

CITY COUNCIL MEETING
MINUTES
September 21, 2021

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

The City Council Meeting was held via Zoom videoconference and broadcast from the Pinole Council Chambers, 2131 Pear Street, Pinole, California. Mayor Martínez-Rubin called the Regular Meeting of the City Council to order at 5:01 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

Norma Martínez-Rubin, Mayor
Vincent Salimi, Mayor Pro Tem
Devin Murphy, Council Member
Anthony Tave, Council Member*
Maureen Toms, Council Member

*Arrived after Roll Call

B. STAFF PRESENT

Andrew Murray, City Manager
Heather Iopu, City Clerk
Eric Casher, City Attorney
Hector De La Rosa, Assistant City Manager
David Hanham, Planning Manager
Markisha Guillory, Finance Director
Misha Kaur, Senior Project Manager
Chris Wynkoop, Fire Chief
Joseph Bingaman, Public Works Manager
Maria Picazo, Recreation Manager
Roxanne Stone, Management Analyst

City Clerk Iopu announced the agenda had been posted on Thursday, September 16, 2021 at 4:00 p.m.

All legally required notice was provided with written comments received for Item 6, Citizens to be Heard, with the written comments received posted on the City's website and distributed to the City Council in advance of the meeting. Also, a revised version of Item 8J had been published and distributed to the City Council after the publication of the meeting agenda.

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

4. CONVENE TO A CLOSED SESSION

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

A. CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Gov. Code § 54956.8

Property: 401-162-001 (2301 San Pablo Avenue)

Agency negotiators: City Manager Murray, Assistant City Manager De La Rosa and City Attorney Casher

Negotiating Parties: Alex Balakrishnan and Claude Zamanian

Under negotiation: Price and terms

B. CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Gov. Code § 54956.8

Property: 401-162-002 (2337 San Pablo Avenue)

Agency negotiators: City Manager Murray, Assistant City Manager De La Rosa and City Attorney Casher

Negotiating Parties: Raquel Contreras

Under negotiation: Price and terms

C. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION

Gov. Code § 54956.9(d)(1)

Name of case: In re PG&E and Pacific Gas & Electric Company v. Debtors

PUBLIC COMMENTS OPENED

Oliver Collins, a member of the Pinole Traffic and Pedestrian Safety Committee (TAPS) since 2017, reported there had not been a TAPS Committee meeting since January 2021. The only meeting prior to that date had been in August 2020. There were five vacancies on the TAPS Committee, applications for the vacancies had been due by July 30, 2021, and there were three active TAPS Committee members eager to work. He had spoken to the City Manager in May 2021 regarding his concerns with the status of the TAPS Committee and he had been informed there would be some reorganization of City Departments. Since that time, the Public Works Director had left the employ of the City and while he had asked the City Manager to attend the TAPS Committee meeting to see the challenges the Committee faced that had not happened since meetings had been routinely canceled. He added there had been several Brown Act requirements that were not being followed for the TAPS Committee meetings including no posting of the meeting agenda, preparation of meeting minutes and discussions well off topic of posted agenda items.

City Manager Murray confirmed he had a conversation with Mr. Collins regarding the status of the TAPS Committee. He explained that the City was undergoing a reorganization of City Departments and a new Public Works Director would be employed soon.

City Manager Murray advised the new Public Works Director would be tasked with reviewing the TAPS Committee activities and scope and provide recommendations on how to move forward. He recognized the TAPS Committee meetings had been routinely canceled, meetings had not been held for some time, but he was unaware of any Brown Act violations. He recommended the TAPS Committee meetings be suspended until such time as the new Public Works Director was on staff and could determine how to best engage the TAPS Committee and advise the City Council.

City Clerk Iopu explained that recruitment for the TAPS Committee had been opened and reflected vacancies included incumbent members whose terms had expired. She also commented that there had been delays in meetings due to COVID-19 restrictions but once a new Public Works Director was on staff there would be a lot of work to reactivate the TAPS Committee and report to the City Council. Any interested parties in available vacancies and the TAPS Committee practices were encouraged to contact her for more information. Once the TAPS Committee had been reactivated there would be an opportunity to review the Committee procedures to ensure all meeting standards were being met.

PUBLIC COMMENTS CLOSED

Mayor Martinez-Rubin recognized the work of the TAPS Committee and the interest of current members in continuing to engage and serve the City. She urged patience pending the retention of a new Public Works Director.

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

At 6:51 p.m. Mayor Martinez-Rubin reconvened the meeting to open session and announced there was no reportable action from the 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.

Jeff Rubin suggested the City Council's decision to deny funding for the Faria House represented a setback for the supporters of the Pinole History Museum. He suggested the City Council had tarnished its credibility and by extension the creditability of the City since the City of Pinole had declared its intent for the past two decades to create a museum in the Faria House and had given expectations this would happen, with millions of dollars having been raised since the community understood this would be a partnership between the City of Pinole and the Pinole History Museum. Four of the five current City Council members had attended a Pinole History Museum dinner in 2019 with over 240 attendees present. On June 15, 2021, the City Council received public comment from approximately 70 people supportive of a museum in the Faria House but still the City Council voted against it. The City had paid an architect \$100,000 for renovation plans and a cost estimate for the Faria House specifically for its use as a museum. He objected to the use of taxpayer money for that purpose if the Faria House was not to be the site of a museum.

