oakwood Appraisal Company (the "Appraiser") to provide a current appraisal on the Property (the "Appraisal"); and

WHEREAS, on February 6, 2023, the Appraiser provided the Appraisal for the Property at a fair market value of Two Hundred Thirty Thousand Dollars ($230,000) (the "**Appraised Value**"); and

WHEREAS, the City desires to reduce the purchase price for the Property to the Appraised Value; and

WHEREAS, the City and the Buyer have negotiated an amendment to the Purchase Agreement substantially in the form attached to this Resolution (the "Amendment").

NOW THEREFORE, BE IT RESOLVED, that the City Council of the City of Pinole hereby:

Section 1: Declares the above recitals are true and correct and incorporated by this reference.

Section 2: Approves the Amendment and provides authorization and direction to the City Manager, or his designee, to execute the Amendment and to execute all other

documents and take such actions as are necessary to carry out the intent of this Resolution.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Pinole held on the **21st** day of **March, 2023** by the following vote:

AYES:	COUNCILMEMBERS:
NOES:	COUNCILMEMBERS:
ABSENT:	COUNCILMEMBERS:
ABSTAIN:	COUNCILMEMBERS:

I, hereby certify that the foregoing resolution was regularly introduced, passed, and adopted on the **21st** day of **March, 2023**

_____

Heather Bell, CMC
City Clerk

5320919.1

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ATTACHMENT B

AMENDMENT TO PURCHASE AND SALE AGREEMENT AND JOINT ESCROW INSTRUCTIONS WITH LDW INVESTMENTS FOR PURCHASE OF 612 TENNENT AVENUE

THIS AMENDMENT TO PURCHASE AND SALE AGREEMENT AND JOINT ESCROW INSTRUCTIONS (this "**Amendment**") is entered into as of March 21, 2023 (the "**Effective Date**") by and between the City of Pinole, a California municipal corporation ("**City**") and LDW Investment Group, LLC, a California limited liability (the "**Buyer**"), amends that certain Purchase and Sale Agreement dated August 19, 2022 (the "**Agreement**") between City and Buyer. City and Buyer are each referred to as a "**Party**" and collectively referred to herein as the "**Parties**."

RECITALS

A. City is the owner of certain property located at 612 Tennent Ave. in the City, known as County Assessor's Parcel Number 401-142-011-6 (the "**Property**"), as more particularly described in Exhibit A attached hereto and incorporated herein by this reference.

B. The City and the Buyer entered into the Agreement for the Buyer to purchase the property for Four Hundred Thousand Dollars ($400,000) to renovate the existing structure located on the Property to provide four (4) residential rental units, of which one (1) units will be constructed as an affordable housing unit (the "**Project**").

C. Since negotiating the original purchase price, the Buyer has encountered increased loan interest rates, higher materials and labor costs, and fire safety and parking requirements that have significantly increased the Buyer's rehabilitation and financing budget.

D. The Buyer requested a reduction in the Purchase Price for the purchase of the Property, and the City hired Oakwood Appraisal Company (the "**Appraiser**") to provide a current appraisal on the Property (the "**Appraisal**").

E. On February 6, 2023, the Appraiser provided the Appraisal for the Property at a fair market value of Two Hundred Thirty Thousand Dollars ($230,000) (the "**Appraised Value**").

F. The City has agreed to reduce the Purchase Price on the Property to the Appraised Value.

G. Capitalized terms used but not defined in this Amendment have the meaning ascribed to them in the Agreement

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements contained in this Amendment, and other good and valuable consideration,

ATTACHMENT B

the receipt and adequacy of which is hereby acknowledged by the Parties, City and Buyer hereby agree as follows:

Section 1. Section 2.2 of the Agreement is hereby amended as follows (addition is in *italics*, deletion is ~~strikethrough~~):

> 2.2 Purchase Price. The purchase price to be paid by Buyer to City for the Property is ~~Four Hundred Thousand Dollars ($400,000)~~ *Two Hundred Thirty Thousand Dollars ($230,000)* (the "**Purchase Price**").

Section 2. The Due Diligence Contingency Period is hereby extended to sixty (60) days from the date of this Amendment in order to allow the Buyer to complete the Due Diligence required prior to Closing.

Section 3. All other terms and conditions under the Agreement remain in full force and effect.

SIGNATURES ON FOLLOWING PAGE

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ATTACHMENT B

IN WITNESS WHEREOF, City and Buyer have executed this Amendment as of the date first above written.

CITY
City of Pinole,
a California municipal corporation

By: _____
Andrew Murray
City Manager

ATTEST:

By: _____
City Clerk

REVIEWED AS TO FORM

By: _____
City Attorney

BUYER

LDW Investment Group, LLC

_____

By:
Title

5320555.1

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CITY COUNCIL REPORT

9I

DATE: **FEBRUARY 1, 2022**

TO: **MAYOR AND COUNCIL MEMBERS**

FROM: **HEATHER BELL, CITY CLERK**

SUBJECT: **APPROVE REVISIONS TO COUNCIL PROCEDURES**

RECOMMENDATION

Staff recommends that the City Council approve a resolution revising the Council Procedures as directed at the March 7, 2023 meeting.

BACKGROUND

Procedures for conducting City Council meetings, publication and posting of the Agenda, and the Agenda format are set by resolution. The resolution is amended as necessary, based on procedural changes approved by the Council.

At the March 7, 2023 meeting, the City Council reviewed and approved proposed changes by both staff and Council members.

The changes that were reviewed and approved by the City Council are as follows:

1. To amend Section 6 of the Regular Meeting Agenda Format, Citizens to be Heard to read:

   "Citizens may provide comment to the City Council on any matter not listed as an agenda item on this Council meeting's agenda."

2. To switch the order of Agenda Items 7 and 8 in the Regular Meeting Agenda Format:

   7. REPORTS & COMMUNICATIONS
   8. RECOGNITIONS / PRESENTATIONS / COMMUNITY EVENTS.

3. To amend the first sentence of 13 (b) Consent Calendar:

"Items listed under the Consent Calendar are considered to be routine and/or noncontroversial and will be enacted, approved, received or adopted by one motion in the form as shown on the agenda.'

4. To amend Section 1, Regular Meetings to adjust the regular City Council meeting start time to 5:00 p.m.

5. To amend Section 6 to read:

   "The City Council can request a "date certain" for a future agenda item. That request will be evaluated by staff and a reasonable date will be reported back to Council at the following meeting."

The above revisions have been incorporated by staff and are reflected in the revised Council Procedures Resolution, included as Attachment A.

FISCAL IMPACT

There is no fiscal impact associated with amending the Council meeting procedures.

ATTACHMENTS:

Attachment A: Clean Version – Revised Resolution

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ATTACHMENT A

RESOLUTION NO. 2023 - XX

RESOLUTION OF THE CITY COUNCIL OF PINOLE, COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA, AMENDING AND SETTING FORTH COUNCIL MEETING PROCEDURES FOR THE PREPARATION AND POSTING OF AGENDAS AND THE CONDUCT OF MEETINGS

The Pinole City Council hereby repeals all prior resolutions related to the conduct of meetings, including Resolution 103-2003; 178-2003, 2005-02, 2007-07, 2007-86, 2008-74, 2009-124, 2012-08, 2012-127, 2014-67, and 2015-109, 2016-100, 2017-13, 2017-72, 2018-113, 2019-03, 2020-114, 2021-28, 2021-68, and 2022-07 and resolves as follows:

1. Regular Meetings. Pursuant to Section 2.12.010 of the Municipal Code, a regular meeting of the Pinole City Council shall be held at 5:00 p.m. on the first and third Tuesdays of every month at the Council Chambers, 2131 Pear Street in Pinole, California. Upon the agreement of the City Manager and the Mayor, a regular meeting of the City Council may be scheduled to start at a time other than 5:00 p.m. Upon the agreement of the City Manager and the Mayor, a regular meeting of the City Council may be cancelled.

2. Special Meetings. Upon the agreement of the City Manager and the Mayor and confirmation of the availability of a quorum of the City Council, a special meeting of the City Council may be scheduled. The date and time of a special meeting will be set in consideration of the likely availability of members of the public to attend at that date and time.

3\. Closed Sessions. Closed Sessions of the Pinole City Council will customarily be held prior to the consideration of regular business items on the City Council agenda in Open Session. The City Council will endeavor to conclude Closed Session by or before 7 p.m. If all Closed Session items cannot be completed during that time, Council may convene back into Closed Session following all of the Open Session business items that evening or the Closed Session items can be held over to the next meeting,

4. Posting of Meeting Agenda. As required by the Brown Act, at least seventy-two (72) hours before a regular meeting, and twenty-four (24) hours before a special meeting , the City Clerk shall post the agenda containing a brief general description of each item of business to be transacted or discussed at the meeting. The agenda shall be posted on the bulletin board located outside of City Hall and online on the City's website

5. Council Action Limited. As required by the Brown Act, the Council shall not take action on any item not appearing on the posted agenda unless:

   A. It is determined by a two-thirds (2/3) vote of the Council, or if less than two-thirds (2/3) of the Council is present, the unanimous vote of the members present, that the need to take action arose after the posting of the agenda.
   B. It is determined by a majority vote of the Council that an emergency situation as described in Government Code Section 54956.5 necessitated prompt action due to the disruption or threatened disruption of public facilities.
   C. The item was posted for a prior meeting less than five (5) days previously and continued to the meeting where action is being taken.

6. Agenda Preparation. The City Manager will in coordination with the Mayor identify the items, among those initiated by staff to carry out City functions and those approved by a majority of the City Council as Council requests for future agenda items, that will be included on each specific City Council meeting agenda. Only items that are staff initiated and approved by the

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City Manager, items that are approved by a majority of the City Council as Council requests for future agenda items, or proclamations/presentations requested by local jurisdictions or non-profits may appear on a Council meeting agenda except as noted above in the section regarding adding new agenda items after the posting deadline. The City Manager and the Mayor will endeavor not to include more items on a single agenda than the Council can reasonably address during a single meeting. Items requested as future agenda items by the City Council will be placed on a Council meeting agenda as soon as staff has had sufficient time to conduct any necessary preparations for the item. The City Manager may schedule items requested by Council as future agenda items for specific meeting dates based on specific time sensitivity or natural timing of the item. The City Council can request a "date certain" for a future agenda item. That request will be evaluated by staff and a reasonable date will be reported back to Council at the following meeting. Cut-off time for placing items on the agenda shall be Wednesday, thirteen days preceding each regular Tuesday meeting, with the final agenda to be prepared by 5:00 pm of the Thursday preceding the meeting.

7. Order of Business. Promptly at the hour appointed for each meeting, the members of the Council, City Clerk, City Attorney, City Manager, the Police Chief or his designee and such other staff members as the City Manager deems necessary shall assemble in the Council Chambers or some other publicly announced location. The standard agenda items, their sequence, and the standard agenda format for a regular meeting is as shown below. The order of business may be suspended at any Council meeting by a majority vote of the members in attendance.

REGULAR MEETING AGENDA FORMAT

1. CALL TO ORDER & PLEDGE OF ALLEGIANCE IN HONOR OF THE US MILITARY TROOPS

2. 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.

3. ROLL CALL, CITY CLERK 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't Code § 87105.

4. CONVENE TO A CLOSED SESSION

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

EXAMPLES:

A. CONFERENCE WITH LABOR NEGOTIATOR
Pursuant to GC §54597.6
City Labor Negotiator:
Employee Organizations:

B. PUBLIC EMPLOYEE PERFORMANCE EVALUATION

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Pursuant to GC §54597
Public Employee Performance Evaluation:

OPEN SESSION WILL RECOMMENCE UPON COMPLETION OF CLOSED SESSION DISCUSSIONS, WHICH MAY OCCUR BEFORE 7:00 PM

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

6. CITIZENS TO BE HEARD (Public Comments)

Citizens may provide comment to the City Council on any matter not listed as an agenda item on this Council meeting's agenda*. Citizens may speak for 3 minutes 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 meeting.*

7. RECOGNITIONS / PRESENTATIONS / COMMUNITY ANNOUNCEMENTS

A. Proclamations
B. Presentations/Recognitions

8.. REPORTS & COMMUNICATIONS

A. Mayor
   1. Announcements

B. Mayoral and Council Appointments

C. City Council Reports and Communications

D. Council Requests for Future Agenda Items and Other Staff Follow-Up

E. City Manager Report

F. City Attorney Report

9. CONSENT CALENDAR

All matters under the Consent Calendar are considered to be routine or 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 remainder of the Consent Calendar.

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 on a matter or with a party that is the subject of a Public Hearing must disclose the communication on the record prior to the start of the Public Hearing.***

11. OLD BUSINESS

12. NEW BUSINESS

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13. CITIZENS TO BE HEARD (Public Comments)

Open only 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 for City Council items 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 meeting.*

14. ADJOURNMENT

END OF AGENDA FORMAT

8. Conflict of Interest. An official who has a conflict must disclose such prior to consideration of the decision by publicly identifying in detail the financial interest that causes the conflict; recusing himself /herself from discussion and voting, and leaving the room until the decision has been reached (GC Section 87200).

9. Decorum. The City Council, elected by the public, must be free to discuss issues confronting the City in an orderly environment. Public members attending City Council meetings shall observe the same rules of order and decorum applicable to the City Council. Any person making impertinent, derogatory, or slanderous remarks or who becomes boisterous while addressing the City Council or while attending the City Council meeting may be removed from the room if the Presiding Officer so directs.

The City Council, staff, and the public shall observe the following standards of behavior that promote civility at all public meetings. These standards will be listed on the agenda coversheet for each meeting.

- Treat everyone courteously;
- Give open-minded consideration to all viewpoints;
- Listen to others respectfully;
- Focus on the issues and avoid personalizing debate; and
- Embrace respectful disagreement and dissent as democratic rights, inherent components of an inclusive public process, and tools for forging sound decisions.

10. Norms of Behavior and Code of Ethics and Conduct: The City Council has approved the Council Norms of Behavior, incorporated hereto as Exhibit A. The City Council has also approved a Code of Ethics and Conduct which is codified in Chapter 2.62.030.of the Pinole Municipal Code.

11. Approval of Minutes. A true copy of the minutes of proceedings of regular and special meetings not theretofore approved, as the same shall be entered in the journal of proceedings, shall be provided by the City Clerk to each Council member at least twenty-four (24) hours before regular meetings. Unless otherwise ordered by the Council, the City Clerk shall prepare and produce action minutes of the meetings, which may be approved without a public reading of the same. The minutes as approved by the Council shall be the permanent official record of the proceedings of the City Council.

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12. Tape Recordings. Council meetings are televised live on Pinole's Local Community Access Channel (Channel 26). Tape recordings and livestream of Council meetings and livestream on social media pages are kept in order to assist in the preparation of minutes. After the prepared minutes have been approved, video tape recordings shall be retained pursuant to the Citywide Records Retention Policy.

13. Rules of Order. The following definitions and rules shall govern the proceedings of the Council:

a. Reports. Under the items Mayor and City Council Reports and Communications, City Manager Report and City Attorney Report , the Council shall receive reports which are intended to be limited to approximately two (2) minutes from each individual. Summaries of Council liaison (i.e., advisory committees and regional agencies) assignment meetings will be submitted by Council Members to the City Clerk periodically and be included as attachments to Council agendas and reflected in the minutes. The City Manager Report shall include a report on anticipated agenda items for the next meeting.

b. Consent Calendar. All matters under the Consent Calendar are considered to be routine and/or noncontroversial and will be enacted, approved, received or adopted by one motion in the form as shown on the agenda. If any Council Member wishes to comment on a Consent Calendar item, they may do so before action is taken on the Consent Calendar. If, following comments, 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 remainder of the Consent Calendar.

c. Public Comment. Public comment, including Citizens to be Heard, is for members of the public to provide comments to the City Council on municipal affairs. Under Citizens to Be Heard, members of the public may provide comments to the City Council on any municipal affair not addressed by another agenda item. Citizens may speak for 3 minutes 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 meeting.

d. Public Hearings shall consist of matters wherein published notice has been given and where public hearings are required by law and such matters as the Council may deem necessary or desirable to schedule for public hearings. Anyone wishing to speak regarding a Public Hearing should fill out a speaker card prior to the completion of the staff presentation and submit it to the City Clerk. Individuals may not share or offer time to another speaker. The order of business for Public Hearings is as follows:

I. All persons wishing to speak for or against a matter which has been set for Public Hearing are requested to complete a card giving his/her name and address, and to hand the card to the City Clerk as early as possible in the meeting. The cards can be found on the Clerk's desk or on a table located in the back of the Council Chambers.

II. The speakers shall address remarks to and through the Mayor.

III. Persons addressing the Council shall state their name, the city in which they reside, the interest they represent, if any, and shall state on which

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side of the argument they wish to be heard.

IV. Prior to opening the Public Hearing, the Mayor may request a staff report and presentation.

V. All persons wishing to be heard shall confine their remarks to the merits of the matter being considered and shall refrain from references to personalities.

VI. Applicant/Appellant (10 minutes, subject to adjustment by the Mayor) - The applicant or his/her representative shall first address the Council and shall, in his/her first address, state all relevant reasons and present all relevant evidence on behalf of the application/matter.

VII. Opponent (5 minutes, subject to adjustment by the Mayor) – The primary opponent representative to a project/application shall address the Council second and shall state all relevant reasons and present all relevant evidence on behalf of the opposition.

VIII. The Mayor shall next request the Clerk to read or acknowledge any written communication received on the application.

IX. Public Comments (3 minutes per speaker, subject to adjustment by the Mayor). Any persons wishing to speak either in favor of, in opposition to, or simply to comment on the application/matter shall next be recognized by the Mayor in the order in which they present themselves.

X. Applicant Close (5 minutes, subject to adjustment by the Mayor) - After all persons desiring to speak on the application have completed their presentation and any written communications have been acknowledged, the applicant will be permitted 5 minutes to close the argument by presenting matter in rebuttal on presentation made in opposition to the application.

XI. If the applicant, in rebuttal, presents new evidence not covered in the original presentation, persons who have previously spoken on the application may be granted an opportunity to comment on the new evidence only.

XII. The applicant shall have the right to close the argument.

XIII. The Public Hearing shall then be concluded on the part of the public and brought to the Council level for discussion and decision. There is no further comment permitted from the audience unless requested by the Council.

XIV. In matters set for Public Hearing before the City Council, the Mayor reserves the right to limit the length of time for argument.