Mr. Rubin added that in 2020, Council member Tave chaired an Ad Hoc Committee which negotiated a lease agreement with the Pinole History Museum Board, and a lease had been

prepared by the City Attorney; however, Council member Tave had voted against an agreement he himself had negotiated. He suggested Council member Tave had negotiated in bad faith on behalf of the City and questioned whose interests he was representing with broken promises and bad faith, which was why people no longer trusted government. He suggested the Faria House was no longer an asset to the City but a liability since it was deteriorating more every year. He was aware of no community that had not benefitted by having a museum and suggested a museum in the Faria House would be a source of civic pride and encourage downtown development, although it was now just a disgraceful political issue.

Rafael Menis thanked the City Council for his appointment to the Planning Commission and stated he would strive to implement the General Plan and make Pinole a better City for everyone within it. He emphasized the importance of voting which was a core part of democracy, as evidenced by the recent recall election. He also recognized that over 88 percent of the eligible population in Pinole had been vaccinated against COVID-19 and expressed his hope to reach the 90th percentile by December 2021. He urged everyone to get vaccinated for their own health and the health of everyone around them.

Igor Tregub, Senior Policy Advisor, California Solar & Storage Association and Clean Energy Leadership Institute Alum, reported that PG&E, Southern California Edison (SCE) and San Diego Electric were lobbying the California Public Utilities Commission (PUC) to make a profit grab to kill rooftop solar opportunities putting solar out of reach to the working class just when it had become accessible to all. He asked the City Council to join a growing coalition to keep solar growing equitably so that the working class may access solar opportunities and solar powered batteries more affordably. He asked the City Council to adopt a resolution putting the City of Pinole on record and joining nearly 400 other organizations, City Councils and elected officials, to keep solar storage growing at a time it was needed the most.

Debbie Long reported it had been brought to her attention that no flag had been displayed on 9/11 at the Veteran's Memorial Fountain in Fernandez Park. Since the Mayor had been contacted by several community members to ensure a flag was displayed at the site, a flag flying over a Veteran's Memorial should have been expected. Thanks to one community member a flag was now flying over the Veterans Memorial. She understood the City Manager was not aware of the Veteran's Memorial Fountain and while he was a busy man, she asked him to take the time to drive and walk through the City to ensure he was familiar with all of Pinole's history. She pointed out the Veteran's Memorial Fountain was one instance why institutional knowledge was valuable and too often its importance was downplayed. She also challenged Council members to go back ten years or more and read through the City Council meeting minutes to have a better idea why things were done and what may have been left undone to have a better understanding of the struggles experienced by previous City Councils to be able to understand that the current City Council goals were not new ideas, many projects had been discussed for years, and either the funding was not available or the technology had changed. She suggested the current City Council was in an enviable position to move forward with many of those projects at this time.

Ms. Long further commented that standing for the Pledge of Allegiance was her way of thanking the founders, the military, and Veterans for extending to everyone the freedoms that were part of daily life. While Council member Murphy may express himself as he sees fit by not standing for the flag and while it was his right to do so, it was also her right to point it out to the community.

Lisa Jackson, representing 350 Contra Costa, a climate advocacy group, also spoke to resolutions being put forward by different City Councils in support of solar, with 350 Contra Costa asking the City Council to approve a resolution to ensure that solar was an option for all families in California moving forward into the future and in response to the possibility of the PUC potentially reducing the credits available on net metering, which would effectively disable rooftop solar for families and impact battery storage.

7. RECOGNITIONS / PRESENTATIONS / COMMUNITY EVENTS

A. Proclamations

1. California Firefighter Memorial Day

The City Council read into the record the proclamation for California Firefighter Memorial Day and recognized September 25, 2021 as the date for this year's Annual California Firefighters Memorial Ceremony, with all citizens of Pinole encouraged to honor the courage and commitment of California firefighters as they continued to face the challenges of fighting ongoing wildfires.

Fire Chief Chris Wynkoop thanked the City Council for the proclamation and noted that firefighters ranked amongst the highest in job satisfaction although that carried inherent risks. He reported on the U.S. Bureau of Labor statistics which had shown that firefighters had a shorter life expectancy than the average population and were three times more likely to die on the job. The Pinole Fire Department appreciated the California Fire Foundation for establishing California Firefighter Memorial Day and for building a Memorial Wall which currently carried the names of 1,400 California firefighters, including the names of two members of the Pinole Fire Department, Captains Rich Voisey and Robert Ramos, who were all honored for their sacrifices. On behalf of the Pinole Fire Department and the families of the fallen firefighters, the City Council was thanked for the proclamation.

B. Presentations / Recognitions

None

8. 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.

Rafael Menis referenced Page 84 of the agenda packet related to Item 8D that included an incorrect date for the Memorandum of Understanding (MOU), which should be corrected; Page 103 of the agenda packet also related to Item 8D, had not listed Juneteenth as a City designated holiday, although it had been designated as a federal holiday in 2021; Page 108 of the agenda packet for the same item, the cost sharing agreement continued after the expiration of the MOU had been stricken from the agreement and should be clarified; and Page 112 of the agenda packet for the same item, the prohibitions of discrimination were broad, with political affiliation removed.

As to all of the MOUs contained in the Consent Agenda (Items 8D through 8F), Mr. Menis noted that for all of the agreements, the Agency Shop clauses had been universally stricken from the

agreements and he asked whether the City was shifting over to an Open Shop Agreement with all of the unions covered in the MOUs, whether the change was related to a change in State law, or whether it was reflective of an agreement with the unions. As to Page 325 of the agenda packet for Item 8H, the local hiring language in the resolution had been removed and he asked for clarification. With respect to Item 8I, water, electricity and utility costs had been marked as significantly exceeding the revised budget and he asked staff for clarification; Page 524 of the agenda packet for the same item, the rate stabilization fund had been effectively established and he asked whether that meant there was no excess revenue from 2013 to 2020; Page 532 of the agenda packet for the same item, the revenue was significantly higher than originally anticipated with no revenue anticipated in the pension fund, original or revised budget, and he asked why no estimate had been made before this point.; and for the same item the recognized obligation retirement fund had a massive increase in revenues over the expected amount, and he asked of the cause.

Finance Director Markisha Guillory stated she would have to do some research on some of the questions asked but reported that water and electricity had exceeded the budget across the Departments and analysis would be required to ensure it was captured in the mid-year budget. She also clarified the excess revenue and rate stabilization funds had been recently created and staff had conducted an analysis to ensure the excess funds from previous years had been carried over to the new stabilization fund. Also, Fund 700, Pension Fund, a fiduciary trust fund was not budgeted with the revenue for interest and investment income, with staff to review how that fund had been approached in terms of budgeting. For the expected interest income, staff would have to take a further look at that and for Fund 750, Recognized Obligation Retirement Fund for the Successor Agency, staff had noted the accounting was a bit different than what had been done in the past and she described the differences, with the trend line to be corrected to make better sense.

City Manager Murray provided further clarification in response to Mr. Menis' questions, clarifying that holidays were a negotiated benefit, some of the MOUs included a clause which stipulated federally recognized holidays for City employees with some trading of holidays through the negotiation process, which was why some holidays may appear in some MOUs and not others. There had also been a change in State law regarding the collection of union dues and requirements related to Agency versus Open Shops where the MOUs had been modified to be consistent with current State law. He explained that he would be happy to receive any detailed questions in advance and provide responses after the meeting.

City Attorney Eric Casher also responded to the removal of the local hire provision as part of Item 8H. He explained that the San Pablo Avenue Rehabilitation Project had received federal funding, and while there were local hire preferences in the City's procurement policy and standard specifications, federally funded projects did not allow for local hire requirements and that clause had been removed as a result.

Assistant City Manager Hector De La Rosa provided additional clarification in response to the change in State law regarding the collection of union dues and requirements related to Agency versus Open Shops where the MOUs had been modified to be consistent with current State law.

Council member Murphy referenced Item 8H, understood the City did not have the funding for the project promised to the City, and requested clarification from staff.

Senior Project Manager Misha Kaur explained that the project had come to the City Council before, the plans were as previously presented, but before the project was bid to meet federal funding requirements the specifications had to be revised. The City had received an allocation of \$586,000 from Caltrans for the project, with the rest of the money already programmed in the Capital Improvement Program (CIP), and simultaneously the City had responded to the Congressman solicitation for \$742,000 in funds earmarked in the Infrastructure Bill, but the money was not guaranteed to the City of Pinole. If the bill was signed, the City would receive that portion of the funding for the project. If the bill was not signed, the City would move forward regardless since there were deadlines for the federal funding the City had received. The remainder of the project would be funded from Fund 377, Arterial Rehab Fund and Measure S, although if the City received the funds as part of the Infrastructure Bill, funds from Fund 377 would not have to be used.

Mayor Pro Tem Salimi advised he would abstain from Item 8A since he had been absent from the July 20, 2021 meeting.

Assistant City Manager De La Rosa reported as related to Item 8G, in accordance with Senate Bill (SB) 1436 and Assembly Bill (AB) 1344, the City must present to the City Council and the public an oral report summarizing the adjustment to executive employees, in this case the City Manager and City Clerk. He informed the City Council and the public that both the City Clerk and the City Manager were to receive a three percent Cost of Living (COLA) adjustment effective July 5, 2021, as noted in the staff report.