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e. Appeals. Appeals shall be presented to the Council through the City Clerk and/or as required by law. Persons other than parties to the appeal may speak only by permission of the Council. The process for appellant/opposition speakers shall be the same as outlined above for Public Hearings.

. Public Discussion

I. Permission - Any person addressing the Council shall first secure the permission of the presiding officer.
II. Not A Debate - Public discussion should not be used to elicit a debate between Council members or staff and the public.
III. Time Limits - The Council may establish time limits for the consideration of any agenda item as well as establish an overall time period for the consideration of any matter.
IV. Public CommentDuring Council Deliberation - Public comment shall be allowed following the staff report and Council questions and before deliberations. Speakers shall be allowed three minutes each, subject to modification by the Mayor.
V. Limit on Public Discussion After Motion to Terminate Deliberation - No discussion shall be permitted after a motion, which would terminate further deliberation, has been adopted.

g. Old Business. This item is for city business which has been raised at a previous meeting and which has not been completed.

h. New Business. This item is for new city business which has not been previously presented to the City Council.

i. Council Deliberation.

I. Presiding Officer May Deliberate - The Mayor may deliberate from the chair, subject only to such limitations of deliberation as are by these rules imposed on all members, and shall not be deprived of any of the rights and privileges as a member of the Council by reason of his/her acting as the Mayor.

II. Getting the Floor - Improper References to be Avoided - Every member desiring to speak shall address the Mayor, and upon recognition shall confine himself/herself to the question under deliberation, avoiding negative references to personalities and indecorous language.

III. Interruptions - A Council member, once recognized, shall not be interrupted when speaking unless it is to call said member to order, or as herein otherwise provided. If a member, while speaking, be called to order, said member shall cease speaking until the question ofr order be determined, and if in order, said member shall be permitted to proceed.

IV. Motion to Reconsider - A motion to reconsider any action taken by the Council may be made only on the date such action was taken or the next

meeting of the Council. Such motion must be made by one who voted on the prevailing side, and may be made at any time or while a member has the floor and have precedence over all other motions; it shall be debatable. Nothing herein shall be construed to prevent any member of the Council from making or remaking the same other motion at a subsequent meeting of the Council or a motion to rescind.

V. Repeal or Amendment of Action Requiring More Than a Majority Vote - Any ordinance or resolution which is passed or adopted and which, as part of its terms, requires more than a majority vote of the Council in order to pass, a motion pursuant to such an ordinance or resolution shall require a vote of the same percent of the Council to repeal or amend the ordinance or resolution.

VI. Motion to Table - A motion to lay on the table is not debatable and shall preclude all amendments or deliberation of the subject under consideration. If the motion shall prevail, the consideration of the subject may be resumed only upon a motion of a member voting with the majority.

VII. Motion to Call for Question or Continue to a Date Specific - A motion to call for the question or continue the matter to a specific date shall preclude all amendments to or deliberation of the subject under consideration and is not debatable.

VIII. Statement of Position - When a motion to call for the question is adopted, each member of the Council may briefly state his/her position on the matter before roll call or call for the next item of business.

IX. Privilege of Closing Deliberation - The Council member moving the adoption of an ordinance or resolution shall have the privilege of closing the deliberations or making the final statement. Further, it shall be the privilege of the Mayor to close debate where the Mayor determines that further debate is not advancing deliberations.

X. Division of Question - If the question contains two (2) or more divisible propositions, the presiding officer may, and upon request of a member shall, divide the same.

XI. Second Required - All motions except for nominations and a point of order shall require a second.

XII. Miscellaneous - All other matters not covered by these rules shall be decided by a majority of the Council. Roberts' Rules of Order may be used for guidance. Further, this Resolution supersedes any prior resolutions relating to the conduct of Council meetings.

j.. Council Requests for Future Agenda Items and Other Staff Follow-Up – Under this agenda item, any Council Member may make a motion that an item be scheduled for discussion at a future City Council meeting or that staff conduct a specific follow-up task. The request must be approved by a majority vote of the Council in order to be carried out. The Council

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Member raising the request shall specify the type of follow-up they seek, among the following: staff provide information on a topic to Council in a memorandum; staff schedule a presentation to Council by an outside party at a future Council meeting; staff schedule a report to Council by staff at a future Council meeting; staff schedule an agenda item at a future Council meeting for staff to receive direction from Council on an issue; and staff present proposed City legislation/policy (resolution or ordinance) to Council at a future Council meeting. Council requests that staff conduct a special project that would require substantial staff time and/or substantial other City resources will be brought to Council as a future Council agenda item for staff to receive direction from Council on how to resource and prioritize the special project within the City workplan.

k. Study Sessions and Workshops are special meetings of the City Council that provide in-depth information and give City Council members background and insight for addressing critical City issues more effectively and allow additional time for public review and participation.

l. Adjournment - Meetings will be adjourned at 11:00 p.m., unless Council approves a motion to extend the meeting..

PASSED AND ADOPTED this 21st day of March, 2023, by the following vote:

AYES: COUNCILMEMBERS:
NOES: COUNCILMEMBERS:
ABSENT: COUNCILMEMBERS:
ABSTAIN: COUNCILMEMBERS:

I hereby certify that the foregoing resolution was introduced, passed and adopted on this 21st day of March 2023.

_____
Heather Bell, CMC
City Clerk

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CITY COUNCIL REPORT

10A

DATE: **MARCH 21, 2023**

TO: **MAYOR AND COUNCIL MEMBERS**

FROM: **LILLY WHALEN, COMMUNITY DEVELOPMENT DIRECTOR**

SUBJECT: **CONDUCT A PUBLIC HEARING AND ADOPT RESOLUTION APPROVING, AUTHORIZING AND DIRECTING EXECUTION OF A JOINT EXERCISE OF POWERS AGREEMENT RELATING TO THE CALIFORNIA MUNICIPAL FINANCE AUTHORITY AND APPROVING A PLAN OF FINANCE INCLUDING THE ISSUANCE OF REVENUE BONDS BY THE AUTHORITY TO FINANCE AND REFINANCE A 33-UNIT MULTIFAMILY RENTAL HOUSING FACILITY FOR THE BENEFIT OF PINOLE HOUSING, L.P., OR ANOTHER ENTITY CREATED BY SATELLITE AHA DEVELOPMENT, INC., OR SATELLITE AFFORDABLE HOUSING ASSOCIATES (OR AN AFFILIATE), AND CERTAIN OTHER MATTERS RELATING THERETO**

RECOMMENDATION

Staff recommends the City Council take the following actions:

1) Conduct the public hearing under the requirements of Tax and Equity Fiscal Responsibility Act ("TEFRA") and the Internal Revenue Code of 1986, as amended (the "Code").

2) Adopt the Resolution (**Attachment A**) becoming a member of the California Municipal Finance Authority (the "CMFA") and approving the issuance of the Bonds by the CMFA for the benefit of Pinole Housing, L.P., a California limited partnership, or another ownership entity to be created by Satellite AHA Development, Inc., a California nonprofit public benefit corporation, Satellite Affordable Housing Associates, a California nonprofit public benefit corporation, or an affiliate thereof (such limited partnership or other ownership entity being referred to herein as the "Borrower"), to provide for the financing of the Project. Such adoption is solely for the purposes of satisfying the requirements of TEFRA, the Code and the California Government Code Section 6500 (and following). The resolution will also authorize the City Manager or their designee to execute the Joint Exercise of Powers Agreement with the CMFA (**Attachment B**).

EXECUTIVE SUMMARY

To finance a portion of the construction of an affordable apartment complex consisting of 33 units located at 811 San Pablo Avenue, the developer has made an application to the California Municipal Finance Authority (CMFA) for issuance of tax-exempt revenue bonds. The proceeds of the bonds will be used for the costs of the acquisition, construction and improvement of the project in the City, and to be owned and operated by the developer.

The purpose of the public hearing is to receive public comment and approve the financing for the construction of the affordable housing, as required by the Internal Revenue Code of 1986. The public hearing provides members of the community an opportunity to speak in favor of or against the use of tax-exempt bonds for the financing of the Project.

After the public hearing is closed, the requested City Council action is to adopt the Resolution in **Attachment A** to approve the issuance of the bonds to finance the Project and to approve the City's membership in the Joint Exercise of Powers Agreement with the CMFA (**Attachment B**).

BACKGROUND

CALIFORNIA MUNICIPAL FINANCE AUTHORITY (CMFA)

CMFA is a joint powers authority formed in January 2004 to assist with the financing of economic development, public benefit and charitable activities throughout the State of California. Since its founding, CMFA has helped finance hundreds of public benefit projects including affordable housing, cultural, economic development, education, healthcare and pollution control projects. In order for SMFA to assist with the financing of a project, the jurisdiction in which the project is located must become a member of CMFA. There is no fee to join CMFA. To date, over 350 municipalities have become members of CMFA.

One of the unique aspects of CMFA is the sharing of issuance fees with the host community for each project. This fee sharing arrangement has been very well received by both municipalities and borrowers. Over $36 million has been given back to municipalities and California 501c3 non-profits under the CMFA fee sharing program.

PROJECT FINANCING.

The City of Pinole ("City") and Satellite Affordable Housing Associates ("SAHA") entered into a Disposition and Development Agreement ("DDA") in July of 2021, recently amended in February 2023, to develop a 0.60-acre vacant lot at 811 San Pablo Avenue ("Property") with 33 units of housing affordable to very low and low income households (the "Project"). The Property is owned by the City as Housing Successor to the former

Pinole Redevelopment Agency. The City agreed to provide a $1,180,000 purchase loan (the appraised value of the Property) and a $3,200,000 construction loan from Low and Moderate Income Housing Funds ("Housing Funds") at a 0% interest rate.

To finance a portion of the Project, SAHA (the "Borrower"), has made an application to the California Municipal Finance Authority for issuance of tax-exempt revenue bonds. The Borrower requested that the Authority serve as the municipal issuer of the Bonds in an aggregate principal amount not to exceed $30,000,000 of tax-exempt revenue bonds. The proceeds of the Bonds will be used for the costs of the acquisition, construction and improvement of the Project in the City, and to be owned and operated by the Borrower.

In order for all or a portion of the Bonds to qualify as tax-exempt bonds, the City of Pinole must conduct a duly-noticed public hearing (the "TEFRA Hearing") providing for the members of the community an opportunity to speak in favor of or against the use of tax-exempt bonds for the financing of the Project. Following the close of the TEFRA Hearing, the City Council must provide its approval of the issuance of the Bonds for the financing of the Project.

DISCUSSION AND ANALYSIS

In order for the CMFA to have the authority to serve as the issuer of the bonds for the Project, it is necessary for the City of Pinole to become a member of the CMFA. Becoming a member requires a Joint Exercise of Powers Agreement (the "Agreement") to be executed by the City Manager (see **Attachment B**).

The Agreement provides that the CMFA is a public entity, separate and apart from each member executing the Agreement. The debts, liabilities and obligations of the CMFA do not constitute debts, liabilities or obligations of the members executing the Agreement.

The Bonds to be issued by the CMFA for the Project will be the sole responsibility of the Borrower, and the City will have no financial, legal, moral obligation, liability or responsibility for the Project or the repayment of the Bonds for the financing of the Project. All financing documents with respect to the issuance of the Bonds will contain clear disclaimers that the Bonds are not obligations of the City or the State of California, but are to be paid for solely from funds provided by the Borrower.

There are no costs associated with membership in the CMFA and the City will in no way become exposed to any financial liability by reason of its membership in the CMFA. In addition, participation by the City in the CMFA will not impact the City's appropriations limits and will not constitute any type of indebtedness by the City. Outside of holding the TEFRA hearing, adopting the required resolution and executing the Agreement, no other participation or activity of the City or the City Council with respect to the issuance of the Bonds will be required.

The Agreement expressly provides that any member may withdraw from the Agreement upon written notice to the Board of Directors of the CMFA. In the case of the proposed bond financing for the Borrower, the City following its execution of the Agreement, could, at any time following the issuance of the Bonds, withdraw from the CMFA by providing written notice to the Board of Directors of the CMFA.

FISCAL IMPACT

The issuance of the bonds for the Project by CMFA does not constitute an indebtedness or an obligation of the City within the meaning of any constitutional or statutory debt limitation, or a charge against the general credit or taxing powers of the City. Repayment of the bonds will come solely from certain revenues pledged to repayment of the bonds that will be paid by the Borrower.

The Board of Directors of the California Foundation for Stronger Communities, a California non-profit public benefit corporation (the “Foundation”), acts as the Board of Directors for the CMFA. Through its conduit issuance activities, the CMFA shares a portion of the issuance fees it receives with its member communities and donates a portion of these issuance fees to the Foundation for the support of local charities. With respect to the City of Pinole, it is expected that that a portion of the issuance fee attributable to the City will be granted by the CMFA to the General Fund of the City. Such grant may be used for any lawful purpose of the City.

ATTACHMENTS

A- Draft Resolution
B- Agreement for Membership in the CMFA

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ATTACHMENT A

RESOLUTION NO. 2023-XX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PINOLE APPROVING, AUTHORIZING AND DIRECTING EXECUTION OF A JOINT EXERCISE OF POWERS AGREEMENT RELATING TO THE CALIFORNIA MUNICIPAL FINANCE AUTHORITY AND APPROVING A PLAN OF FINANCE INCLUDING THE ISSUANCE OF REVENUE BONDS BY THE AUTHORITY TO FINANCE AND REFINANCE A 33-UNIT MULTIFAMILY RENTAL HOUSING FACILITY FOR THE BENEFIT OF PINOLE HOUSING, L.P., OR ANOTHER ENTITY CREATED BY SATELLITE AHA DEVELOPMENT, INC., OR SATELLITE AFFORDABLE HOUSING ASSOCIATES (OR AN AFFILIATE) , AND CERTAIN OTHER MATTERS RELATING THERETO

WHEREAS, the City of Pinole (the "City") is the owner of certain property located at 811 San Pablo Avenue in the City of Pinole, California, County Assessor's Parcel Number 402-166-030 (the "Property"); and

WHEREAS, the Property was purchased by the former Redevelopment Agency of the City of Pinole (the "Agency") with low- and moderate-income housing funds in accordance with Community Redevelopment Law (Health and Safety Code Sections 33000 et seq.).; and

WHEREAS, on July 6, 2021 the City and Satellite Affordable Housing Associates (SAHA) (the "Developer") entered a Disposition and Development Agreement (the "DDA") that sets forth the terms and conditions under which the City will convey the Property to the Developer; and

WHEREAS, on February 21, 2023 the City and the Developer entered into an First Amendment to the DDA;

WHEREAS, under the DDA and First Amendment to the DDA the City agrees to provide a $1,180,000 Purchase Loan (the appraised value of the Property) in the form of a residual receipts loan and a $3,100,000 Construction Loan from Low and Moderate Income Housing Funds to assist with costs related to the construction of the Project for the development of 33 units of very-low and low-income housing at the Property, with interest rates of both loans being 0% (the "Project"); and

WHEREAS, the Purchase Loan and the Construction Loan will be provided pursuant to a loan agreement (the "Loan Agreement") to be entered into between the Parties, which will be secured by a deed of trust (the "Deed of Trust") executed by Developer as trustor for the benefit of the City and recorded in the official records of Contra Costa County (the "Official Records"); and

WHEREAS, pursuant to Chapter 5 of Division 7 of Title 1 of the Government Code of the State of California (the "Act"), certain public agencies (the "Members") have entered into a Joint Exercise of Powers Agreement Relating to the California Municipal Finance Authority, dated as of January 1, 2004 (the "Agreement") in order to form the California Municipal Finance Authority (the "Authority"), for the purpose of promoting

economic, cultural and community development, and in order to exercise any powers common to the Members, including the issuance of bonds, notes or other evidences of indebtedness; and

WHEREAS, the City has determined that it is in the public interest and for the public benefit that the City become a Member of the Authority in order to facilitate the promotion of economic, cultural and community development activities in the City, including the financing of projects therefor by the Authority; and

WHEREAS, there is now before this City Council (the "City Council") the form of the Agreement; and

WHEREAS, a copy of the Agreement is on file with the City Clerk, and City staff have reviewed the Agreement; and

WHEREAS, the Authority is authorized to issue and sell revenue bonds for the purpose, among others, of financing the construction of capital projects; and

WHEREAS, Pinole Housing, L.P., a California limited partnership, or another ownership entity to be created by Satellite AHA Development, Inc., a California nonprofit public benefit corporation, Satellite Affordable Housing Associates, a California nonprofit public benefit corporation, or an affiliate thereof (such limited partnership or other ownership entity being referred to herein as the "Borrower") has requested that the Authority issue and sell revenue bonds in the maximum principal amount of $30,000,000 (the "Bonds"), including but not limited to revenue bonds issued as part of a plan to finance and refinance (1) the costs of the acquisition, construction and improvement of a 33-unit multifamily rental housing facility for low-income households (the "Project") to be located at 811 San Pablo Avenue in the City, and to be owned and operated by the Borrower; and (2) pay certain expenses in connection with the issuance of the Bonds; and

WHEREAS, in order for the interest on the Bonds to be tax-exempt, Section 147(f) of the Internal Revenue Code of 1986, as amended (the "Code"), requires that an "applicable elected representative" of a governmental unit, the geographic jurisdiction of which contains the site of facilities to be financed with the proceeds of the Bonds, hold a public hearing on the plan of finance involving the issuance of the Bonds and approve the plan of financing involving the issuance of the Bonds following such hearing; and

WHEREAS, the Authority has determined that the City Council is an "applicable elected representative" for purposes of holding such hearing; and

WHEREAS, the Authority has requested that the City Council approve the issuance of the Bonds by the Authority in order to satisfy the public approval requirement of Section 147(f) of the Code and, the requirements of Section 4 of the Agreement; and

WHEREAS, notice of such public hearing has been duly given as required by the Code, and this City Council has heretofore held such public hearing at which all interested persons were given an opportunity to be heard on all matters relative to the plan of financing of the Project and the Authority's issuance of the Bonds therefor; and

WHEREAS, it is in the public interest and for the public benefit that the City Council approve the plan of financing for the issuance of the Bonds by the Authority for the aforesaid purposes;

NOW THEREFORE, BE IT RESOLVED, that the City Council of the City of Pinole hereby:

Section 1: Declares the above recitals are true and correct and incorporated by this reference.