- A. Approve the Minutes of the Meetings of July 20, 2021
- B. Receive the September 4, 2021 – September 17, 2021 List of Warrants in the Amount of \$760,020.73 and the September 17, 2021 Payroll in the Amount of \$433,953.20
- C. Resolution Confirming the Continued Existence of Local Emergency **[Action: Adopt Resolution per Staff Recommendation (Casher)]**
- D. Adopt a Resolution Approving a Memorandum of Understanding Between the City of Pinole and International Association of Fire Fighters (IAFF) for the Period of July 1, 2021 – June 30, 2023. **[Action: Adopt Resolution per Staff Recommendation (De La Rosa)]**
- E. Adopt a Resolution Approving a Memorandum of Understanding Between the City of Pinole and American Federation of State, County, and Municipal Employees (AFSCME) Local 512 for the Period of July 1, 2021 – June 30, 2023. **[Action: Adopt Resolution per Staff Recommendation (De La Rosa)]**
- F. Adopt a Resolution Approving a Memorandum of Understanding Between the City of Pinole and Public Employees Union (PEU) Local One for the Period of July 1, 2021 – June 30, 2023 **[Action: Adopt Resolution per Staff Recommendation (De La Rosa)]**
- G. Approve an Amendment to City Manager Andrew Murray's and City Clerk Heather Iopu's Employment Agreement to Reflect a 3% Cost of Living Adjustment (COLA)

Effective July 5, 2021 **[Action: Adopt Resolution per Staff Recommendation (De La Rosa)]**

- H. Adopt Revised Plans and Specifications for the San Pablo Avenue Rehabilitation Project (CIP Project #RO1801) **[Action: Adopt Resolution per Staff Recommendation (Kaur)]**
- I. Receive the Fiscal Year (FY 2020-21 Fourth Quarter Financial Report **[Action: Receive Report and Adopt Resolution per Staff Recommendation (Guillory)]**
- J. Approve the Fiscal Year 2021-22 Salary Schedule and Approve the Updated Fiscal Year 2017-18, Through Fiscal Year 2020-21 Salary Schedules for All Represented and Unrepresented Employee Classifications in Conformance with California Code of Regulations, Title 2, Section 570.5 and Rescinding All Prior Salary Schedules During the Same Period **[Action: Adopt Resolution per Staff Recommendation (De La Rosa)]**

ACTION: Motion by Council members Toms/Murphy to Approve Consent Calendar Items 8B through 8J.

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

ACTION: Motion by Council members Toms/Murphy to Approve Consent Calendar Item 8A.

Vote:	Passed	4-0-1
	Ayes:	Martinez-Rubin, Tave, Murphy, Toms
	Noes:	None
	Abstain:	Salimi
	Absent:	None

9. 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.

None

10. OLD BUSINESS

- A. Discuss and Provide Direction on Installation of Lights on Street Trees in Old Town During the Winter Holiday Season **[Action: Discuss and Provide Direction (Bingaman)]**

Public Works Manager Joseph Bingaman provided a PowerPoint presentation and recommended the City Council discuss and provide direction to staff on the following:

- Whether to install lights in street trees in Old Town for the 2021 holiday season;
- In what area of Old Town should tree lights be installed;
- During what calendar period should the lights be lit;
- Where on the tree trunk and canopy should the lights be installed; and
- What color or type of light should be installed.

PUBLIC COMMENTS OPENED

City Clerk Iopu reported there were no public comments for this item.

PUBLIC COMMENTS CLOSED

Responding to the Council, Public Works Manager Bingaman explained that if the City Council decided to move forward and the lights were required to be installed and removed each year, labor costs may be similar to the estimated costs identified in the staff report. As the lights themselves, they were durable with a long life expectancy and could be replaced in segments reducing the cost of replacement. The City Council would have to decide whether the lights should be removed from the trees each year and reinstalled each season, or left in the trees with repairs done as needed. As to what other cities had done for similar lighting in terms of costs, staff had not looked into what other cities had done for light installations but had researched the costs other cities had spent to install electrical utilities, which was where the cost of \$100,000 to provide electrical underground service had come from as outlined in the staff report.

Public Works Manager Bingaman expressed the willingness to see what neighboring cities had done to provide holiday lighting. In terms of scale, the intent was to use commercial grade lights, expand the light strings both up and down the tree to provide a more robust lighting of the trees. With the commercial light strings, adapters and lights in segments would allow the Public Works Department to expand the lights on the trees, which was one of the components the City Council was asked to provide direction.

Given the budget figures provided, the proposal was to go up into the higher portion of the tree canopy, not all the way to the crown given some issues, but farther into the canopies to provide a more detailed appearance on the trees rather than lights only on the trunks. While vandalism had occurred in the past, it had not occurred on a regular basis. If there was damage to the commercial strand of lights, since they come in 8-foot sections the sections may be disconnected saving time to remove and reinstall the lights. As to whether additional conduit could be worked into the scope of the San Pablo Avenue Rehabilitation Project, Public Works Manager Bingaman explained that would have to be researched further.

Council member Tave supported leaving the lights on the trees year around but removing the trunk portion to reduce vandalism if at all possible.