Section 2: Approves the Agreement and provides authorization and direction to the City Manager, or their designee, to execute the Agreement, and the City Clerk or their designee is hereby authorized and directed to attest thereto.

Section 3: The City Council hereby approves the plan of financing involving the issuance of the Bonds by the Authority to finance and refinance the facilities described herein. It is the purpose and intent of the City Council that this resolution constitute approval of the issuance of the Bonds (a) by the "applicable elected representative" of a governmental unit having jurisdiction over the area in which the Project is to be located in accordance with Section 147(f) of the Code and (b) by the City Council in accordance with Section 4 of the Agreement.

Section 4: The issuance of the Bonds shall be subject to the approval of the Authority of all financing documents relating thereto to which the Authority is a party. The City shall have no responsibility or liability whatsoever with respect to the Bonds.

Section 5: The adoption of this Resolution shall not obligate the City or any department thereof to (a) provide any financing to acquire or construct the Project or any refinancing of the Project; (b) approve any application or request for or take any other action in connection with any planning approval, permit or other action necessary for the acquisition, construction, rehabilitation or operation of the Project; (c) make any contribution or advance any funds whatsoever to the Authority; or (d) take any further action with respect to the Authority or its membership therein.

Section 6: The City Manager, the Clerk and all other proper officers and officials of the City are hereby authorized and directed to execute such other agreements, documents and certificates, and to perform such other acts and deeds, as may be necessary to effect the purposes of this Resolution and the transactions herein authorized.

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Section 7. The Clerk shall forward a certified copy of this Resolution and an originally executed Agreement to the Authority in care of its counsel:

Ronald E. Lee, Esq.
Jones Hall, APLC
475 Sansome Street, Suite 1700
San Francisco, CA 94111

Section 8. This resolution shall take effect immediately upon its passage.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Pinole held on the **21st** day of **March, 2023** by the following vote:

AYES:	COUNCILMEMBERS:
NOES:	COUNCILMEMBERS:
ABSENT:	COUNCILMEMBERS:
ABSTAIN:	COUNCILMEMBERS:

I, hereby certify that the foregoing resolution was regularly introduced, passed, and adopted on the **21st** day of **March, 2023**

_____
Heather Bell, CMC
City Clerk

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JOINT EXERCISE OF POWERS AGREEMENT
RELATING TO THE CALIFORNIA MUNICIPAL FINANCE AUTHORITY

THIS AGREEMENT, dated as of January 1, 2004, among the parties executing this Agreement (all such parties, except those which have withdrawn as provided herein, are referred to as the "Members" and those parties initially executing this Agreement are referred to as the "Initial Members"):

WITNESSETH

WHEREAS, pursuant to Title 1, Division 7, Chapter 5 of the California Government Code (in effect as of the date hereof and as the same may from time to time be amended or supplemented, the "Joint Exercise of Powers Act"), two or more public agencies may by agreement jointly exercise any power common to the contracting parties; and

WHEREAS, each of the Members is a "public agency" as that term is defined in Section 6500 of the Joint Exercise of Powers Act; and

WHEREAS, each of the Members is empowered by law to promote economic, cultural and community development, including, without limitation, the promotion of opportunities for the creation or retention of employment, the stimulation of economic activity, the increase of the tax base, and the promotion of opportunities for education, cultural improvement and public health, safety and general welfare; and

WHEREAS, each of the Members may accomplish the purposes and objectives described in the preceding preamble by various means, including through making grants, loans or providing other financial assistance to governmental and nonprofit organizations; and

WHEREAS, each Member is also empowered by law to acquire and dispose of real property for a public purpose; and

WHEREAS, the Joint Exercise of Powers Act authorizes the Members to create a joint exercise of powers entity with the authority to exercise any powers common to the Members, as specified in this Agreement and to exercise the additional powers granted to it in the Joint Exercise of Powers Act and any other applicable provisions of the laws of the State of California; and

WHEREAS, a public entity established pursuant to the Joint Exercise of Powers Act is empowered to issue or execute bonds, notes, commercial paper or any other evidences of indebtedness, including leases or installment sale agreements or certificates of participation therein (herein "Bonds"), and to otherwise undertake financing programs under the Joint Exercise of Powers Act or other applicable provisions of the laws of the State of California to accomplish its public purposes; and

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WHEREAS, the Members have determined to specifically authorize a public entity authorized pursuant to the Joint Exercise of Powers Act to issue Bonds pursuant to the Joint Exercise of Powers Act or other applicable provisions of the laws of the State of California; and

WHEREAS, it is the desire of the Members to use a public entity established pursuant to the Joint Exercise of Powers Act to undertake the financing and/or refinancing of projects of any nature, including, but not limited to, capital or working capital projects, insurance, liability or retirement programs or facilitating Members use of existing or new financial instruments and mechanisms; and

WHEREAS, it is further the intention of the Members that the projects undertaken will result in significant public benefits to the inhabitants of the jurisdictions of the Members; and

WHEREAS, by this Agreement, each Member desires to create and establish the "California Municipal Finance Authority" for the purposes set forth herein and to exercise the powers provided herein;

NOW, THEREFORE, the Members, for and in consideration of the mutual promises and agreements herein contained, do agree as follows:

Section 1. <u>Purpose</u>.

This Agreement is made pursuant to the provisions of the Joint Exercise of Powers Act. The purpose of this Agreement is to establish a public entity for the joint exercise of powers common to the Members and for the exercise of additional powers given to a joint powers entity under the Joint Powers Act or any other applicable law, including, but not limited to, the issuance of Bonds for any purpose or activity permitted under the Joint Exercise of Powers Act or any other applicable law. Such purpose will be accomplished and said power exercised in the manner hereinafter set forth.

Section 2. <u>Term</u>.

This Agreement shall become effective in accordance with Section 17 as of the date hereof and shall continue in full force and effect until such time as it is terminated in writing by all the Members; provided, however, that this Agreement shall not terminate or be terminated until all Bonds issued or caused to be issued by the Authority (defined below) shall no longer be outstanding under the terms of the indenture, trust agreement or other instrument pursuant to which such Bonds are issued, or unless a successor to the Authority assumes all of the Authority's debts, liabilities and obligastions.

Section 3. <u>Authority</u>.

A. CREATION AND POWERS OF AUTHORITY.

Pursuant to the Joint Exercise of Powers Act, there is hereby created a public entity to be known as the "California Municipal Finance Authority" (the "Authority"), and said Authority shall be a public entity separate and apart from the Members. Its

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debts, liabilities and obligations do not constitute debts, liabilities or obligations of any Members.

B. BOARD.

The Authority shall be administered by the Board of Directors (the "Board," or the "Directors" and each a "Director") of the California Foundation for Stronger Communities, a nonprofit public benefit corporation organized under the laws of the State of California (the "Foundation"), with each such Director serving in his or her individual capacity as a Director of the Board. The Board shall be the administering agency of this Agreement and, as such, shall be vested with the powers set forth herein, and shall administer this Agreement in accordance with the purposes and functions provided herein. The number of Directors, the appointment of Directors, alternates and successors, their respective terms of office, and all other provisions relating to the qualification and office of the Directors shall be as provided in the Articles and Bylaws of the Foundation, or by resolution of the Board adopted in accordance with the Bylaws of the Foundation.

All references in this Agreement to any Director shall be deemed to refer to and include the applicable alternate Director, if any, when so acting in place of a regularly appointed Director.

Directors may receive reasonable compensation for serving as such, and shall be entitled to reimbursement for any expenses actually incurred in connection with serving as a Director, if the Board shall determine that such expenses shall be reimbursed and there are unencumbered funds available for such purpose.

The Foundation may be removed as administering agent hereunder and replaced at any time by amendment of this Agreement approved as provided in Section 16; provided that a successor administering agent of this Agreement has been appointed and accepted its duties and responsibilities under this Agreement.

C. OFFICERS; DUTIES; OFFICIAL BONDS.

The officers of the Authority shall be the Chair, Vice-Chair, Secretary and Treasurer (defined below). The Board, in its capacity as administering agent of this Agreement, shall elect a Chair, a Vice-Chair, and a Secretary of the Authority from among Directors to serve until such officer is re-elected or a successor to such office is elected by the Board. The Board shall appoint one or more of its officers or employees to serve as treasurer, auditor, and controller of the Authority (the "Treasurer") pursuant to Section 6505.6 of the Joint Exercise of Powers Act to serve until such officer is re-elected or a successor to such office is elected by the Board.

Subject to the applicable provisions of any resolution, indenture, trust agreement or other instrument or proceeding authorizing or securing Bonds (each such resolution, indenture, trust agreement, instrument and proceeding being herein referred to as an "Indenture") providing for a trustee or other fiscal agent, and except as may otherwise be

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specified by resolution of the Board, the Treasurer is designated as the depositary of the Authority to have custody of all money of the Authority, from whatever source derived and shall have the powers, duties and responsibilities specified in Sections 6505, 6505.5 and 6509.5 of the Joint Exercise of Powers Act.

The Treasurer of the Authority is designated as the public officer or person who has charge of, handles, or has access to any property of the Authority, and such officer shall file an official bond with the Secretary of the Authority in the amount specified by resolution of the Board but in no event less than $1,000.

The Board shall have the power to appoint such other officers and employees as it may deem necessary and to retain independent counsel, consultants and accountants.

The Board shall have the power, by resolution, to the extent permitted by the Joint Exercise of Power Act or any other applicable law, to delegate any of its functions to one or more of the Directors or officers, employees or agents of the Authority and to cause any of said Directors, officers, employees or agents to take any actions and execute any documents or instruments for and in the name and on behalf of the Board or the Authority.

D. MEETINGS OF THE BOARD.

(1) Ralph M. Brown Act.

All meetings of the Board, including, without limitation, regular, adjourned regular, special, and adjourned special meetings shall be called, noticed, held and conducted in accordance with the provisions of the Ralph M. Brown Act (commencing with Section 54950 of the Government Code of the State of California), or any successor legislation hereinafter enacted (the "Brown Act").

(2) Regular Meetings.

The Board shall provide for its regular meetings; provided, however, it shall hold at least one regular meeting each year. The date, hour and place of the holding of the regular meetings shall be fixed by resolution of the Board. To the extent permitted by the Brown Act, such meetings may be held by telephone conference.

(3) Special Meetings.

Special meetings of the Board may be called in accordance with the provisions of Section 54956 of the Government Code of the State of California. To the extent permitted by the Brown Act, such meetings may be held by telephone conference.

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(4) Minutes.

The Secretary of the Authority shall cause to be kept minutes of the regular, adjourned regular, special, and adjourned special meetings of the Board and shall, as soon as possible after each meeting, cause a copy of the minutes to be forwarded to each Director.

(5) Quorum.

A majority of the Board shall constitute a quorum for the transaction of business. No action may be taken by the Board except upon the affirmative vote of a majority of the Directors constituting a quorum, except that less than a quorum may adjourn a meeting to another time and place.

E. RULES AND REGULATIONS.

The Authority may adopt, from time to time, by resolution of the Board such rules and regulations for the conduct of its meetings and affairs as may be required.

Section 4. Powers.

The Authority shall have the power, in its own name, to exercise the common powers of the Members and to exercise all additional powers given to a joint powers entity under any of the laws of the State of California, including, but not limited to, the Joint Exercise of Powers Act, for any purpose authorized under this Agreement. Such powers shall include the common powers specified in this Agreement and may be exercised in the manner and according to the method provided in this Agreement. The Authority is hereby authorized to do all acts necessary for the exercise of such power, including, but not limited to, any of all of the following: to make and enter into contracts; to employ agents and employees; to acquire, construct, provide for maintenance and operation of, or maintain and operate, any buildings, works or improvements; to acquire, hold or dispose of property wherever located; to incur debts, liabilities or obligations; to receive gifts, contributions and donations of property, funds, services, and other forms of assistance from person, firms, corporations and any governmental entity; to sue and be sued in its own name; to make grants, loans or provide other financial assistance to governmental and nonprofit organizations (e.g., the Members or the Foundation) to accomplish any of its purposes; and generally to do any and all things necessary or convenient to accomplish its purposes.

Without limiting the generality of the foregoing, the Authority may issue or cause to be issued Bonds, and pledge any property or revenues as security to the extent permitted under the Joint Exercise of Powers Act, or any other applicable provision of law; provided, however, the Authority shall not issue Bonds with respect to any project located in the jurisdiction of one or more Members unless the governing body of any such Member, or its duly authorized representative, shall approve, conditionally or unconditionally, the project, including the issuance of Bonds therefor. Such approval may be evidenced by resolution, certificate, order, report or such other means of written approval of such project as may be selected by the Member (or its authorized representative) whose approval is required. No such approval shall be required in

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connection with Bonds that refund Bonds previously issued by the Authority and approved by the governing board of a Member.

The manner in which the Authority shall exercise its powers and perform its duties is and shall be subject to the restrictions upon the manner in which a California general law city could exercise such powers and perform such duties. The manner in which the Authority shall exercise its powers and perform its duties shall not be subject to any restrictions applicable to the manner in which any other public agency could exercise such powers or perform such duties, whether such agency is a party to this Agreement or not.

Section 5. Fiscal Year.

For the purposes of this Agreement, the term "Fiscal Year" shall mean the fiscal year as established from time to time by resolution of the Board, being, at the date of this Agreement, the period from July 1 to and including the following June 30, except for the first Fiscal Year which shall be the period from the date of this Agreement to June 30, 2004.

Section 6. Disposition of Assets.

At the end of the term hereof or upon the earlier termination of this Agreement as set forth in Section 2, after payment of all expenses and liabilities of the Authority, all property of the Authority both real and personal shall automatically vest in the Members in the manner and amount determined by the Board in its sole discretion and shall thereafter remain the sole property of the Members; provided, however, that any surplus money on hand shall be returned in proportion to the contributions made by the Members.

Section 7. Bonds.

From time to time the Authority shall issue Bonds, in one or more series, for the purpose of exercising its powers and raising the funds necessary to carry out its purposes under this Agreement.

The services of bond counsel, financing consultants and other consultants and advisors working on the projects and/or their financing shall be used by the Authority. The expenses of the Board shall be paid from the proceeds of the Bonds or any other unencumbered funds of the Authority available for such purpose.

Section 8. Bonds Only Limited and Special Obligations of Authority.

The Bonds, together with the interest and premium, if any, thereon, shall not be deemed to constitute a debt of any Member or pledge of the faith and credit of the Members or the Authority. The Bonds shall be only special obligations of the Authority, and the Authority shall under no circumstances be obligated to pay the Bonds except from revenues and other funds pledged therefor. Neither the Members nor the Authority shall be obligated to pay the principal of, premium, if any, or interest on the Bonds, or other costs incidental thereto, except from the revenues and funds pledged therefor, and neither the faith and credit nor the taxing power of the Members nor the faith and credit of the Authority shall be pledged to the payment of the

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principal of, premium, if any, or interest on the Bonds nor shall the Members or the Authority in any manner be obligated to make any appropriation for such payment.

No covenant or agreement contained in any Bond or related document shall be deemed to be a covenant or agreement of any Director, or any officer, employee or agent of the Authority in his or her individual capacity and neither the Board of the Authority nor any Director or officer thereof executing the Bonds shall be liable personally on any Bond or be subject to any personal liability or accountability by reason of the issuance of any Bonds.

Section 9. Accounts and Reports.

All funds of the Authority shall be strictly accounted for. The Authority shall establish and maintain such funds and accounts as may be required by good accounting practice and by any provision of any Indenture (to the extent such duties are not assigned to a trustee of Bonds). The books and records of the Authority shall be open to inspection at all reasonable times by each Member.

The Treasurer of the Authority shall cause an independent audit to be made of the books of accounts and financial records of the Authority by a certified public accountant or public accountant in compliance with the provisions of Section 6505 of the Joint Exercise of Powers Act. In each case the minimum requirements of the audit shall be those prescribed by the State Controller for special districts under Section 26909 of the Government Code of the State of California and shall conform to generally accepted auditing standards. When such an audit of accounts and records is made by a certified public accountant or public accountant, a report thereof shall be filed as a public record with each Member and also with the county auditor of each county in which a Member is located; provided, however, that to the extent permitted by law, the Authority may, instead of filing such report with each Member and such county auditor, elect to post such report as a public record electronically on a website designated by the Authority. Such report if made shall be filed within 12 months of the end of the Fiscal Year or Years under examination.

The Treasurer is hereby directed to report in writing on the first day of July, October, January, and April of each year to the Board and the Members which report shall describe the amount of money held by the Treasurer for the Authority, the amount of receipts since the last such report, and the amount paid out since the last such report (which may exclude amounts held by a trustee or other fiduciary in connection with any Bonds to the extent that such trustee or other fiduciary provided regular reports covering such amounts.)

Any costs of the audit, including contracts with, or employment of, certified public accountants or public accountants in making an audit pursuant to this Section, shall be borne by the Authority and shall be a charge against any unencumbered funds of the Authority available for that purpose.

In any Fiscal Year the Board may, by resolution adopted by unanimous vote, replace the annual special audit with an audit covering a two-year period.

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Section 10. Funds.

Subject to the applicable provisions of any Indenture, which may provide for a trustee or other fiduciary to receive, have custody of and disburse Authority funds, the Treasurer of the Authority shall receive, have the custody of and disburse Authority funds pursuant to the accounting procedures developed under Sections 3.C and 9, and shall make the disbursements required by this Agreement or otherwise necessary to carry out any of the provisions of purposes of this Agreement.

Section 11. Notices.

Notices and other communications hereunder to the Members shall be sufficient if delivered to the clerk of the governing body of each Member; provided, however, that to the extent permitted by law, the Authority may, provide notices and other communications and postings electronically (including, without limitation, through email or by posting to a website).

Section 12. Additional Members/Withdrawal of Members.

Qualifying public agencies may be added as parties to this Agreement and become Members upon: (1) the filing by such public agency with the Authority of an executed counterpart of this Agreement, together with a copy of the resolution of the governing body of such public agency approving this Agreement and the execution and delivery hereof; and (2) adoption of a resolution of the Board approving the addition of such public agency as a Member. Upon satisfaction of such conditions, the Board shall file such executed counterpart of this Agreement as an amendment hereto, effective upon such filing.

A Member may withdraw from this Agreement upon written notice to the Board; provided, however, that no such withdrawal shall result in the dissolution of the Authority so long as any Bonds remain outstanding. Any such withdrawal shall be effective only upon receipt of the notice of withdrawal by the Board which shall acknowledge receipt of such notice of withdrawal in writing and shall file such notice as an amendment to this Agreement effective upon such filing.