Further responding to the Council, City Manager Murray advised that the City had expended all of its Rule 20A credits for underground work on upper Pinole Valley Road. While the program was being reconfigured, future funds were unknown. Given that the site being considered for tree lighting was far from the San Pablo Avenue Bridge, it was unlikely the project could be included in the scope of that work although staff could research that possibility.

Council member Toms preferred clear lights rather than red or green lights which may conflict with traffic signals; supported leaving the lights on throughout the year but removing the lower trunk section; encouraged the lights to be set up the week of Thanksgiving; clarified with staff the project was not currently in the budget with money to be set aside for the project; supported allocating funds in the budget for the project from the General Fund or Measure S; and commented it may be possible to consider the use of American Rescue Plan Act (ARPA) funds for the project since it was located in the commercial core, which could be discussed as part of the upcoming workshop on the allocation of ARPA funds.

Mayor Martinez-Rubin supported an equal amount of lighting on the east end of San Pablo Avenue as the west side, and clarified with staff how the lights could be distributed equally via a more robust battery/solar type of light with enhancement only possible with more lights in the trees. Staff noted the illumination of the directly wired power lights could not be matched absent the same, and there was acknowledgment that the lights on the west side of San Pablo Avenue were greater than on the east end of San Pablo Avenue.

Mayor Martinez-Rubin also clarified with staff how vandalism could be addressed by leaving the lights on year-round but removing those on the lower trunk area and relocating the outlet approximately 8-feet up in the trees, minimizing actual and unintentional damage to the lights.

As to each question staff had asked the City Council to opine there was additional discussion on each question with City Council consensus to:

- Install lights in street trees in Old Town for the 2021 holiday season;
- The areas identified on the map included in Attachment A (Phases 1 and 2) to the staff report were the areas of Old Town where tree lights should be installed;
- The lights should be illuminated year-round;
- The location on the tree trunk and canopy where the lights should be installed should be left to the discretion of Public Works Department staff; with the City Council desirous to have as many trees as possible illuminated equally.
- The color or type of light to be installed to be a uniform color, basic white and non-blinking.

Council member Murphy suggested a standardized process and program for lights in street trees in Old Town should be considered, particularly to educate the public.

11. NEW BUSINESS

- A. Overview of Senate Bill (SB) 1383, Regarding Short-Lived Climate Pollutants
[Action: Receive Presentation (Kaur)]

Senior Project Manager Kaur provided a PowerPoint presentation of SB 1383 regarding the production of short-lived climate pollutants, the most significant waste reduction mandate adopted in California in the last 30 years, with significant policy and legal implications for State and local governments. SB 1383, an unfunded mandate, would ultimately impact property owners, tenants, multifamily residences, commercial entities, and public entities within the City. Budgetary planning would be necessary to address implementation of programmatic activities including enforcement, inspections, outreach and collection associated with implementation of SB 1383, and the associated activities may be managed and financed through the Solid Waste Fund; however due to uncertainties in the implementation of costs, it may be necessary to consider an SB 1383 implementation fee. Failure by a local jurisdiction to enact and undertake all SB 1383 responsibilities would result in non-compliance and fines of up to \$10,000 per day.

While the State had suggested that 2022 and 2023 would be non-adversarial years where the State would only provide guidance and technical assistance, the regulations did not preclude fines during the established grace period, with mandatory jurisdiction enforcement by 2024.

Next steps for the implementation of SB 1383 regulations would include the adoption of an enforceable mechanism and staff recommended amendment of Chapter 8.08 of Pinole Municipal Code (PMC) for Solid Waste. Staff planned to return to the City Council in October and November 2021 for the first and second readings of proposed amendments related to the implementation of SB 1383, consideration of entering into an MOU with RecycleMore, amendment of the Franchise Agreement with Republic Services and/or an MOU, and update of the City's procurement policy. Staff would also be required to internally document and provide ongoing verification of SB 1383 compliance. Over the next several months staff would work to meet the provisions within the prescribed deadlines and continue with the review of the draft ordinance, policy documents, with meetings with Republic Services and RecycleMore to refine the compliance responsibilities, establishment of enforcement procedures, and steps to meet the procurement period of the recovery of organic waste.

Senior Project Manager Kaur also provided an overview of SB 619, which allowed local jurisdictions having a hard time and facing continuing violations of non-compliance with SB 1383 during the 2022 calendar year, to request that CalRecycle waive penalties for the jurisdiction if that jurisdiction implemented a remedy plan. SB 629 was now on the Governor's desk for consideration.

PUBLIC COMMENTS OPENED

Rafael Menis questioned why the City Council was just now seeing this information in late September when the City would have to update multiple ordinances, which would take staff and City Council time with multiple meetings required. He was curious why the item had been scheduled at this time rather than earlier when the RecycleMore report on SB 1383 Preparedness had been completed.

PUBLIC COMMENTS CLOSED

Responding to the Council, Senior Project Manager Kaur explained that behind the scenes of the completion of the RecycleMore SB 1383 Preparedness Report, there had been a draft ordinance that had also been prepared which had taken some time, and there were many elements that were involved with this issue which also took time. Staff expected to have what was required in

place to ensure the City of Pinole was in compliance by January 1, 2022. She also clarified that the targets in SB 1383 were statewide. The RecycleMore SB 1383 Preparedness Report had not focused on the Pinole-Hercules Wastewater Treatment Plant since the law was not jurisdiction specific and every jurisdiction had the same requirements. Tons for procurement had been based on a population target.