Section 13. Indemnification.

To the full extent permitted by law, the Board may authorize indemnification by the Authority of any person who is or was a Director or an officer, employee of other agent of the Authority, and who was or is a party or is threatened to be made a party to a proceeding by reason of the fact that such person is or was such a Director or an officer, employee or other agent of the Authority, against expenses, including attorneys fees, judgments, fines, settlements and other amounts actually and reasonably incurred in connection with such proceeding, if such person acted in good faith in a manner such person reasonably believed to be in the best interests of the Authority and, in the case of a criminal proceeding, had no reasonable cause to believe the conduct of such person was unlawful and, in the case of an action by or in the right of the Authority, acted with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use under similar circumstances.

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Section 14. Contributions and Advances.

Contributions or advances of public funds and of the use of personnel, equipment or property may be made to the Authority by the Members for any of the purposes of this Agreement. Payment of public funds may be made to defray the cost of any such contribution or advance. Any such advance may be made subject to repayment, and in such case shall be repaid, in the manner agreed upon by the Authority and the Member making such advance at the time of such advance. It is mutually understood and agreed to that no Member has any obligation to make advances or contributions to the Authority to provide for the costs and expenses of administration of the Authority, even though any Member may do so. The Members understand and agree that a portion of the funds of the Authority that otherwise may be allocated or distributed to the Members may instead be used to make grants, loans or provide other financial assistance to governmental units and nonprofit organizations (e.g., the Foundation) to accomplish any of the governmental unit's or nonprofit organization's purposes.

Section 15. Immunities.

All of the privileges and immunities from liabilities, exemptions from laws, ordinances and rules, and other benefits which apply to the activity of officers, agents or employees of Members when performing their respective functions within the territorial limits of their respective public agencies, shall apply to the same degree and extent to the Directors, officers, employees, agents or other representatives of the Authority while engaged in the performance of any of their functions or duties under the provisions of this Agreement.

Section 16. Amendments.

Except as provided in Section 12 above, this Agreement shall not be amended, modified, or altered, unless the negative consent of each of the Members is obtained. To obtain the negative consent of each of the Members, the following negative consent procedure shall be followed: (a) the Authority shall provide each Member with a notice at least sixty (60) days prior to the date such proposed amendment is to become effective explaining the nature of such proposed amendment and this negative consent procedure; (b) the Authority shall provide each Member who did not respond a reminder notice with a notice at least thirty (30) days prior to the date such proposed amendment is to become effective; and (c) if no Member objects to the proposed amendment in writing within sixty (60) days after the initial notice, the proposed amendment shall become effective with respect to all Members.

Section 17. Effectiveness.

This Agreement shall become effective and be in full force and effect and a legal, valid and binding obligation of each of the Members on the date that the Board shall have received from two of the Initial Members an executed counterpart of this Agreement, together with a certified copy of a resolution of the governing body of each such Initial Member approving this Agreement and the execution and delivery hereof.

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Section 18. Partial Invalidity.

If any one or more of the terms, provisions, promises, covenants or conditions of this Agreement shall to any extent be adjudged invalid, unenforceable, void or voidable for any reason whatsoever by a court of competent jurisdiction, each and all of the remaining terms, provisions, promises, covenants and conditions of this Agreement shall not be affected thereby, and shall be valid and enforceable to the fullest extent permitted by law.

Section 19. Successors.

This Agreement shall be binding upon and shall inure to the benefit of the successors of the parties hereto. Except to the extent expressly provided herein, no Member may assign any right or obligation hereunder without the consent of the other Members.

Section 20. Miscellaneous.

This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

The section headings herein are for convenience only and are not to be construed as modifying or governing the language in the section referred to.

Wherever in this Agreement any consent or approval is required, the same shall not be unreasonably withheld.

This Agreement shall be governed under the laws of the State of California.

This Agreement is the complete and exclusive statement of the agreement among the Members, which supercedes and merges all prior proposals, understandings, and other agreements, whether oral, written, or implied in conduct, between and among the Members relating to the subject matter of this Agreement.

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IN WITNESS WHEREOF, the City of Pinole has caused this Agreement to be executed and attested by its duly authorized representatives as of the ___ day of _____, 2023.

Member:

CITY OF PINOLE

By _____
Name:
Title:

ATTEST:

By _____
Name:
Title:

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CITY COUNCIL REPORT

12A

DATE: MARCH 21, 2023

TO: MAYOR AND COUNCILMEMBERS

FROM: FIONA EPPS, ASSISTANT TO THE CITY MANAGER

SUBJECT: REVIEW NEW CITY LOGO CONCEPTS AND PROVIDE DIRECTION

RECOMMENDATION

Staff recommends that the City Council review new City logo concepts and provide direction on next steps regarding the adoption of a new City seal.

BACKGROUND

In February 2020, the City Council adopted the City of Pinole Strategic Plan 2020 – 2025. The Strategic Plan identified four goals for the City (safe and resilient, financially stable, vibrant and beautiful, and high performance), and 22 individual strategies (special projects) to complete over a five-year timeframe. Two strategies are to “develop a strategic communication plan” (including marketing) and “develop a public engagement plan.”

The City selected the consulting firm Cerrell to create a Communication and Engagement Plan to address these two Strategic Plan strategies and executed a professional services contract with the firm in August 2021. Cerrell underwent a reorganization in 2022 and was unable to complete the work. The City then executed a professional services contract with the firm Tripepi Smith in March 2022 to complete the Communication and Engagement Plan. Tripepi Smith prepared a Communication and Engagement Plan that the City Council adopted in October 2022 and that the City is now implementing.

To enable the City to better communicate with community members, businesses, and other stakeholders, and to address the marketing aspect of the Strategic Plan strategy, the professional services agreement with Tripepi Smith (and the previous agreement with Cerrell) required Tripepi Smith to develop new City logo concepts, refine them, and develop a new City style guide and templates.

Tripepi Smith has worked with City staff to develop some new City logo concepts, upon which City Council direction is now desired.

According to Chapter 1.02.050 of the Pinole Municipal Code, the city seal and city logo are the property of the City of Pinole. The city seal and city logo are, and have been, established to identify official documents and official city personnel, facilities, property, events and other publications.

The current City of Pinole seal portrays an image of a Native American man with arms crossed against a natural background containing San Pablo Bay, rugged eastern foothills, three flying birds, sun, and sky with a floral border frame and text “City of Pinole California 1903.” This seal was adopted by the City in 1965. Current City staff has been unable to find any information regarding an official City seal predating 1965.

The original inhabitants of the area that we now know as the City of Pinole were part of the Lisjan (Ohlone) nation. There were two indigenous territories in the region, Huchiun and Carquin. Historical documents from City records report that the Ohlone population largely disappeared by the early 1800s due to foreign (European) disease and coercive displacement efforts by European settlers.

In summer 1963, the Pinole Chamber of Commerce held a contest to create a City seal. Twelve entries were submitted, and former City Engineer Lloyd Roberts’ design, which featured a Spanish conquistador facing a stone bowl of *pinolli*[1], or pinole (pee-noh-lay), won. The design was criticized for the inaccurate depiction of *pinolli*. Although the design won the contest, the Pinole Chamber of Commerce used a different seal image when it published its Fiesta del Pinole program. The image it used was drawn by an unknown artist and resembled Pinole’s modern-day seal. It had an image of a bearded Native American man from an unidentified tribe standing with arms crossed beside a large sun, framed by a flowered border. The character featured in this design was believed to have been drawn based on Father Crespi’s[2] description of the Ohlone people written in his diary in 1772.

On November 13, 1964, the image was submitted to City Council for adoption. There was widespread disagreement around the accuracy of the portrayal of the man in the design. An anthropologist from UC Berkeley wrote a letter to Council on March 17, 1965 refuting the accuracy of the way in which the Huchiun man was represented, and, to minimize the possibility of inaccurate representation, suggested using a woman on the seal instead. Pinole became divided in opinion about the man on the seal having a beard, and if it was culturally representative. The division about the beard drew media attention, and an article titled “A Bearded Indian from Greater Pinole” by Al Martinez was published about it in the Oakland Tribune.

Another design, drawn by Daniel Harvey, a local Pinole artist, was submitted to the City Council on January 23, 1965. Harvey’s design was later adopted as the official City seal on April 5, 1965.

In the 1990s, the seal design and color scheme were slightly modernized. The City of Pinole currently uses this modern version of the seal and it can be found throughout City Hall facilities and is used in documents and media as the primary logo.

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[1] “Pinolli” was an indigenous word, thought to have been originated from the Aztec, for the meal made from seeds, grain, and acorns given to the explorers by the Ohlone. The Spanish explorers adopted this word, renaming as “pinole” (pee-noh-lay).

[2] Father Juan Crespi was a Spanish priest, one of the first missionaries to settle in the area of Pinole.

As noted above, the City recently began to re-examine the seal as part of its branding work related to the Communication and Engagement Plan.

On February 14, 2023, City staff met with Corrina Gould, a representative of the Confederated Villages of Lisjan, the organization that represents the Ohlone bands that originally inhabited the area that we now know as the City of Pinole, to gain a Native American perspective on the City's use of Native American imagery in the City seal.

Note that the terms "seal" and "logo" are sometimes used interchangeably. Cities normally have an official seal to identify official city documents. They might use that seal to identify other city materials, such as vehicles, buildings, signs, etc. Some cities have a city logo that is different from the official city seal. The City of Pinole has used its official city seal as its logo. The City's recently-adopted Economic Development Strategy directs that the City create an economic-development specific logo for marketing purposes. Staff intends to work with the economic development consultant to create an economic-development specific logo and style guide after the City decides whether to adopt a new overarching City logo/seal.

REVIEW AND ANALYSIS

Based on research and changing societal awareness and perspectives, City staff believes that it is appropriate for the City to consider transitioning away from the use of a human character in the City seal, to avoid all possibility of offense, exploitation, and/or inaccurate representation that can commonly result from using a mascot.

Staff proposes to gather community input on the potential new City seal designs that the City Council prefers. This would include widely advertising a new webpage containing information about the history of the City's current seal and the new seal options that Tripepi Smith has created (Attachment A), which community members could provide comment on.

Staff would return to City Council to present the community input gathered so that City Council could select a City seal. Per the Municipal Code, the City Council who may, by resolution, establish and designate the general design and details of official city logos of the city of Pinole.

FISCAL IMPACT

There is no fiscal impact to considering a new City seal. Professional services hired to assist with the re-branding process have already been approved and allocated to the FY 2022-23 budget.

ATTACHMENTS

A: A Collection of Seal Designs by Tripepi Smith

Attachment A
A Collection of Seal Designs by Tripepi Smith

(Above: current seal)

Potential updates to current seal

New seal concepts

Option would also be available horizontally

Option would also be available horizontally

ESTABLISHED 1903

PINOLE

CALIFORNIA

Option would also be available horizontally

PINOLE

CALIFORNIA

ESTABLISHED 1903

PINOLE

CALIFORNIA

Option would also be available horizontally

PINOLE

CALIFORNIA

PINOLE
CALIFORNIA

Option would also be available horizontally

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CALIFORNIA

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Option would also be available horizontally

PINOLE
CALIFORNIA

Option would also be available horizontally

Option would also be available horizontally

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CITY COUNCIL REPORT

12B

DATE: **MARCH 21, 2023**

TO: **MAYOR AND COUNCIL MEMBERS**

FROM: **LILLY WHALEN, COMMUNITY DEVELOPMENT DIRECTOR**

SUBJECT: **FRAMEWORK FOR NEW OUTDOOR DINING REGULATIONS**

RECOMMENDATION

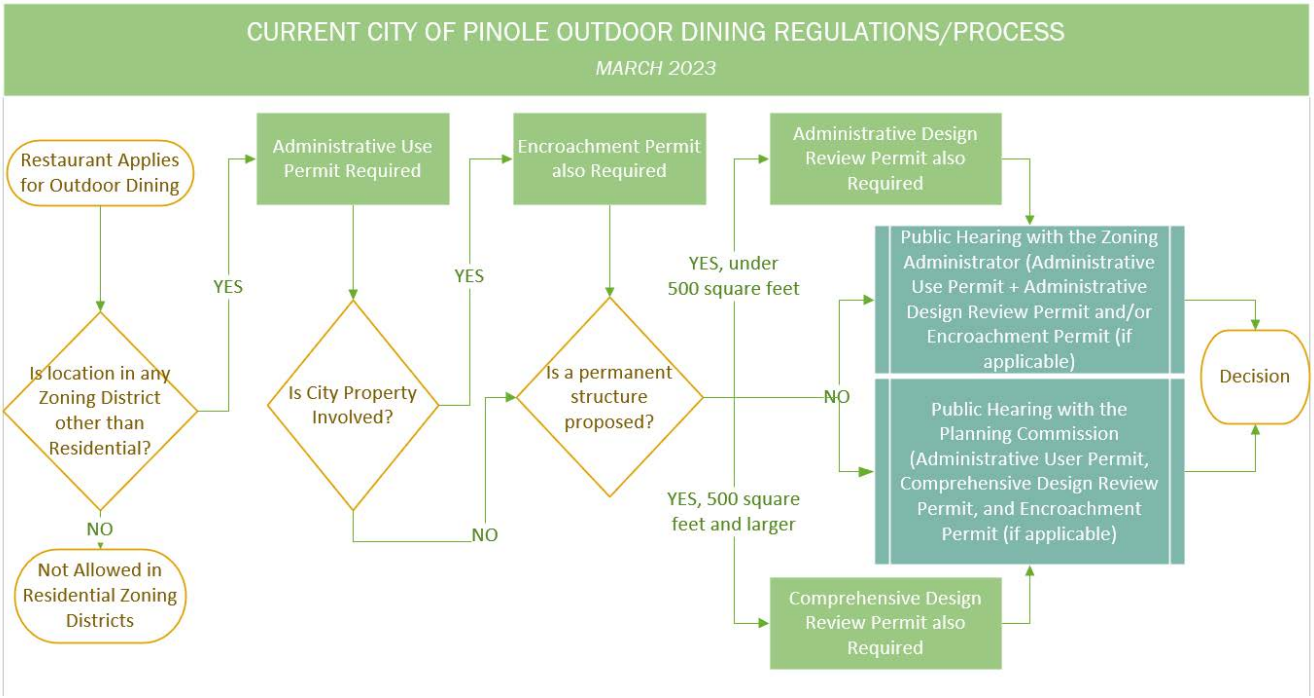
Staff recommends the City Council provide direction on establishing new regulations for outdoor dining in Pinole.

BACKGROUND

Outdoor dining extends restaurants' seating into the sidewalk, street or underutilized areas and can enliven the street, support economic development and help re-prioritize public space for human use. The City of Pinole's current outdoor dining program was established in 2010 with a major Zoning Code Amendment. Pursuant to Chapter 17.68 (Outdoor Sales, Display, Storage, and Outdoor Seating), outdoor dining is allowed in all zoning districts, with the exception of residential zoning districts, with approval of an Administrative Use Permit and an Encroachment Permit (if City property is involved). An Administrative Design Review or Comprehensive Design Review may also be required depending on the proposed structure. Structures under 500 square feet in size may be processed through an Administrative Design Review Permit. Structures 500 square feet and larger may be processed through a Comprehensive Design Review Permit.

Section 17.68.030 (D) outlines the requirements for permanent outdoor seating and includes standards for maintenance, accessibility, and additional off-site parking. Prior to the COVID-19 pandemic, and since 2010, the City had issued five Administrative Use Permits for outdoor dining under Section 17.68.020. See **Figure 1** for a flow chart outlining the current process in the City's Municipal Code.

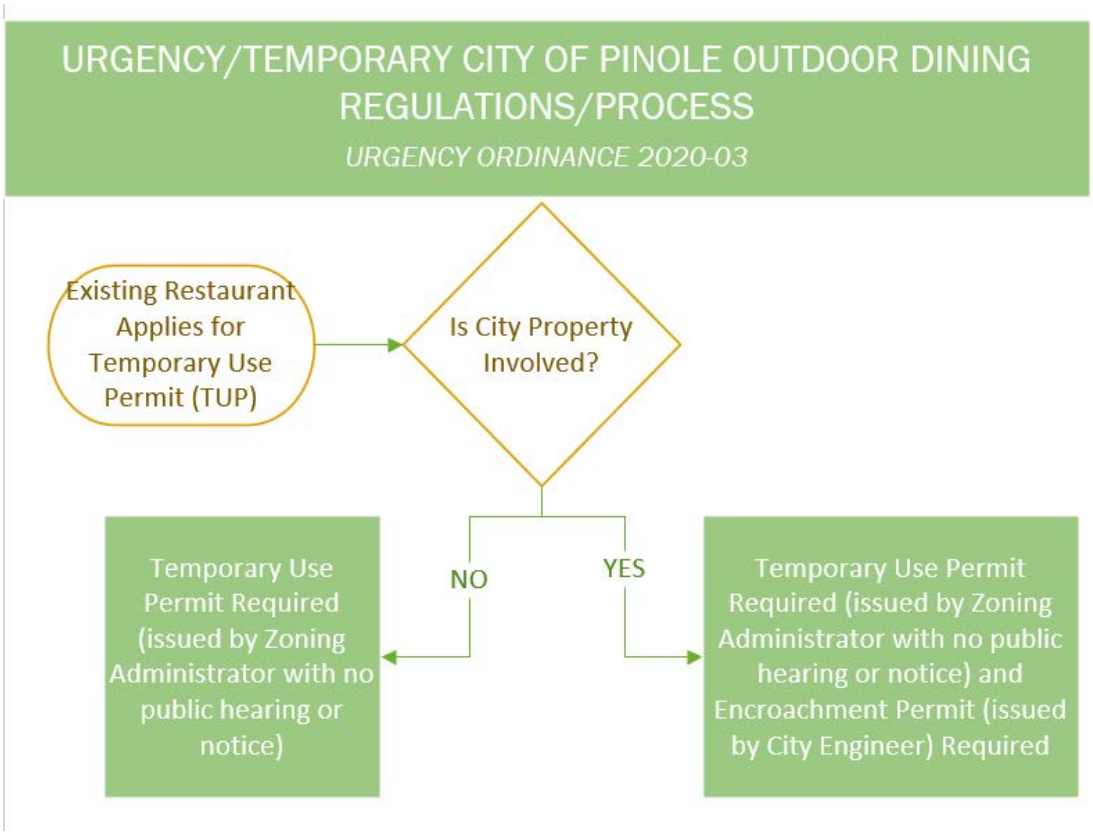
Figure 1: Current Outdoor Dining Application Process



During the COVID-19 pandemic, several businesses requested the ability to accommodate outdoor seating in order to continue to provide food service to customers while complying with local health restrictions regarding dining indoors. Similar to many other jurisdictions during the pandemic, the City Council adopted an urgency ordinance (Urgency Ordinance No. 2020-03, see **Attachment A**) on June 2, 2020, for the purpose of streamlining and expediting temporary outdoor seating permits to support continued operation of businesses while also complying with health orders.