As to whether the Wastewater Treatment Plant could be used to facilitate the process of pretreated organic waste, that possibility had not been discussed at this time but staff could return with more information. There had been no discussions at this time on potential incentives but that could also be evaluated. At this time the focus was on who would do what in terms of enforcement with no list compiled yet as to who may not be compliant. There was uncertainty whether solar trash bins would satisfy any requirement of SB 1383, which would have to be verified in that the solar trash bins were a separate City project. If the City elected to enter into a MOU with RecycleMore, RecycleMore already conducted some of the City's compliance and reporting to CalRecycle, and if the City Council so directed that information could be shared with the Council.

City Manager Murray commented that the level of staff time that would be required for this effort was uncertain, determinations were still required as to what could be negotiated between the City of Pinole, RecycleMore and Republic Services in terms of who would do what, with each entity having different funding mechanisms to take on some of the requirements and the details were not yet available. He suggested the City of Pinole was in better shape than other jurisdictions that did not have an entity like RecycleMore and he agreed with the need for future discussions on how to expand existing programs.

Mayor Martinez-Rubin requested that RecycleMore make available on a regional basis information that could be customized for Pinole, whether developed for business/commercial and the general public, to comply with SB 1383. She had spoken with representatives from Republic Services on their support to provide the City of Pinole content to be used for broadcast on Pinole TV and had been informed they worked on a regional level. She was pleased there were a number of different teams already in support of this effort but asked that Council member Tave, the City's representative to RecycleMore, make available whatever regional materials were produced to be broadcast or distributed to the public on this topic that could be customized for Pinole.

Council member Tave commented that SB 1383 had been a moving target for some time. Pinole was a member of the RecycleMore JPA and the information started with the JPA and funneled down to the City Manager and City Engineer. He would ensure that information was provided to the City Manager and disseminated to everyone more formally.

Senior Project Manager Kaur understood that RecycleMore was in the process of recreating its website and developing materials and once the content had been developed, a section of Pinole's website could also provide a link to RecycleMore materials.

- B. Discussion of the City's Participation in United Against Hate Week (UAHW) in 2021 and Possible Direction to Staff **[Action: Discuss and Provide Direction (De La Rosa)]**

Maria Picazo, Recreation Manager, presented the staff report and recommended the City Council discuss ways in which the City may participate in the United Against Hate Week (UAHW) and provide direction to staff.

Assistant City Manager De La Rosa reported that National Night Out would be celebrated on October 5, 2021, with posters to be distributed to the public on UAHW if the City Council approved the allocation of funds for the printing of the posters.

Responding to the Council, Recreation Manager Picazo again detailed the background and purpose of UAHW, reiterated that National Night Out had been scheduled for October 5, and a station would be located at the event to allow posters on UAHW to be distributed.

PUBLIC COMMENTS OPENED

Rafael Menis, speaking on behalf of himself and Pinole Progressive Alliance, supported the City of Pinole's participation in UAHW in all the ways discussed in the staff report, with bigotry and hatred to be opposed as individuals and collectively as the City. He commented on the increase in hate crimes against Asian Americans and Pacific Islanders (AAPI) and wanted everyone to know that the City stood with everyone regardless of race, color and ethnicity with bigotry and hatred unacceptable, and the City should do everything in its power to make it abundantly clear the City was united against hate and hate crimes and attacks on individuals were not welcome in the City of Pinole.

Cameron Sasai, supported the City's participation in UAHW and the comments offered by Mr. Menis, and added that despite a City Council Proclamation from April 2021 in support of the AAPI communities, there had been a significant increase in hate crimes against the AAPI community and in anti-Black crimes in the country, many of which had taken place in the Bay Area. He supported a more robust discussion about hate crime prevention and the implementation of concrete solutions to the ongoing hate epidemic, particularly against the AAPI and black communities and include a holistic view of Police Department practices to documenting hate crimes, more communication to the public about resources on reporting hate crimes, community outreach events for Asian and Black communities and possibly a task force or commission that could act as a non-police body to collect hate crime reports, act as a liaison to the Police Department, and recommend policy changes that may enhance the handling of such crimes. For the benefit of the community and for the protection of the most vulnerable of the community, he urged the City Council to supplement its involvement in UAHW by taking concrete action against hate at the local level.

PUBLIC COMMENTS CLOSED

Mayor Martinez-Rubin encouraged the speakers to work with the City on UAHW, noted the City had taken concrete steps beyond a resolution, and the UAHW campaign made available for activities that could be considered. Everyone was encouraged to help the City Council enhance safety and inclusivity in Pinole.

Council member Murphy thanked the public for their comments. He liked the idea of requesting that the Pinole Library create a booklist of UAHW books and clarified with Recreation Manager Picazo that she had been in contact with the Pinole Library around the theme of UAHW.