Section 3 of the Urgency Ordinance defined the role of the Zoning Administrator to waive code requirements of Title 17 of the Zoning Code and establish a Temporary Use Permit (TUP) process for business owners to establish temporary outdoor dining. The process authorized by the Urgency Ordinance allowed businesses to obtain TUPs to engage in certain activities through an expedited, modified process. See **Figure 2** for a flow chart outlining the TUP process in the Urgency Ordinance.

Figure 2: Urgency Ordinance Outdoor Dining Application Process



The City granted 10 TUPs through the process authorized by the Urgency Ordinance for eating establishments to provide outdoor dining. Nine of the eating establishments with TUPs located outdoor dining areas in their respective parking lots, where only one located outdoor dining in the public right-of-way (ROW). Four of the 10 businesses utilized a physical shelter structure to protect patrons from inclement weather. Three of the 10 TUPs issued under the Urgency Ordinance are still active. Restaurants that were issued a TUP are listed in **Table 1**, below, along with the location of the outdoor dining, if it is covered or enclosed, and if the permit is still active.

Table 1: Restaurants with a TUP for outdoor dining

Business Name	Street Address	Location	Covered/Enclosed?	Active?
Pear Street Bistro	2395 San Pablo Avenue	Between Bank Building and existing restaurant	Covered and enclosed	Yes
East Bay Coffee Company	2529 San Pablo Avenue	Lot next door to East Bay Coffee Building	Covered	No, removed

Business Name	Street Address	Location	Covered/Enclosed?	Active?
Tina's Place	2300 San Pablo Avenue	Private parking lot	Covered and enclosed	Yes
Applebee's	1369 Fitzgerald Drive	Private parking lot	Not enclosed or covered	No, removed
Antlers	2284 San Pablo Avenue	Private parking lot	Enclosed	No, removed
Que Onda	1473 Fitzgerald Drive	Private parking lot	Covered	No, removed
Il Grand	812 San Pablo Avenue	In front portion of the building	Not enclosed or covered	No, removed
Mel's Diner	1441 Fitzgerald Drive	Private parking lot	Covered and enclosed	No, removed
Sue's Place	2265 Pear Street	Parklet in public right-of-way	Covered and Enclosed	Yes

Section 2 and 5 of the Urgency Ordinance determined the expiration of the Temporary Use Permits. Section 2 indicated that TUPs were valid for 90 days, unless extended by the Zoning Administrator. Section 3 requires that the Ordinance remain in effect until the expiration of the declaration of local emergency by the Pinole City Council. TUPs were informally extended by the Planning Manager during the pandemic.

DISCUSSION AND ANALYSIS

The COVID-19 pandemic provided an opportunity for cities to examine their existing outdoor dining regulations and consider permanent modifications to their regulations to allow for additional safe and aesthetically pleasing outdoor dining opportunities. There are a number of benefits associated with outdoor dining. First, outdoor dining helps to define a neighborhood's character, vibrancy and sense of place. Second, when restaurant patrons dine outdoors, public spaces such as sidewalks can become enlivened and activated, promoting a sense of community and safety by encouraging a mixture of uses and street vitality at the pedestrian scale. Associated streetscape improvements such as landscaping, aesthetically pleasing sidewalk furniture and lighting benefits these public spaces as well.

Additionally, outdoor dining may help contribute to local economic development by attracting patrons to new businesses, encouraging them to stay longer/come back more often, and can be combined or enhanced with larger community events. Lastly, open air dining may be more enticing to certain patrons than indoor dining. For example, outdoor

dining may be appealing to families looking for a more casual atmosphere to dine with young children, or for pet owners to dine with their leashed dogs.

The purpose of this discussion item is to review current regulations related to outdoor dining, and if desired by the Council, develop a recommended framework for requirements applicable to outdoor seating areas on sidewalks, in street parking areas, and on public and private property. A number of communities in Contra Costa County have prepared updated outdoor dining regulations in their communities during the pandemic. Staff has prepared information highlighting new regulations from other jurisdictions transitioning temporary to long-term facilities (**Attachment B**) and a sampling of general outdoor dining regulations in some Contra Costa communities (see **Attachment C**).

In order to provide guidance to the City Council, the Planning Commission discussed outdoor dining and parklets first at their March 28, 2022 meeting. During the discussion, issues and concerns were raised regarding the temporary outdoor eating areas authorized under TUPs including the size, quality, and maintenance of the dining structures as well as adequate access to street parking, drive aisles, driveways, and open parking stalls. The Commission directed the Commission's Ad-Hoc subcommittee to work with staff to develop a recommended framework. The Ad-Hoc subcommittee discussed this topic at their August 4, 2022 meeting. Finally, at the February 13, 2023 Planning Commission meeting the Planning Commission reviewed and refined the recommended framework of improved outdoor dining regulations for Council discussion (see **Attachment D** for Planning Commission minutes).

To set the stage, current outdoor dining regulations allow outdoor dining through an Administrative Use Permit (AUP) and installation of features in the public right-of-way through an Encroachment Permit. The AUP process provides a mechanism for administrative review at a public hearing to ensure compatibility with the project site and surrounding uses. An Encroachment Permit is an administrative review of proposed features in the public right-of-way for protection of the public interest, safety, and welfare. An Administrative Design Review or Comprehensive Design Review may also require depending if there is a proposed structure and how large it is.

PMC Section 17.68.020.E.1 requires, in part, that outdoor seating may only be established where:

- There is a continuous path of travel of at least six feet in width.
- Pedestrian and accessibility access and views of traffic devices is not obstructed.
- Access to meters, fire hydrants, or other objects (street hardware) in the right-of-way.

Current regulations are lacking with respect to design standards for outdoor dining. Pages 17-18 in Chapter 7.0 of the Three Corridors Specific Plan provides some performance guidelines for outdoor seating, but guidance is limited in detail. These include a 6-foot clearance in the sidewalk right of way and design standards which are limited to enclosed

cafes (e.g., use of clear glass, base walls no greater than 12 inches in height, and outside window heights not less than eight feet).

Outdoor Dining Framework Topics

The Planning Commission considered the following overarching discussion topics to establish a framework for coordinated standards and guidelines for new outdoor dining regulations:

- Define **categories** of outdoor dining (on sidewalks: “sidewalk dining areas”, in parking spaces in the right-of-way or on public property: “parklets”, and on private property: “outdoor dining areas”)
- Establish the **permitting process** for outdoor dining, including opportunities for public input, annual renewal or inspections, one-time and annual fees, maintenance, and liability
- Describe the **locations** and/or zoning districts where different categories of outdoor dining are allowed through a permitting process
- Establish **standards** for design and materials, size, landscaping, accessibility, circulation, lighting, safety features (such as guardrails, wheel stops, visible vertical elements) signage, heating, air circulation and outdoor furniture
- Consider **encouraging** other elements such as public art and bicycle parking
- Establish **standards** that address use of the area (i.e., hours, public access, and equity)
- Address **parking** requirements
- Address the **transition** from temporary outdoor dining areas to permanent dining areas (i.e., establish a transition period for existing temporary permit holders to apply for a permanent outdoor dining area).

Ultimately, the framework will be used to establish an Ordinance and guidelines that enhance the City’s current outdoor dining regulations and activates the street, with the intent to create a welcoming environment for residents and visitors when dining outdoors in the City of Pinole.

Categories of Outdoor Dining

Through the Planning Commission’s discussion, three main categories of outdoor dining were discussed: sidewalk dining, private outdoor dining areas and public parklets. Sidewalk dining areas are located on public and private sidewalks. Sometimes there is a clearly defined eating area, and other times there is not. **Figure 3** provides examples of sidewalk dining in other communities. Private outdoor dining areas are located on private property that serves a restaurant or cafe, and may be incorporated in private parking lots, outdoor patios, recessed entries immediately adjacent to the public right-of-way and alleys adjacent to the operating business. **Figure 4** provides examples of private outdoor dining areas in other communities.

Lastly, parklets are typically curbside parking spaces in the right-of-way that have been converted to public seating platforms. They are intended to provide amenities, green space, or recreational areas to the public. The purpose of a community parklet is to maximize the sense of community by utilizing public spaces for aesthetic amenities to create features of interest or opportunities for informal gatherings. They have been traditionally open to any member of the public. **Figure 5** shows examples of different parklets in other communities.

Figure 3: Sidewalk Dining Area Examples

Figure 4: Outdoor Dining Area Examples

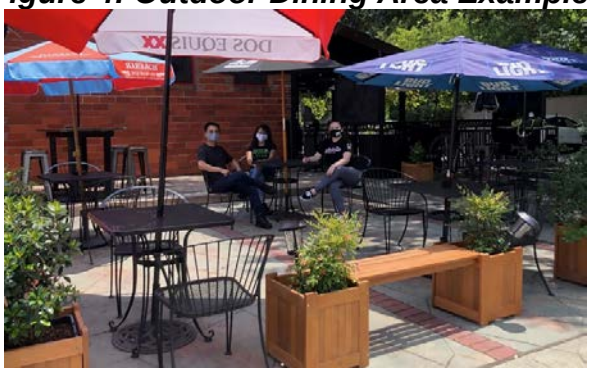


Figure 5: Parklet Examples

PERMITTING PROCESS

The Commission is recommending different permitting processes dependent on the type of outdoor dining proposed. The following **Table 2** reflects the general Planning Commission consensus on permitting processes.

Table 2: Planning Commission Consensus on Permitting Process

Topic	Subtopic	Planning Commission Recommendation	Staff Comment
Initial Permitting Process	Parklets or Public Property	Planning Commission review, with recommendation to City Council for a final decision.	The Municipal Code does not contemplate larger parklet or other structures in right-of-way or other public property. The Code currently only requires an Encroachment Permit for outdoor activities within the public right-of-way, in required parking spaces or within designed vehicle drive aisles, or within required landscape planter areas. Additional standards should be considered for safety and aesthetics.
	Sidewalk dining	Zoning Administrator hearing with Zoning Administrator providing final decision (appeal authority to the Planning Commission, City Council).	The Commission's recommendation is aligned with the existing Code process. Additional standards should be considered for safety and aesthetics.
	All other private outdoor dining areas	Zoning Administrator hearing with Zoning Administrator providing final decision (appeal authority to the Planning Commission, City Council).	The Commission's recommendation is aligned with the existing Code process. Additional standards should be considered for safety and aesthetics.
Annual Review		Consider annual inspection requirement, particularly for parklets.	This would be a new requirement that does not currently exist in the outdoor dining process.
Fees		Recommended application fee to be based on staff costs. For parklets and sidewalk dining, consider annual fees to compensate loss	The current fee for an Administrative Use Permit is $875, Administrative Design Review Permit is $725 and a Comprehensive Design Review Permit is $3,700. The current fee

Topic	Subtopic	Planning Commission Recommendation	Staff Comment
		of public parking spaces and/or City property and annual inspection (if required).	for an Encroachment Permit varies depending on the type of work proposed.
Standard Conditions of Approval		There should be requirements for owner maintenance and liability. Regular/daily maintenance and removal of litter should be required. City must decide if parklets are open to the public or for private use. Consider appropriate conditions of approval for parklets open to the public.	The current Code requires the following as standard conditions for outdoor dining: • Outdoor activity areas shall be kept free of garbage and other debris. Permittee shall be responsible for, and exercise reasonable care in, the inspection, maintenance, and cleanliness of the area affected by the outdoor seating, including any design requirements hereafter enacted, from the building frontage to the curb. • Hours of operation for outdoor activities shall be consistent with those for the corresponding primary use. • Any noise generated by the outdoor activity shall be consistent with the city's Noise Ordinance. • No additional business identification or advertising signs for the outdoor activity may be permitted above the maximum allowable sign area for the corresponding primary use. • The outdoor seating is restricted to the approved location and ensure compliance with all applicable laws including laws against blocking the public right-of-way, health and safety laws, public cleanliness laws, and laws regulating sale and public consumption of alcohol.

Locations/Zoning Districts

The Commission is recommending outdoor dining be allowed in all zoning districts that allow for restaurant use, consistent with current regulations. Staff suggests that there may be additional restrictions considered for traffic and pedestrian safety reasons that would restrict and limit parklets in specific locations in the City, such as at intersections where visibility is a concern and/or other safety hazards exist. For example, San Pablo Ave is a regionally significant route. Although it is within Pinole's city limits and managed by the City, the City may want to consider utilizing standards published by Caltrans for parklets along highways.

Aesthetic, Comfort and Safety Standards

With respect to design of outdoor facilities, the Planning Commission is recommending the following:

- An emphasis on safety, visibility and more permanent barriers.
- Consideration of more heavy weight barriers, wheel stops, wheelchair accommodations, and reflective corner elements.
- Maintaining sight distance/visibility between patrons and traffic. Coverings could have openings or plexiglass/acrylic windows/doors to ensure visibility.
- Limit use of tents and guardrails, which give a temporary look.
- In general, the Commission requests the Council carefully weigh regulations that further the City's sustainability goals against the financial and operational impact on small businesses.

Incorporation of Other Functional Elements

The consensus of the Planning Commission was to encourage other elements such as public art and bike parking into outdoor dining areas. The Commission recommends that opportunities for outdoor dining areas in Old Town should incorporate safe bicycle parking spaces, which also facilitates pedestrian navigation. Staff suggests the Council could consider if incorporation of sustainability features (native plants, locally-sourced or recycled/reclaimed materials, low-emission and sustainable woods/paints).

Public Use of Area

The Planning Commission had a robust discussion regarding consideration needed for public access to outdoor dining areas on public property. Some of the questions the Commission discussed included:

- Should parklets or other dining on public property be accessible to the public regardless of patronizing a particular business?

- Does the public have access at all times? Can access be controlled? Should a business owner have the right during business hours to control use of the area?

The Commission further discussed access being controlled through an Agreement process for parklets, or through conditions of approval regarding use of the right-of-way. There was no strong consensus from the Commission regarding this topic.

PARKING REQUIREMENTS

The Commission discussed how to address the loss of parking from parklets and other forms of outdoor dining, but did not reach a consensus. Options discussed included allowing a maximum number of spots to be removed, not allowing any required parking for the business to be removed, or allowing required parking to be removed if excess parking capacity existed in the area. Staff has illustrated the different decision points gleaned from the Planning Commission discussion within Table 3 below. Please note the staff recommended option is identified with an asterisk.

Table 3: Parking Requirements for Outdoor Dining Use/Replacement of Parking

Outdoor Dining Type	*Current Pinole Regulations*	Less Restrictive Option	Neutral Option	More Restrictive Option
Parklet	*No Current Regulations*	No replacement parking required; no additional parking required	No parking replacement required if parklet is open to the public and not restricted to specific restaurant patrons*	For every off-street parking space utilized by outdoor dining an off-site replacement space should be provided
Sidewalk Dining	*Case-by-case basis; the CDD is allowed to determine if the additional seating would lead to new demand that exceeds available supply.*	No additional parking is required*	No additional parking is required if current use is compliant with parking requirements; if not compliant, additional parking required to either make existing use compliant, or in a ratio i.e., for every so many sq ft of dining space, a fraction of an off-site parking space is required)	Parking for outdoor dining required at a ratio (i.e., for every so many sq ft of dining space, a fraction of an off-site parking space is required)

Public/ Private (Parking Lot)	*No current regulations*	Private: No replacement parking required; no additional parking required* Public: City Council authorization during review/ approval of outdoor dining*	Private: No additional parking is required if current use is compliant with parking requirements; if not compliant, additional parking required to either make existing use compliant, or in a ratio i.e., for every so many sq ft of dining space, a fraction of an off-site parking space is required) Public: City Council authorization during review/approval of outdoor dining	Private: For every off-street parking space utilized by outdoor dining an off-site replacement space should be provided Public: City Council authorization during review/approval of outdoor dining

**Staff recommended option*

TRANSITION PERIOD

There was consensus among the Planning Commissioners to not allow existing temporary structures to remain, and to require business owners that desired future outdoor dining to apply for permits for permanent structures. To allow businesses time to transition to a permanent structure after new regulations are in place, the Commission recommended Council consider allowing businesses to maintain their temporary use permits for six months after the adoption of any new regulations. Staff has the following additional recommendations:

- Upon adoption of any new regulations, or direction from the Council to discontinue the TUPs, staff will notify businesses about permanent facility/outdoor dining permitting processes, the date the TUPs will expire and obligations to remove the temporary structure.
- In order to remain during the transition period, temporary structures associated with the TUPs should have a safety inspection by the Building Official to ensure they are in good, usable, working order.
- Staff will work with businesses interested in permanent outdoor dining facilities to prepare applications.

Summary and Next Steps

In summary, the current Municipal Code provides a process pathway for outdoor dining on sidewalks and private outdoor areas in Pinole. However, standards related to aesthetics, safety, design and durability are lacking and could be revisited and refreshed.

Additionally, there is not a clear process pathway for parklets, or permanent outdoor dining, on public property.

The desired direction from Council at this stage is if staff should return with a specific proposal on modified outdoor dining regulations to support and encourage outdoor dining in the City, or not. If guidance is given to proceed with developing a specific proposal, Council may then provide specific direction related to the different types of outdoor dining and other standards/considerations such as parking and exclusive access/use. The Council may provide that direction at the March 21 meeting, or consider those items when staff returns with a specific proposal, which will incorporate best practices from other jurisdictions. The Council may also desire to direct staff to conduct outreach to businesses to determine the level of interest in more clearly defined outdoor dining processes and standards, and opportunities for parklets.

If Council is not interested in pursuing additional regulations related to outdoor dining, staff recommends the Council give staff direction on when to expire the TUPs and begin enforcing the removal of temporary outdoor dining structures.