Council member Murphy referenced the U.S. Surgeon General's Report on the rise of hate crime against the AAPI and Black communities, suggested the messaging should be more specific on the hate experienced in Pinole and Recreation Manager Picazo suggested that specific messaging should be discussed by the City Council.

Council member Murphy again supported a booklist at Pinole Library and a documentary/movie list about fighting hate, and urged the City Council to use UAHW to highlight one to three members of the youth community who were actively fighting AAPI, anti-Black and LGBTQ+ hate in support of a more diverse community.

Council member Toms supported the discussion and the suggestions along with specific experiences such as those raised by leaders of the Black Lives Matter March in March 2020, who could be encouraged to provide a short video telling their story, to be directly submitted to the UAHW campaign, and include students from Pinole Valley High School.

Recreation Manager Picazo advised that she could look into whether any groups would be interested in providing short videos. There were some documentaries that could be included on the resource list that were being promoted through the UAHW website. UAHW could also be asked to provide some criteria on the videos which could be distributed to the public.

City Manager Murray clarified that one of the recommendations from UAHW was to encourage local leaders to submit a short video in support of UAHW to the campaign organizers at "unitedagainsthateweek.org" which could be posted on the UAHW website. Rather than asking for standardized videos to be submitted to the City of Pinole, he recommended a website with links to the videos on the UAHW website.

Mayor Martinez-Rubin suggested there was a way to expand UAHW in Pinole with the City Council to champion and encourage any groups outside of the City Council to participate in UAHW, and there was a benefit to having youth involved to extend what the City Council may do. She supported the activities that staff had identified as achievable this year and adding more activities in future years.

Council member Murphy offered a motion, seconded by Council member Toms, to move forward with the seven recommendations as shown in the staff report, with a budget of \$2,000.

On the motion, Mayor Martinez-Rubin clarified with staff that all cities participating in UAHW had been provided a poster, the poster for Pinole would have the City of Pinole listed. Staff was in the process of having copies of the poster made to be distributed during National Night Out, and staff had requested that the poster be comprised of high quality paper to ensure durability.

Council member Toms requested a jpeg of the poster be provided to the City Council which could be included on their signature line, which City Manager Murray confirmed could be done.

City Manager Murray otherwise urged caution in that the City Council may need to consider in the near future whether this would be precedent setting, and what the Council's support should be for causes moving forward. He would return to the City Council to obtain direction and discuss possible standards on the level of supporting, communicating and amplifying messages regarding different causes the City Council may recognize.

ACTION: Motion by Council members Murphy/Toms to Move Forward with the Seven Recommendations as Shown in the Staff Report, with a Budget of \$2,000.

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

12. REPORTS & COMMUNICATIONS

A. Mayor Report
 1. Announcements

Mayor Martinez-Rubin reported she had attended a WestCAT Board meeting on September 9 and WestCAT was providing free fares during the month of September on all routes; and she had served on a Special Committee facilitating the Revenue and Taxation Policy Committee of the League of California Cities, with a discussion of two resolutions which she highlighted at this time, to be discussed at the upcoming League of California Cities Annual Conference. She continued to request that everyone abide by masking indoors/social distancing and to the extent possible, getting vaccinated.

B. Mayoral & Council Appointments

None

C. City Council Committee Reports & Communications

Mayor Pro Tem Salimi invited members of the community to reach out to him directly with specific issues they would like to see discussed in 2021-22, and reported that he was working with the City Manager and staff to organize agendas for the next year.

Council member Tave reported he had attended a West Contra Costa Integrated Waste Management Authority (RecycleMore) meeting with a presentation on SB 1383, and with a sample MOU to be distributed to each city. He looked forward to attending the upcoming League of California Cities Annual Conference.

Council member Murphy thanked those who had participated in his recent coffee and conversation virtual meeting and invited interested persons to visit his website murphyforpinole.com to sign up for the next coffee and conversation scheduled for Sunday, October 3 at 9:00 a.m. He thanked the volunteers, City staff and those at the Senior Center who had helped with the Food Bank at the Senior Center held the second Sunday of each month as well as all the volunteers who had participated in the recent Coastal Clean-Up. He too encouraged everyone to get vaccinated and reported the next Marin Clean Energy (MCE) Board meeting had been scheduled for October 7, 2021, with public comment encouraged.

Council member Toms reported she had attended a WestCAT meeting and through the month of September free rides would be available on WestCAT and BART, Clipper® Card use would be 50 percent off, and free fares included the ferry system. She too appreciated the volunteer efforts for the Coastal Clean-Up and reminded everyone that National Night out would be held on

October 5, and that the regular City Council meeting of that date had been canceled to allow the City Council to participate in the event. The next Dumpster Day had been scheduled for October 9 and the City Council would hold a workshop on that same day to discuss the use of ARPA funds.

Mayor Martinez-Rubin thanked the local businesses that had donated food items during the Coastal Clean-Up and also recognized the Community Services Commission, City staff and the many community service organizations that had also participated.