FISCAL IMPACT

There is no fiscal impact to receiving this report. Depending on the complexity of the desired regulations, there is anticipated to be approximately 50-100 hours of Community Development and legal staff time associated with developing regulations for Council consideration.

ATTACHMENTS

A- Urgency Ordinance
B- Sampling of New Regulations from other Jurisdictions Transitioning Temporary to Long-Term Facilities
C- Sampling of General Outdoor Dining Regulations in Some Contra Costa Communities
D- Planning Commission Draft Minutes - February 13, 2022

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ORDINANCE NO. 2020-03
AN URGENCY ORDINANCE OF THE CITY OF PINOLE AUTHORIZING THE ZONING ADMINISTRATOR TO WAIVE REQUIREMENTS OF TITLE 17 OF THE PINOLE MUNICIPAL CODE TO FACILITATE BUSINESS OPERATIONS IMPACTED BY NOVEL CORONAVIRUS (COVID-19)

WHEREAS, national, state, and local health and governmental authorities are responding to an outbreak of respiratory disease named "coronavirus disease 2019" ("COVID-19"); and

WHEREAS, COVID-19 is easily transmissible from person to person, and community spread of the diseases has occurred throughout the United States and California, including in Contra Costa County; and

WHEREAS, on January 31, 2020, the Secretary of the United States Department of Health and Human Services declared a public health emergency for the entire United States to aid the nation's healthcare community in responding to COVID-19; and

WHEREAS, on March 4, 2020, the Governor of California proclaimed a state of emergency regarding COVID-19; and

WHEREAS, on March 10, 2020, the Contra Costa County Board of Supervisors declared a local health emergency; and

WHEREAS, on March 13, 2020, the President of the United States of America declared a national state of emergency in response to the spread of COVID-19 within the United States of America; and

WHEREAS, in accordance with Government Code Section 8630 and Pinole Code Section 2.32.060, the Director of Emergency Services proclaimed the existence of a local emergency caused by the COVID-19 on March 18; and

WHEREAS, on March 24, the City Council ratified and confirmed the proclamation of the existence of a local emergency issued by the Director of Emergency Services; and

WHEREAS, on March 16, 2020, the Contra Costa County Health Officer, along with six other health officers within six Bay Area counties, took a unified step to slow the spread of COVID-19 and preserve critical health care capacity across the region by issuing a legal order directing their respective residents to shelter at home beginning March 17, 2020. The order in Contra Costa County limited activity, travel, and business functions to only the most essential needs. The guidance comes after substantial input from the CDC and best practices from other health officials around the world; and

WHEREAS, on March 19, 2020, the Governor of California issued Executive Order N-33-20 ordering all individuals within the State of California to stay home or at their place of residence, except as needed

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to maintain continuity of operation of the federal critical infrastructure sectors, critical government services, schools, childcare, and construction; and

WHEREAS, the Pinole City Council has repeatedly adopted resolutions confirming the continued existence of local emergency due to COVID-19, most recently on June 2, 2020; and

WHEREAS, the Contra County Health Officer has issued multiple orders extending the shelter in place order; and

WHEREAS, the State Public Health Officer has articulated a four-stage framework to allow for gradually resuming various activities while continuing to preserve public health; and

WHEREAS, On May 4, 2020, the Governor of California issued Executive Order N-60-20 ordering all individuals within the State of California to comply with the State Public Health Officer's framework unless stricter local regulations exists; and

WHEREAS, on May 18, 2020 the Contra Costa County Health Officer issued a health order allowing certain businesses to partially resume operations with certain safety precautions, such as retail stores for curbside or storefront pickup only; and

WHEREAS, stage 2 of the State Public Heath Officer's roadmap for reopening is split into an earlier and later stage 2 ("Stage 2b"); and

WHEREAS, during Stage 2b, dine in restaurants and in-person retain shopping are allowed to occur, with certain safety precautions; and

WHEREAS, during Stage 3 of the State Public Heath Officer's roadmap for reopening personal services such as hair and nail salons, gyms and fitness studios, as well as hospitality services will be allowed to operate; and

WHEREAS, it is anticipated that in the coming weeks or months the Contra Costa County Health Officer will issue health orders allowing additional business to resume operations in a manner similar to Stage 2b and Stage 3 of the State Public Heath Officer's roadmap for reopening; and

WHEREAS, business allowed to reopen will be subject to health and safety guidelines to minimize the risk of spread of COVID-19, such as increased physical distance between tables, required use of face coverings by staff, frequent cleaning of high touch surfaces, suspended use of shared food items such as condiment bottles and reusable menus, and similar restrictions; and

WHEREAS, the State Department of Public Health's guidelines for restaurants specifically recommend prioritizing outdoor seating and curbside pickup to minimize cross flow of customers in enclosed environments, and guidelines for other industries contain similar recommendations and requirements; and

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WHEREAS, during this time of shelter in place and other social distancing, many businesses are experiencing substantial declines in business income as a result of business closures or the loss of hours, which threatens businesses ability to pay rent, maintain payroll, and continue operating; and

WHEREAS, many businesses may face layoffs or permanent closure as a result of the pandemic; and

WHEREAS, even as certain shelter in place restrictions begin to ease, many local businesses will continue to be affected by social distancing requirements; and

WHEREAS, businesses are an integral part of the economy and community of Pinole; and

WHEREAS, local businesses are a significant source of jobs, tax revenue and essential services for the community; and

WHEREAS, business closures will negatively impact the local economy by laying off employees and ceasing to provide services to residents of the City, and negatively impact local health by reducing the number of retail and commercial spaces available to provide essential services while maintaining social distancing, and will decrease tax revenues available to the City to respond to COVID-19 and other public health and safety concerns; and

WHEREAS, the Zoning Code contains various requirements regarding for outdoor seating, outdoor display of merchandise, off-street parking, and similar restriction; and

WHEREAS, to assist businesses that are experiencing, and will continue to experience, severe negative economic impacts due to the COVID-19 pandemic, the City desires to authorize the Zoning Administrator to approve temporary waivers from the strict application of the Zoning Code to facilitate a return to business operations; and

WHEREAS, California Constitution, Article XI, Section 7, provides cities and counties with the authority to enact ordinances to protect the public health, safety, and general welfare, of their citizens; and

WHEREAS, California Government Code Section 36937 authorizes the City Council to introduce and adopt an ordinance it declares to be necessary as an urgency measure to preserve the public peace, health, and safety at one and the same meeting if passed by at least four-fifths affirmative votes; and

WHEREAS, COVID-19 and the public health orders designed to reduce the virus's spread have had a significant impact on the economy of the City, requiring the closure of numerous business, and this Urgency Ordinance will facilitate the prompt reopening of businesses impacted by COVID-19 consistent with anticipated public health orders thereby minimizing negative economic impacts; and

WHEREAS, the Urgency Ordinance is designed to reduce and slow the transmission of COVID-19 by facilitating required social distancing between and among patrons and employees; and

WHEREAS, the Urgency Ordinance is designed to promote economic business stability and prevent business closures during the COVID-19 pandemic by streamlining the process for a business to obtain a

waiver of Zoning Code requirements to enable business operations in a manner that complies with social distancing orders and protocols, thereby serving the public peace, health, safety, and public welfare; and

WHEREAS, the City Council finds and determines that allowing the Zoning Administrator to waive certain requirement of the Zoning Code to facilitate business operations impacted by COVID-19 in compliance with applicable health orders is essential to support economic development, prevent layoffs, and maintain tax revenue in the City and thereby serve the public peace, health, and safety; and

WHEREAS, an urgency ordinance that is effective immediately is necessary to avoid the immediate threat to public peace, health, and safety as failure to adopt this urgency ordinance could result in the avoidable closure of local businesses.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF PINOLE, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Findings The City Council of the City of Pinole finds that all of the above Recitals are true and correct and incorporated herein by reference. The provisions of the Governor's "resilience roadmap for state reopening" as published on the State of California's official COVID-19 website, www.covid.ca.gov, are incorporated herein as if fully set forth.

SECTION 2. Urgency Findings

The City Council of the City of Pinole hereby finds that there is a current and immediate threat to the public health, safety and/or welfare and a need for immediate preservation of the public peace, health, or safety that warrants this urgency ordinance, which finding is based upon the facts stated in the recitals above, and in the staff report dated June 2, 2020, as well as oral and written testimony at the June 2, 2020 City Council meeting. This Ordinance is declared by the City Council to be an urgency measure necessary for the immediate preservation of the public peace, health or safety. The facts constituting such urgency are all of those certain facts set forth and referenced in this Ordinance and the entirety of the record before the City Council.

SECTION 3. Ordinance

The City Council hereby makes the findings contained herein and hereby adopts the uncodified Ordinance to read as follows:

ORDINANCE AUTHORIZING THE ZONING ADMINISTRATOR TO WAIVE REQUIREMENTS OF TITLE 17 OF THE ZONING CODE DUE TO COVID 19.

Section 1. Authority of Zoning Administrator

The Zoning Administrator shall have the authority to issue a temporary use permit waiving any requirements and/or standards of Title 17, Zoning, of the Pinole Municipal Code to facilitate business operations affected by public-health orders of the federal, state, or county government designed to slow the transmission of the Novel Coronavirus (COVID-19). Temporary use permits issued pursuant to this Ordinance shall not be subject to the requirements of Municipal Code section 17.12.070. The Zoning Administrator may condition the issuance of a temporary use permit on compliance with any conditions

he or she determines appropriate. Failure to comply with such conditions may result in the revocation of the temporary use permit.

Without limiting the foregoing, temporary use permits may waive requirements related to outdoor seating, outdoor merchandise displays, required off-street parking, signage and similar restrictions, including conditions contained in existing permits. Temporary use permits shall not be issued pursuant to this Ordinance to authorize wholly new businesses, but rather only to facilitate the continued operation of existing uses in compliance with applicable health orders.

Section 2. Duration of Temporary Use Permit

A temporary use permit issued by the Zoning Administrator pursuant to this Ordinance shall last for no longer than ninety (90) days, except that the temporary use permit may be extended by the Zoning Administrator if the Zoning Administrator determines, in his or her sole discretion, that such waiver remains necessary to facilitate business operations affected by public-health orders of the federal, state, or county.

Section 3. Procedures

An individual or entity seeking a temporary use permit must submit an application on a form designated by the Zoning Administrator, along with any other documentation or information required by the Zoning Administrator. No public hearings or notices are required prior to the issuance of a Temporary Use Permit. There shall be no fee for the submittal of an application for a Temporary Use Permit pursuant to this Ordinance.

Section 4. Use of Right-of-Way

Any individual or entity seeking to use the sidewalk or other public property for their business operations must obtain an encroachment permit from the City, and must obtain and maintain appropriate insurance as required by the City. There shall be no fee for the submittal of an application for an Encroachment Permit pursuant to this Ordinance. Business operations shall not be permitted on the sidewalk or other public property if such operations will interfere with the ADA accessible path of travel or cause other safety hazards.

Section 5. Termination

The ordinance shall take effect immediately and shall remain in effect until the expiration of the declaration of local emergency by the Pinole City Council.

SECTION 4. Severability

If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the ordinance, including the application of such part or provision to other persons or circumstances shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this Ordinance are severable. The City Council of the City of Pinole hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be held unconstitutional, invalid, or unenforceable.

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SECTION 5. Effective Date

Following adoption by at least a four-fifths vote of the City Council, this Ordinance shall be effective immediately upon adoption pursuant to Government Code section 36937. The City Clerk shall certify as to the adoption of this Urgency Ordinance and shall cause it to be published within fifteen (15) days of the adoption and shall post a certified copy of this Urgency Ordinance, including the vote for and against the same, in the Office of the City Clerk, in accordance with California Government Code Section 36933.

PASSED AND ADOPTED at a regular meeting of the Pinole City Council held on the 2nd day of June 2020, by the following vote:

AYES:	COUNCILMEMBERS:	**Martinez-Rubin, Salimi, Swearingen, Tave**
NOES:	COUNCILMEMBERS:	**None**
ABSENT:	COUNCILMEMBERS:	**Murray**
ABSTAIN:	COUNCILMEMBERS:	**None**

Roy Swearingen, Mayor

ATTEST:

Heather Iopu, CMC
City Clerk

APPROVED AS TO FORM:

Eric S. Casher, City Attorney

3531204.1

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Attachment B:
Outdoor Dining/Parklets - New Regulations Transitioning Temporary to Long-Term Facilities

City name	Walnut Creek	Martinez	Albany
Population size	70,127	37,287	20,271
Types of outdoor dining allowed (sidewalk, parklets etc)	On-street parking, parking in private lots, city-owned property, private property, sidewalks	Designated areas of Downtown right of way: Along the frontage and in parking lots	Parking spots on street in Solano Avenue commercial district
Most recent date of update to outdoor dining regulations	1/17/2023	4/4/2022	9/19/2022
Permitting process for outdoor dining (i.e., staff level, pc, etc.)	Applicable in Outdoor Dining Overlay Zone. Needs to comply with Outdoor Dining Policy which contains the standards. Public Works Department issues permit (operator permit, or operator permit + license agreement in ROW). Ministerial review in ROW, Staff design review on property if meeting standards; Design Review Commission for custom standards in public or private parking space.	Encroachment permit	Encroachment permit; use of 3 angled parking spaces is subject to Planning & Zoning Commission recommendation

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Attachment B:
Outdoor Dining/Parklets - New Regulations Transitioning Temporary to Long-Term Facilities

City name	Walnut Creek	Martinez	Albany
Categories of standards/items regulated	Construction and design (including perimeters, heaters, railings, design - preselected or custom); safety; fees	Width based on business frontage, clear path standards, hours, applicant responsible for set up/removal of furniture	Max number of parking spaces used, setback from other parking spaces, maintain access to utilities in the sidewalk and roadway, perimeter barriers, platform standards, materials, ADA compliance, fire safety compliance, maintenance, signage prohibited
Any special requirements (equity, etc)	License Agreement for use of City property; insurance required on City property; on-going space use fees for City property; one time parking in-lieu fee for private parking lot space in a certain district with an established in-lieu fee structure)	Commercial liability insurance and add City as additional insured	Commercial liability insurance and add City as additional insured
Parking replacement	Use of public parking spaces: $48/sf annually		

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Attachment C:

Sampling of General Outdoor Dining Regulations in Some Contra Costa Communities

City name	**Orinda**	**Richmond**	**El Cerrito**	**Concord**
Population size	19,514	116,448	25,962	125,410
Types of outdoor dining allowed (sidewalk, parklets etc)	Outdoor Dining in the Downtown Commercial District	Outdoor Dining	Outdoor Dining in Public Right of Way	Sidewalk cafes and outdoor eating areas
Most recent date of update to outdoor dining regulations	2007		2008	2012
Permitting process for outdoor dining (ie., staff level, pc, etc)	Outdoor dining permit (ministerial review)	Encroachment permit if in the public right of way	Admin use permit and admin design review through Zoning Administrator. Encroachment permit	Sidewalk café: Admin permit and encroachment permit. Outdoor Eating Area: Minor use permit if less than 300 feet from residential zoning or dwelling. Admin permit when 300 feet or more.

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Attachment C:

Sampling of General Outdoor Dining Regulations in Some Contra Costa Communities

City name	**Orinda**	**Richmond**	**El Cerrito**	**Concord**
Categories of standards/items that are regulated	No furniture in clear vision triangles of intersections, furniture materials, umbrella vertical clearance, heater clearance, ADA requirements, pedestrian clearance, vehicle buffer zone, management of furniture during non-business hours	Accessory use conducted on the same lot or adjacent lot. Enclosures (awnings or umbrellas), movable furniture and fixed lighting, litter removal, hours of operation, outdining less than 200 sf does not require additional parking, pedestrian clearance, 25% of seating accessible by wheelchair.	No use of a street or alley, pedestrian circulation clearance, vehicle sight clearance, display window and sign visibility of adjacent businesses, no additinoal parking required for outdoor dining, signage allowances, maintain clean conditions, annual renewal, hours of operation.	General: ADA access, business hours, lighting, area kept clean, clear equipment during non-operating hours. Sidewalk Cafes: furniture design compatibility and quality, fencing, furniture clearance, furniture portability. Outdoor Eating: location allowed in alleys, plazas, courtyards, or other interior outdoor space.
Any special requirements (equity, etc)				Entertainment and amplified music may require noise analysis
Parking replacement				

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ATTACHMENT D

DRAFT

MINUTES OF THE REGULAR MEETING
PINOLE PLANNING COMMISSION

February 13, 2023

THIS MEETING WAS HELD IN A HYBRID FORMAT
BOTH IN-PERSON AND ZOOM TELECONFERENCE

A. **CALL TO ORDER**: 7:04 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:	Benzuly, Kurrent, Menis, Vice Chairperson Martinez, Chairperson Moriarty
Commissioners Absent:	Banuelos
Staff Present:	David Hanham, Planning Manager Alex Mog, Assistant City Attorney

C. **CITIZENS TO BE HEARD**

Planning Manager David Hanham reported there were no comments from the public.

D. **MEETING MINUTES**

1. Planning Commission Meeting Minutes from January 23, 2023.

MOTION with a Roll Call vote to approve the Planning Commission Meeting Minutes from January 23, 2023, as shown.

MOTION: Benzuly **SECONDED: Menis** **APPROVED: 5-0-1**
ABSENT: Banuelos

E. **PUBLIC HEARINGS:** None

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ATTACHMENT D

F. **OLD BUSINESS**: None

G. **NEW BUSINESS**

1. New Outdoor Dining Regulation Framework

Staff is seeking Planning Commission feedback regarding a framework for new outdoor dining regulations on sidewalks, in street parking areas and on public and private property for City Council consideration.

Planning Manager Hanham provided a PowerPoint presentation of the New Outdoor Dining Regulation Framework, as outlined in the February 13, 2023 staff report.

Mr. Hanham recommended the Planning Commission consider the following discussion topics that would establish the framework for coordinated standards and guidelines for parklets/outdoor dining use:

- Define categories of outdoor dining (on sidewalks: “sidewalk dining in areas,” parking spaces in the right-of-way or on public property: “parklets,” and on private property: “outdoor dining areas”).

- Establish the permitting process for outdoor dining, including opportunities for public input, annual renewal or inspections, one-time and annual fees, maintenance, and liability.

- Describe the locations and/or zoning districts where different categories of outdoor dining are allowed through a permitting process.