D. Council Requests for Future Agenda Items

Mayor Pro Tem Salimi requested a future agenda item to discuss the City Council salary and consider a COLA adjustment with no policy set for City Council salaries.

Council member Toms commented the last time there had been a discussion of City Council salaries there had been a recommendation that it be considered during the same cycle as the labor agreements, which the City Council had just approved via items on the Consent Calendar.

Mayor Martinez-Rubin requested a presentation on the City Council salaries, origins of the salaries, and what it would entail to catch up with the reasonable expenses Council members expended in the execution of their duties.

Council member Tave requested a future agenda item discussion of City Commission/Committee stipends. Consensus given.

Mayor Martinez-Rubin asked for more information on what other cities had done.

Council member Murphy requested a future agenda item, both discussion and action, around what community events Pinole TV attended and the process in which a community organization may request the attendance of Pinole TV.

Mayor Martinez-Rubin sought a full explanation about how Pinole TV operated and its revenue generation as part of any presentation; Council member Toms agreed that including costs and sponsorship information should also be provided.

Council member Murphy sought a better understanding of the standardized process and policy around Pinole TV and creating a calendar for 2022 to better inform the public of what was expected.

Mayor Martinez-Rubin suggested a presentation from staff on what Pinole TV did now, how it could be enhanced, and the costs involved.

Consensus given.

Council member Murphy requested a future agenda item on the holiday tree lighting celebration, a City sponsored event, including budget, planning, logistics and how the City Council may support that program.

City Manager Murray did not recall the topic being discussed, or acted upon as a future agenda item, and sought direction from the City Council on the tree lighting events and related activities at the Senior Center.

Council member Murphy reiterated that at the prior City Council meeting, he had made a request for a future agenda item for the City Council to have an update and report on the holiday tree lighting celebration along with whether a budget needed to be allocated. He wanted the business owners who participated and supported the event to feel supported and would like it to be a future agenda item.

Mayor Martinez-Rubin understood the request was really a report from the Recreation Department and how it conducted its activities, and Council member Murphy suggested a report would be a great start and reiterated his intent to learn about the processing for such events, whether any fees would be waived for permitting the event, and that such processes be identified to ensure there was no miscommunication around the execution of that event.

Mayor Martinez-Rubin understood that the request may dovetail with working with non-profit organizations and businesses that worked with the City, either having collaborated in the past or potentially collaborating in the future.

City Manager Murray saw the request for a future agenda item as a specific request related to the holiday tree lighting and not dissimilar to the discussion on the tree lighting in Old Town. A future agenda request related to working with private organizations and sponsoring events was much broader, had not been brought back to the City Council for discussion since the organization was undergoing a transition and build out of that function of the City, and the newly established Community Services Department had been tasked with coordinating with private entities that wanted to sponsor events in the City. The tree lighting ceremony was a City event, some sponsorships helped to support the tree lighting, and he saw the request as a discussion of the City's plans for the tree lighting for this year and confirmation to ensure that the City Council and staff were on the same page, and allow the City Council to provide additional input. If the City Council wanted to have that discussion he could have staff assemble that work.

Consensus given on Council member Murphy's request for a future agenda item related to the tree lighting ceremony, as discussed.

E. City Manager Report / Department Staff

City Manager Murray reported on the number of in-person community events that had been enjoyed including the Coastal Clean-Up; the upcoming Car Show scheduled for September 26; National Night Out on October 5; and the Special City Council Workshop on October 9 to discuss the ARPA fund parameters, with the meeting to be held virtually and with a second workshop scheduled for November 6. An outside facilitator would be present to provide expertise and guidance. A mailer would be sent to all residents of Pinole with a digital version to be forwarded to the City Council.

City Manager Murray also provided information on federal, state and county level programs related to renter protections and energy cost relief with information on the Contra Costa County website related to COVID-19 assistance and a statewide website, housingskey.com, which had

informed on the state programs. The City website also had an affordable housing page with links to the County's affordable housing sites.

In response to a request for a modeling tool to be used for the discussion of the ARPA funds, Finance Director Guillory reported on the plans to use an interactive tool which would be launched after the first workshop, with results to be reported at the second workshop; and City Manager Murray reported a potential business survey may also be deployed to businesses.

F. City Attorney Report

City Attorney Casher reported that Governor Newsom had recently passed AB 361, which extended the time that cities may continue to operate remotely for virtual public meetings, and required the City Council to revisit that decision every 30 days, with an item to be presented to the City Council for discussion at a future meeting. He added he would be attending the League of California Cities Annual Conference and would be making a presentation on legal issues related to advancing diversity, equity, and inclusion.

13. ADJOURNMENT to a Special City Council Meeting of October 9, 2021 in Remembrance of Amber Swartz.

At 9:59 p.m. Mayor Martinez-Rubin adjourned the meeting to the Special City Council Meeting of October 9, 2021 in Remembrance of Amber Swartz.

Submitted by:



Heather Iopu, CMC
City Clerk

Approved by City Council: October 19, 2021