- Establish standards for design and materials, size, landscaping, accessibility, circulation, lighting, safety features (such as guardrails, wheel stops, visible vertical elements) signage, heating, air circulation and outdoor furniture.

- Consider encouraging other elements such as public art and bicycle parking.

- Establish standards that address use of the area (i.e., hours, public access, and equity).

- Address parking requirements.

- Address the transition from temporary outdoor dining areas to permanent dining areas (i.e., establish a transition period for existing temporary permit holders to apply for a permanent outdoor dining area).

Mr. Hanham explained that the framework would be used to establish an ordinance and guidelines to enhance the City’s current outdoor dining regulations and activities on the street with the intent to create a welcoming environment for residents and visitors when dining outdoors in the City of Pinole. The Planning Commission was asked to provide feedback regarding the framework for New Outdoor Dining Regulations on sidewalks, in street parking areas and on public and private property for City Council consideration.

ATTACHMENT D

Responding to the Commission, Mr. Hanham stated public comment could be solicited after each topic for discussion.

Assistant City Attorney Alex Mog suggested instead that public comment be solicited after Planning Commissioners provide feedback on the different topics.

Mr. Hanham explained that staff would like the Planning Commission to reach a consensus on the topics of discussion.

Reporting on ex-parté communications, Commissioner Menis stated he had sent out information about the Planning Commission meeting to his email list and had ex-parté communications with Tina Holtzclaw, the owner of Tina's Place about this agenda item topic a few months ago.

Mr. Hanham also clarified in response to the Commission with respect to the three existing businesses in Pinole that had temporary use permits for outdoor eating areas, his understanding the parking as part of Tina's Place located at 2300 San Pablo Avenue was part of the business, but he would have to conduct some research to verify that information. As to Sue's Café, the parklet was out in the street using public right-of-way (ROW). The walkway at Pear Street Bistro was part of the bistro and part of the City of Pinole, with the majority of the walkway the City's at one time, although when sold to the private owner, Pear Street Bistro, the bistro had a lease agreement to use the ROW.

At this time, the Planning Commission discussed the topics identified by staff one-by-one and offered feedback.

Define categories of outdoor dining (on sidewalks: "sidewalk dining in areas," parking spaces in the right-of-way or on public property: "parklets," and on private property: "outdoor dining areas").

Commissioner Kurrent opposed parklets utilizing the City's ROW since there were some safety issues when extending a dining area out into the street or if located adjacent to parking spaces with potential conflicts with vehicular traffic. He pointed out Sue's Café was the only establishment in Pinole that had taken advantage of the opportunity to have a parklet during the pandemic. He suggested there was no place in the City where parking spaces should be lost to parklets. He also had concern with the maintenance and ownership of parklets and suggested this was a path the City should not go down. He recommended that parklets not be considered at all and the Planning Commission only consider eating areas that were part of a strip mall parking lot or part of an establishment. While parklets had been nice during the pandemic and had served a purpose, he suggested they were no longer viable in the City of Pinole. He had no issues with sidewalk dining areas or any other outdoor dining that did not encroach out into the street.

Commissioner Benzuly supported the flexibility parklets provided for eating establishments. He understood the safety concerns and suggested the location of a parklet should include recommendations from the Police Department on possible barriers, as an example, and with the City to sort out the maintenance and liability issues as part of the permitting process. He had no concerns with sidewalk dining or private outdoor dining areas.

Commissioner Menis had a slight issue with some of the examples of sidewalk dining areas that appeared to encroach into the ROW and which may block access to wheelchairs. He wanted to ensure that was avoided if sidewalk dining areas were allowed. As to parklets, while they did encroach somewhat into the public ROW, that could be an advantage for the business. He understood a number of cities had ordinances for parklets that worked out well and it would have been helpful to have some of that information for this presentation. If designed properly parklets would be beneficial. He suggested any design standards should be explicitly part of an ordinance for parklets. He also suggested parklets could act as a traffic calming and safety measure since they extended out into the ROW drawing a driver's attention and making people be more cautious and aware of one's environment.

Commissioner Menis was unaware of any issues with the parklet at Sue's Café. He suggested any parklet should be built to withstand at the least a glancing impact, but the fact was they were in the public ROW and could have beneficial traffic calming impacts, such as in the Old Town area of San Pablo Avenue.

Vice Chairperson Martinez supported all three ideas staff had outlined but emphasized that ensuring safety was key. The City currently had one parklet at Sue's Café and having recently patronized the establishment, he reported on a close call he had experienced with a passing vehicle. If parklets were permitted, there needed to be thoughtful and clearly defined safety guidelines in place with a requirement for possible barriers to eliminate any safety risks.

Commissioner Kurrent suggested if parklets were allowed cement barriers, as an example, needed to be considered to protect diners; however, he reiterated his concerns with allowing parklets at all in the City of Pinole.

Chairperson Moriarty suggested the discussion on parklets needed to continue. She did not see that parklets made sense in Pinole but for an establishment like Sue's Café, it had worked well. She summarized the comments from the Commission that there was consensus for sidewalk dining areas as long as there was room. There was also Commission consensus for outdoor dining areas but the question was with parklets. The main concerns with parklets was owner maintenance, liability and design standards to ensure the parklet appeared to be more permanent than temporary. Safety was the highest consideration which would determine the dimensions and materials to be used for the parklet and there should be traffic calming provided to slow things down as much as possible.

Establish the permitting process for outdoor dining, including opportunities for public input, annual renewal or inspections, one-time and annual fees, maintenance, and liability.

Mr. Hanham highlighted the options to establish a permitting process for outdoor dining (parklets, outdoor dining or on private property: outdoor dining areas) which included: Administrative Permit Process: (a new Outdoor Dining Permit) approved by the Planning Manager/Community Development Director. A hearing process (Administrative Use Permit (AUP), Conditional Use Permit (CUP), and Zoning Administrator Permit, a New

Outdoor Dining Permit) through the Zoning Administrator with appeal rights to the Planning Commission.
A hearing process (AUP, CUP, ZA permit, with a New Outdoor Dining Permit) through the Planning Commission with an appeal to the City Council or a hearing process (AUP, CUP, ZA permit, a new Outdoor Dining Permit) through the Planning Commission with a recommendation to the City Council.

Commissioner Benzuly suggested different permit processes for the different types of outdoor dining. He clarified with the Assistant City Attorney that an Ad-Hoc Committee would have no authority to make decisions. For parklets, he suggested those permits should go before the Planning Commission given the concerns raised. For the other two outdoor dining categories, he suggested it would be heavy handed to require Planning Commission approval, and rather he recommended once a minimum standard had been established administrative approval by the Planning Manager or Zoning Administrator made more sense.

Commissioner Menis suggested there was no need to consider the fourth permit option outlined by staff since the Planning Commission had the power to make decisions on CUPs without requiring City Council approval. For outdoor dining areas, it would be reasonable to have that require an administrative hearing process but for sidewalk areas and for parklets, he recommended the Planning Commission process given the ROW concerns and which would provide for community input. He did not see there was a need for an annual review of the permit, although annual inspections would be a good idea particularly for parklets, and to a lesser extent outdoor and dining areas. Fees should be based on the nexus of staff costs and there should be a requirement for maintenance and liability incumbent on the property owner, although he could see a split between the City and the property owner in terms of liability for parklets. Maintenance for parklets should be borne by the private property owner making the improvements and that should also be a condition of approval.

Vice Chairperson Martinez suggested as part of any CUP any outdoor activities should be insured properly and the insurance of the property should be well over $1 million removing liability from the City, and that any organization/establishment that had any outdoor activities should be responsible for regular/daily maintenance and removal of litter. He appreciated the fact that the owners of Trader Joe's Shopping Center conducted annual maintenance and removal of litter and he wanted it made clear that if outdoor activities were allowed, that space should appear new all of the time and there would be an annual renewal of the use each year.

Vice Chairperson Martinez cited East Bay Coffee as an example of a business with an approved outdoor venue, which required Planning Commission review and approval given concerns with the use and which involved public input. He liked the idea of the permit requiring Planning Commission review and approval and possibly the Planning Commission Development Review Ad-Hoc Subcommittee could provide feedback prior to approval by the Planning Commission.

Assistant City Attorney Mog clarified that anything that operated in the public ROW, whether a sidewalk or a street, must obtain an encroachment permit from the City of Pinole Public Works Department even if the use went through a CUP process. As part of the

encroachment permit process and as outlined in the Pinole Municipal Code (PMC), $2 million minimum in insurance was required with the City indemnified from any liability.

Commissioner Kurrent agreed there should be a more straightforward permit process for outdoor dining areas than for parklets. He suggested that outdoor dining areas should go through a Zoning Administrator public hearing process given there could be neighborhood impacts and people who lived within 300 square feet of a use should be allowed the ability to comment on any changes in their neighborhood. For parklets, he recommended a public hearing process with a recommendation from the Planning Commission to the City Council. In that case, the City would be giving away City property and there should be some compensation to the City in the payment of annual fees to compensate the City for the loss of any parking spaces along with annual inspections. Issues related to ownership also needed to be addressed as it related to parklets, and he was unsure citizens could be restricted from using City property to the benefit of someone else.

Chairperson Moriarty summarized the Commission consensus for outdoor dining or on private property: outdoor dining areas; there be a public hearing process through the Zoning Administrator with appeal rights to the Planning Commission. For sidewalk dining areas, there was consensus for the same public hearing process.

Commissioner Menis pointed out that sidewalk use may impact a broader group of people that may not be normally notified of a public hearing process. He asked of the cost differences for an applicant for a public hearing before the Zoning Administrator as opposed to the Planning Commission.

Mr. Hanham stated that administrative use permits go through staff or the Zoning Administrator. A CUP process cost was about $7,300 whereas the Zoning Administrator process was about $1,500, with the costs mostly related to staff time and public noticing requirements.

Assistant City Attorney Mog clarified the costs for a CUP and for Zoning Administrator permits pursuant to the PMC excluding staff costs or noticing requirements.

Commissioner Menis recognized if public input was desired it would impose costs on an applicant regardless of whether a public hearing before the Zoning Administrator or the Planning Commission. Even with the associated costs and whether an administrative or Planning Commission public hearing, he suggested for sidewalk level activities that should require Planning Commission review and approval since it would impact a broader swath of the community.

Chairperson Moriarty suggested the specifications for sidewalk activities needed to be clear since the sidewalk user would likely be a pass-through person and there was a need to ensure space for people to walk and wheelchairs and the like that could be determined administratively as well as by the Planning Commission and those who would likely want to provide public comment, which were those who lived in the area of the use and who would be affected or had an adjacent business. She suggested the actual wording could be designed to ensure that pass-through people who were not impacted to the same degree would be addressed.

ATTACHMENT D

Assistant City Attorney Mog commented the City had standards that must be met and which would be evaluated by the Public Works Director as part of the encroachment permit process to ensure Americans with Disabilities Act (ADA) accessibility in the ROW.

Chairperson Moriarty stated she would be in favor of keeping the private outdoor dining and the sidewalk at the same level with administrative approval by the Zoning Administrator and with appeal rights to the Planning Commission. In terms of parklets, she agreed they should require Planning Commission review with a recommendation to the City Council.

There was Planning Commission consensus that parklets be reviewed by the Planning Commission with a recommendation to the City Council.

Chairperson Moriarty recognized that issues related to maintenance and liability would be part of the encroachment permit process. She suggested consideration of annual inspections and one time annual fees should be discussed further.

In terms of parklets and in response to Commissioner Benzuly, Mr. Hanham clarified that any structure that was more than 120 square feet in size or had electrical work would require approval of a Building Permit. The subject discussion for this topic was how to process permits with the current consensus for outdoor dining permits for sidewalks and privately obtain permits as part of the Zoning Administrator permit process, with parklets to be reviewed by the Planning Commission with a recommendation to the City Council.

Describe the locations and/or zoning districts where different categories of outdoor dining are allowed through a permitting process.

While there was Planning Commission consensus for the different categories of outdoor dining for “Commercial Establishments” or “Eating Establishments” to be allowed Citywide, with the exception of Residential Districts, staff sought identification of the different Zoning Districts where different categories of outdoor dining would be allowed through a permitting process.

Chairperson Moriarty asked staff to make the recommendation fit into the specific Zoning Districts.

Assistant City Attorney Mog explained that restaurants were defined uses in the PMC and staff could tie the use to an operating restaurant, which use was not allowed in Residential Zoning Districts.

The Planning Commission discussed the possibility of non-food based uses for parklets, which should be discussed and there was a recommendation by Commissioner Menis to confine parklets to the Old Town Subarea rather than citywide to address risks with encroachment; although Commissioner Kurrent disagreed and suggested that taking away a parking space was an inexpensive way to expand a business. He could foresee a business owner install a parklet, with the City having limited parking spaces, and he sought a restriction on parklets.

Mr. Hanham added that there were restrictions on outdoor storage for outdoor dining, which was why this was primarily for eating establishments and restaurants.

Chairperson Moriarty summarized the Planning Commission consensus to link the locations and/or zoning districts where different categories of outdoor dining were allowed through a permitting process, to current eating/restaurant establishments citywide, with the exception of where there was actual Commercial restaurant establishments.

> ***Establish standards for design and materials, size, landscaping, accessibility, circulation, lighting, safety features (such as guardrails, wheel stops, visible vertical elements) signage, heating, air circulation and outdoor furniture.***

Mr. Hanham provided visual examples of heavy and lightweight barriers that could be considered including conceptual drawings and photographs of existing parklet designs. He also suggested a cover design that entirely covered the parklet could be considered or a covering which included openings at the top, and he asked the Planning Commission to provide feedback.

Chairperson Moriarty disliked the idea of something that was temporary, such as the barriers used at Sue's Café as compared to the more permanent barrier examples. She also preferred well thought out options keeping in mind safety, visibility and a more permanent solution.

Commissioner Kurrent emphasized that visibility and safety was important whether a concrete barrier/bollards or some other barrier mechanism but something that protected diners from an errant vehicle and allowed appropriate sight distance/visibility between patrons and vehicular traffic. He suggested that a covering which consisted of Plexiglas or which had an opening should be considered.

Commissioner Menis understood that the details around design and materials would naturally come before a design subcommittee with the details brought back to the Planning Commission for a formal vote. He suggested that being able to have the parklets covered was a good idea during inclement weather. As to heating, he asked whether or not the City could mandate the use of electric heating and bar the use of natural gas or propane given studies around the negative health impacts of using those materials.

Assistant City Attorney Mog suggested any mandate should come from the City Council and not be determined project-by-project.

Commissioner Menis suggested to make parklets more consistent with the Sustainability and Safety Elements of the General Plan, the Planning Commission should encourage the City Council to bar the use of fossil fuel burning elements and require the use of electrical heating elements. He otherwise agreed with the need for more sturdy barriers taking into account safety and visibility.

Vice Chairperson Martinez commented that other cities allowed the lower portion of the parklets to be as tall as but no taller than 36 inches with a requirement to use Plexiglas or acrylic material on the sides, with that area to be as clear as possible. Some cities had also required a distance of six to eight feet from the floor of the parklet to the ceiling for

some type of roof or plastic covering during the winter months. Fire retardant materials would have to be used and some umbrellas were required to be properly treated with fire retardant materials. Other cities had also mandated that each component of the exterior walls of the parklets be at a minimum weight of at last 250 pounds so they were not easily knocked over, which was a nice standard that should be added.

Vice Chairperson Martinez also wanted to see the edges where the end points were located come together on the street and the use of appropriate reflective taping, which would be reflective during the evenings.

Commissioner Benzuly agreed with limiting the use of tents or guardrails which resulted in a temporary look and rather preferred a more permanent solution as discussed. In terms of heating and roofing, he was not opposed to the parklets having roofs and heating, which could be an impetus for the applicant but which would meet code for a permanent or semi-permanent structure.

Mr. Hanham suggested the Planning Commission identify a desired standard and allow the applicant to provide options and depending on those options standards could be established.

Commissioner Benzuly agreed that minimum standards must be considered to allow some flexibility.

Chairperson Moriarty referenced design standards provided from the City of San Mateo, which jurisdiction had criteria that addressed drainage with the platforms for the parklets required to allow for curbside drainage flow; criteria for bolting which was not allowed; maintenance access; platforms required to be constructed from durable materials that could withstand the wear and tear of elements and pouring concrete was not allowed, as examples. She suggested looking to the standards used by other jurisdictions for permanent and semi-permanent parklets consistent with what the Planning Commission was seeking.

Mr. Hanham suggested recommendations could be made to the City Council for a safety and visibility standard, with a review of any lighting, as an example, the structure to be more permanent in nature, with the micro details yet to be resolved. He again displayed example criteria for heavy and lightweight barriers, acknowledged a recommendation for the City Council to consider more heavyweight barriers, include additional design features for visual vertical elements, and consider reflective corner elements, wheel stops, wheelchair accommodations, Americans with Disability Act (ADA) accessibility and the like, as discussed.

Commissioner Menis reiterated his recommendation that any heating element in the parklets be electrical and not use natural gas, and that the outdoor eating areas be electrical as well in order to comply with the Sustainability and Safety Elements of the General Plan.

Chairperson Moriarty suggested staff could make it clear to the City Council that was something the Planning Commission would like the City Council to consider.

Vice Chairperson Martinez urged caution since the State had an electricity provider that had consistently proven itself unreliable and if mandating that one electricity supplier which had a monopoly, it could prevent a business from heating food for guests and was an area that the market should determine. As an example, he had reviewed different environments that used outdoor electric heaters and commented on the significant cost for such equipment, which was why many restaurateurs used natural gas heaters. Mandating the use of electricity could be a significant impact to small businesses.

Chairperson Moriarty suggested that this issue was a much deeper discussion as it related to the City's Climate Action Plan (CAP), and was a discussion she did not recommend the Planning Commission have at this time. She asked staff to make it clear the Planning Commission was asking the City Council to "consider" a prohibition on the use of natural gas and that the City Council consider potential impacts to the small business owner.

Mr. Hanham agreed with the Chair's comments and clarified that a deeper discussion of electric versus natural gas would be discussed in the future.

Commissioner Menis commented the City Council had decided not to mandate citywide electrification in new buildings in 2021 or in 2022, as part of Reach Codes. As a result, when projects came before the Planning Commission, there had been a request for the City Council to voluntarily consider Reach Codes, which had not been supported. He suggested that addressing this issue on a case-by-case basis was unreasonable.

Chairperson Moriarty again suggested the City Council could "consider" the recommendation, as discussed and consider it fairly. She recognized this was a bigger issue but she wanted to move that discussion to the City Council level.

Consider encouraging other elements such as public art and bicycle parking

There was consensus from the Planning Commission to encourage other elements such as public art and bicycle parking.

Commissioner Menis clarified with Mr. Hanham that the City did not have a current policy for public art and a program could be established for parklets and outdoor dining areas.

Mr. Hanham stated he would not recommend public art as a requirement but that it be "encouraged," and acknowledged that could be a Planning Commission decision. While the Planning Commission could set standards for what it wanted to see for public art in parklets and outdoor dining areas, he recommended considering whether or not public art should be allowed without getting into the details at this time.

Vice Chairperson Martinez commented on the bicyclists who traveled through Old Town Pinole on weekends with parking on the sidewalks, which had been a challenge for pedestrians to navigate and which issue needed to be addressed by creating safe bicycle parking spaces achieved by working with the business owners.

Establish standards that address use of the area (i.e., hours, public access, and equity)

Commissioner Benzuly suggested the hours of operation should be considered on a case-by-case basis. In terms of limiting access to the outdoor dining areas, he had not seen an establishment regulate access other than pulling the furniture inside.

Mr. Hanham commented that sometimes ropes were used when the area was not in use and it was more of a passive area.

Chairperson Moriarty referenced Contra Costa County's regulations related to the use of parklets, which required the parklet to be free and open to all members of the public regardless of whether or not they patronized any particular business.

Commissioner Menis commented that this tied into the City imposing regulations on who owned the parklet and who controlled access. If they were saying the public had universal right of access to the parklet at certain hours at all times, they were also saying the City controlled who could enter or leave it. He cited Supreme Court decisions in other contexts where the right of ejection was one of the fundamental property rights, which could change some of the arguments over fee structure, permitting process and the like if they were saying the City had the right to control access. He understood that this would apply to parklets and sidewalk dining and not as much to the private dining spaces that would be in parking lots or within the physically controlled property. As to whether the public should have full access to property within the public ROW regardless of improvements made, limited access or no access in specific periods of time was something the City Council needed to resolve as to who the spaces were for, when, how and for what purpose. As an example, if a homeless person wanted to sleep in the area after the business was closed for the day, was it the responsibility of the business to monitor that or make it physically impossible for that access to occur, which tied into issues of equity and public access.

Mr. Hanham cited the Bear Claw as an example, which establishment left its tables and chairs outside 24/7 and while secured anyone could sit down at any time. As to Sue's Café, that establishment closed off its outdoor dining area after the close of business.

Assistant City Attorney Mog clarified that access could be addressed in the agreement for parklets or the City Council may establish a policy for how it wanted to address any condition about the use of the public ROW in exchange for the use of the property.

Commissioner Menis suggested depending on how permanent the sidewalk improvements access restrictions may apply to that area as well.

Commissioner Kurrent suggested if the City were to give ownership or lease the public ROW to restaurant owners the City should control who used the space. If the business was leasing space from the City vis-à-vis the public ROW, he suggested there should be fees commensurate with the square footage of rental, not just a freebee.

Vice Chairperson Martinez agreed and suggested if the business owner was paying for the improvements the business owner should have the ability to restrict access.

Commissioner Benzuly suggested a business owner should have a say as to who sat in

the outdoor dining area during business hours. After business hours, one should be allowed to sit in that space if not impeding operations.

The Commission discussed the topic at length and Assistant City Attorney Mog explained that the City could decide whatever it wanted; the area could be restricted and secured at night or not with the area open to any member of the public, and all of those options were open since it involved City property someone was requesting to be used.

Mr. Hanham commented that as the Planning Commission further discussed design guidelines it would have the opportunity to take a look at this topic during a subcommittee process and it may look different after feedback from the Planning Commission, City Council and the public.

At this time, Mr. Hanham recommended that given this was a major issue and the Planning Commission wanted to consider a lot of different ideas, the Commission could provide additional feedback for a more comprehensive discussion at a later date.

Chairperson Moriarty stated the rights of the public versus the rights of the business owner was a question the City Council needed to consider along with the Planning Commission.

Commissioner Menis added it should be noted for the City Council that the Planning Commission had been unable to reach a consensus on this topic.

Mr. Hanham advised that staff would forward the comments from the Planning Commission to the City Council so that the City Council was aware of the concerns raised.

Address parking requirements

Mr. Hanham explained that the City had conducted a parking study for the downtown Commercial District on the parking being used. As an example, if Tina's Place took up four parking stalls, should a parking study be prepared to identify the viability of parking.

Commissioner Kurrent suggested there should be a re-analysis of the parking requirements to ensure the use still met the PMC for required parking.

Commissioner Benzuly suggested a maximum percentage should be identified before the next step of requiring a potential costly parking study.

Chairperson Moriarty understood they were speaking mostly of reducing the parking in a parking lot for a private use. As an example, the Bear Claw had two parking spaces in front of the business and if they were to build a parklet in the front of that business and use those two parking spaces there would be a different standard.

Mr. Hanham explained that the City's parking requirements were based off of off-street parking. A business of 5,000 square feet required one parking space per every 50 square feet of gross floor area off-street. In the downtown area, all parking spaces had been incorporated within the square footage, which was why the City had ample parking spaces in the downtown core since both off and on-street parking was used.

Commissioner Kurrent reiterated that parklets should not be a giveaway. There should be a cost per square footage and if the cost was market rate as opposed to nominal the City would find that establishments would not want to construct parklets. He suggested parklets were not a good business model for Tina's Place and Mel's.

Vice Chairperson Martinez wanted to be careful that the City was not seen as being non-business friendly. He cited a number of jurisdictions that did not charge market rate for parklets, and if the City of Pinole was the only jurisdiction charging those fees businesses would not come to Pinole. He recommended that the City not set such a precedent
Chairperson Moriarty suggested if using a private lot that would impact other business owners the question was whether the size of the parklet should be restricted to give back for that use.

Mr. Hanham clarified that the parklet would be located in the public ROW and the only area that would be losing parking spaces would be in the area within the private outdoor dining area adjacent to the business, and which would be those types of businesses that would affect the on-street parking requirements. The question was how to address that either by a percentage or by the PMC.

Chairperson Moriarty agreed that parklets should not necessarily be a giveaway. If parklets affected the availability of parking that would impact other businesses that needed to be addressed in some way.

In response to Commissioner Menis, Assistant City Attorney Mog explained that if a business owner had a use permit that required a certain number of parking spaces and if the business was below that amount, it was at the discretion of the City whether or not to allow a reduction in the required parking.

Commissioner Menis understood that much of this was policy the City Council would have to make since it was ultimately a policy level decision on how the City was structured, whether to prioritize people versus vehicles and weigh the values of those, which was beyond the Planning Commission's level.

Assistant City Attorney Mog clarified that parking was within the purview of the Planning Commission and its role as a Planning Commission. Planning and zoning standards involved recommendations to the City Council. If the Planning Commission had a recommendation on how a parking standard should apply it was within the purview of the Commission to provide a recommendation to the City Council to adopt all policies.

As an example, the previously discussed recommendation for a mandate on the use of natural gas heaters was not a planning issue and was outside the Planning Commission's jurisdiction, while parking standards were within the purview of the Planning Commission.

Commissioner Kurrent reiterated that if parking spaces were removed the business should be required to prove it could still live up to the PMC parking requirements.

Chairperson Moriarty was unsure the Planning Commission would reach a consensus on this topic.

Mr. Hanham suggested the Planning Commission could make a recommendation to the City Council to evaluate the parking requirements as part of the overall design standards.

Chairperson Moriarty confirmed the consensus that the Planning Commission would make a recommendation to the City Council to evaluate the parking requirements as part of the overall design standards, and that outdoor dining in private areas would be considered separately from a parklet taking up public ROW parking. She suggested discussion on this topic needed more time along with more data.

Mr. Hanham agreed that until a specific project had been proposed where the required parking would be identified and whether or not some parking could be reduced in different areas, additional studies were needed but the Planning Commission may recommend that the City Council review the parking requirements as part of this process.

Chairperson Moriarty suggested this could be a topic for the Planning Commission Ad-Hoc Subcommittee.

Address the transition from temporary outdoor dining areas to permanent dining areas (i.e., establish a transition period for existing temporary permit holders to apply for a permanent outdoor dining area)

Mr. Hanham confirmed there were currently only three establishments that had been issued temporary use permits under the Urgency Ordinance, which were still active and which had been identified in the staff report as Tina's Place, Sue's Café and the Pear Street Bistro.

Commissioner Kurrent suggested there was a natural time consideration in that the outdoor dining areas were more popular during the summer months, and that October 1 was a good time to obtain a CUP if the business desired.

Mr. Hanham stated since the City had lifted the Urgency Ordinance, it could suspend the temporary use permits, but if the business wanted to continue to use the outdoor dining space the Planning Commission needed to consider the following: setting a timeline for converting from a temporary program to a new program; work with existing businesses to address a new design program and institute a potential fee deferral program for compliance or consider a full amnesty program for existing businesses that wanted to have an outdoor dining area.

Assistant City Attorney Mog suggested the Planning Commission provide direction on how a transition should happen and whether the business should be allowed to maintain the outdoor dining area or meet new standards, as described.

Commissioner Benzuly suggested the business should have nine months to a year to determine and resolve all issues before transitioning from a temporary to a permanent dining area. He was not a fan of an amnesty program but supported the three businesses that had stuck it out and made it work, and possibly a fee deferral program could be

considered while those businesses worked towards transitioning to a permanent solution and meeting yet to be determined new design standards.

Commissioner Menis asked whether staff was aware of those cities that had shifted out of the state emergency from a temporary to a more permanent model, the timeline involved and whether that timeline had been effective.

Mr. Hanham stated he could not provide an answer since some communities had required the temporary use to be removed within 90 to 120-days from the date of the lifting of the emergency ordinance. Currently in Pinole, if a business desired to continue the outdoor dining use, the business would be required to comply with Section 17.68, Outdoor Dining, of the PMC and as new guidelines were established the business would have to comply with those new guidelines.
Assistant City Attorney Mog clarified in response to the Chair that if a business were to continue in its current form of providing outdoor dining in the interim of the City considering new regulations, the City Council would be required to adopt something before the new regulations were formally adopted.

Commissioner Menis suggested it was reasonable to give the current existing businesses more time to adapt since the City needed to figure out what it wanted to do. He was uncertain of the time it would take to build out a more permanent structure and suggested it would be beneficial to allow the current temporary uses to continue for a period of time after the adoption of a new ordinance, not just after the end of the emergency that would require City Council action.

Commissioner Menis disagreed there should be amnesty for the existing structures to continue on indefinitely. He wanted to eventually shift from the temporary to a more permanent structure, which would result in better quality construction and something that met the City's guidelines. He suggested six months to a year from the passage of the ordinance could be a possible timeline.

Vice Chairperson Martinez was also uncertain that amnesty should be considered but he recognized the City was not done imposing new design guidelines. He asked staff once the City's work had been completed whether six months would be a reasonable timeline to require compliance with new guidelines. He asked whether that was a consistent timeline as compared to what other jurisdictions had imposed.

Mr. Hanham suggested staff work with the existing businesses to see where they were at in terms of their design components. He confirmed the three establishments had been informed the City was in the process of adopting a new program and it was a matter of how long the temporary uses would be allowed to remain.

Vice Chairperson Martinez asked the Assistant City Attorney to provide guidance on liability. He asked if an accident occurred at any of the three existing businesses whether the City would be liable.

Assistant City Attorney Mog suggested there would not be issues of significant liability in such a situation for the City. He acknowledged that whenever an accident occurred the City was often named since it had deeper pockets, the City had a number of immunities

and defenses available and he was not concerned about significant liability. The business would also have insurance that protected the City's ROW.

Vice Chairperson Martinez suggested if the businesses were allowed to continue business as usual, he wanted assurance that the City was not liable if the business was sued and Assistant City Attorney Mog reiterated the City would not be on the "hook."

Vice Chairperson Martinez was okay with allowing the businesses to continue business as usual but suggested those businesses be provided an action plan that the City was creating a new program and compliance would be required at some point.

Commissioner Kurrent suggested there would be a natural end point once the weather had improved and there would be a natural timeline limit of October 1 or November 1. Of the three existing businesses that had outdoor seating, and citing Tina's Place as an example, he was uncertain how that business would transition to a more permanent use since they had incorporated a walkway between Pear Street Bistro and the Bank of Pinole. He was uncertain that would be considered outdoor dining requiring a permit from the City.

Commissioner Kurrent suggested Sue's Café was the only business that would likely want to continue with its parklet. He again suggested that a parklet was an expansion of the business, and he reiterated his recommended timeline that offered a natural break.

Chairperson Moriarty stated in her opinion it depended on when the City had actual regulations in place and having a hard and fast date did not make sense to her. She clarified Planning Commission consensus was that no amnesty program be considered. There was also Planning Commission consensus to allow the businesses to continue business as usual until a target changeover date had been identified and new regulations had been implemented.

Mr. Hanham explained he would have to work with the City Attorney's Office to prepare something to allow the businesses to continue and inform them of a specific time to comply with a new ordinance. As an example, from the time of the adoption of a new ordinance the business owner would likely have three to six months to comply, and if not, outdoor dining would not be allowed.

Commissioner Menis suggested it was open to question whether the businesses were aware of what the City was doing, but Mr. Hanham reiterated the three businesses identified were aware that the City was starting the process for a more permanent solution.

On the discussion, Chairperson Moriarty reiterated the consensus of the Planning Commission to recommend to the City Council not to allow any amnesty program. Until new regulations were in place, the businesses would be status quo with the temporary use permit and with the business to be permitted six months to a year to transition to a permanent structure after new regulations were in place.

PUBLIC COMMENTS OPENED

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Mr. Hanham reported there were no comments from the public.

PUBLIC COMMENTS CLOSED

Mr. Hanham thanked the Planning Commission for the feedback.

H. CITY PLANNER'S / COMMISSIONERS' REPORT

Mr. Hanham reported that staff was finalizing the administrative draft for the environmental work for the Pinole Shores II project, with the project to be presented to the Planning Commission on March 13, 2023. In other matters, use permit applications were being processed for a massage therapy business and a paint booth on San Pablo Avenue, and a tentative map application, which applications had been tentatively scheduled to be presented to the Planning Commission in the next month.
In addition, the New Outdoor Dining Regulations Framework would be presented to the City Council in the next few months.

Commissioner Kurrent commented on a notification he had received that the Bank of America in the Appian/80 Shopping Center would close in July. He asked whether the closure was temporary due to the expansion of the shopping center or permanent, and Mr. Hanham advised he would have to check since the property had a new owner.

Commissioner Kurrent also asked staff the status of a pending lawsuit against the City related to its Housing Element, and Assistant City Attorney Mog reported he could not go into detail about the lawsuit filed against the City related to its Housing Element but the lawsuit alleged the Housing Element had been adopted prematurely and was not compliant with State law. He expected a revised Housing Element may come to the Planning Commission at a future meeting after comments had been received from the State Department of Housing and Community Development (HCD). The City Attorney's Office would respond to the lawsuit and after comments had been received from HCD it was possible the lawsuit may become moot.

Vice Chairperson Martinez asked the status of a parcel on San Pablo Avenue between the bank and the Community Corner which had some activity, and Mr. Hanham explained that the site was for a project for outdoor space for special events and food trucks, which had been approved in 2020. The project involved some undergrounding work, fencing and signage.

Commissioner Menis reported he had been invited to a forum to be held with one of the entities suing the City of Pinole to discuss their side of things in March and stated he had been informed he could invite staff from the City to attend. He asked whether it would be an issue for him to attend personally or as a Planning Commissioner and whether staff may also attend the forum.

Assistant City Attorney Mog clarified that Commissioner Menis was able to attend any event in his personal capacity but not representing the City or the Planning Commission in any way. He requested that Commissioner Menis provide a copy of the invitation to the City Attorney's Office for review. He added that City staff generally did not attend such events.

ATTACHMENT D

Chairperson Moriarty inquired of the status of the Adobe Road Trail breaches, a concern raised by a citizen during a prior Planning Commission meeting, and Mr. Hanham reported the Public Works Department was working on repairing the breaches. As part of the Pinole Vista project, there was a condition that as the developer excavated soil, the City had first priority for the soil which could be moved towards that area.

Chairperson Moriarty inquired of the status of the objective design standards and Parks and Tree Master Plans, and was informed by Mr. Hanham that staff was preparing a schedule for the objective design standards to be presented to the Planning Commission for review possibly for the March 27, 2023 Planning Commission meeting.

As to the status of the Parks and Tree Master Plans, Mr. Hanham understood consultants had been hired and he would have to check with staff to get more details.

Chairperson Moriarty commented on a tree that had been illegally removed and not replaced at 2018 San Pablo Avenue and asked whether or not the property owner had been fined, and Mr. Hanham understood the property owner was paying for the illegal removal of the tree but the City was planting the tree.

Chairperson Moriarty asked the status of in-person meetings and quorum requirements, and was informed by Assistant City Attorney Mog that Assembly Bill (AB) 361 would be eliminated on February 28, 2023 as part of the Governor's declaration to end the State of Emergency regarding the pandemic.

After that time, Planning Commissioners would be required to participate in-person and traditional Brown Act requirements to participate remotely would apply. There was a possibility to participate remotely for just cause or emergency circumstances subject to limitations.

Mr. Hanham stated he would provide the Planning Commission with a copy of the resolution adopted by the City Council on this topic.

Chairperson Moriarty asked staff to consider increasing the font size for future PowerPoint presentations.

I. COMMUNICATIONS

Commissioner Menus reported he had received a communication from a member of the public who reported wash-out damage on the Bay Trail out of Tennent Avenue, the walking area between Tennent Avenue and Pinole Shores. That individual had asked whether there were any plans to repair the blocked walking path between those two points.

Mr. Hanham stated he would have to review the matter with staff and would email Commissioner Menis an update, although Chairperson Moriarty stated the Bay Trail was under the jurisdiction of the East Bay Regional Park District (EBRPD).

J. NEXT MEETING

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ATTACHMENT D

The next meeting of the Planning Commission to be a Regular Meeting scheduled for February 27, 2023 at 7:00 p.m.

K. **ADJOURNMENT**: 10:45 p.m.

Transcribed by:

Sherri D. Lewis
Transcriber

Revisions by: Planning Staff