

**CITY COUNCIL MEETING  
MINUTES  
October 18, 2022**

**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 Salimi called the Regular Meeting of the City Council to order at 5:11 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**

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

**B. STAFF PRESENT**

Andrew Murray, City Manager  
Eric Casher, City Attorney  
Alex Mog, Assistant City Attorney  
Lilly Whalen, Community Development Director  
Sanjay Mishra, Public Works Director  
David Hanham, Planning Manager  
Roxane Stone, Deputy City Clerk

Deputy City Clerk Roxane Stone announced the agenda had been posted on Thursday, October 13, 2022 at 4:00 p.m. with all legally required written notices. Written comments were received in advance of the meeting, posted to the City website and distributed to the City Council and staff.

Following an inquiry, Mayor Salimi and Council member Tave reported due to the proximity of their residences they would have a conflict of interest with Item 10A and would be required to recuse themselves from the discussion.

#### **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. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION  
Gov. Code §54956.9 (d)(1)  
Monsanto

#### **PUBLIC COMMENTS OPENED**

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

#### **PUBLIC COMMENTS CLOSED**

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

At 6:12 p.m., Mayor Salimi reconvened the meeting into open session and reported all Councilmembers had been present in the Closed Session and had voted unanimously to confirm the decision to opt out of the Class Action settlement related to Polychlorinated Biphenyls (PCBs) in the City of Long Beach vs. Monsanto and instead to issue direct litigation.

Mayor Salimi moved onto Item 7A, Mayor's Report at this time.

#### **7. REPORTS & COMMUNICATIONS**

- A. Mayor Report
  1. Announcements

Mayor Salimi announced the unveiling of the Mayor's Portrait to be posted in City Hall and stated the portrait included a smaller portrait of Amber Swartz. He introduced Kim Swartz, Amber's mother present in the audience, to unveil the portrait and presented her with a bouquet of flowers on behalf of the City of Pinole.

Kim Swartz stated it had been almost 35 years since Amber had gone missing and while some may have given up hope, victims' families did not give up or mourn and kept fighting. With the City's help, Amber would never be forgotten since she was part of the Mayor's portrait. She commented this had been one of the hardest things she had ever had to go through in her life including the death of her husband, and she hoped somehow and some way someone would come forward and tell them what they needed to know to bring Amber home. She thanked the Mayor for the recognition and the City of Pinole for the flowers.

Mayor Salimi declared a recess at 6:24 p.m. The City Council meeting reconvened at 6:30 p.m. with all Council members present.

Mayor Salimi moved on to Item 8, Recognitions/Presentations and Community Announcements, with the items taken out of order from how they had been shown on the meeting agenda.

## **8. RECOGNITIONS / PRESENTATIONS / COMMUNITY ANNOUNCEMENTS**

### **A. Proclamations**

#### **1. Honoring Captain Behnam**

A brief video was presented to depict Captain Christopher Behnam and his flight crew's heroism preventing an aviation disaster over the Pacific Ocean during United Airlines Flight 1175, a February 2018 passenger flight from San Francisco to Honolulu. Captain Behnam had been the recipient of the Pilots' Association (PA) Superior Airmanship Award. The City Council read into the record the proclamation honoring Captain Behnam.

Captain Christopher Behnam thanked the City Council for the proclamation, in particular the Mayor for the recognition of his team and of the Iranian people.

#### **PUBLIC COMMENTS OPENED**

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

#### **PUBLIC COMMENTS CLOSED**

#### **2. Human Rights in Iran**

A brief video was presented to depict protests driven primarily by women and girls in Iran due to the death of a young woman who had been detained for breaking the Hijab law. The City Council read into the record the proclamation recognizing the lack of human rights in Iran.

Mayor Salimi reported the proclamation would be provided to all cities in Contra Costa County.

Deputy City Clerk Stone read into the record correspondence received from Congressman Mike Thompson and Contra Costa County Supervisor John Gioia, District 1, in support of the proclamation.

#### **PUBLIC COMMENTS OPENED**

Rita Xavier, Mayor, City of San Pablo, reported on her experience having worked with Senator Jacob Javits in the 1970s; the situation surrounding the Iran hostage crisis that had occurred in 1979; and referenced the 2000 book *The Last Great Revolution: Turmoil and Transformation in Iran* written by author Robin Wright. She also commented on the friends she had in Iran, many of whom were women. She was appalled by what was happening in the country and wholeheartedly supported the resolution recognizing the lack of human rights in Iran.

Elaf Esuf, Senior Field Representative, representing Assemblymember Buffy Weeks, District 15, reported Assemblymember Weeks had been increasingly concerned with the Iranian government's violence on peaceful protestors led by women demanding equal rights and basic human dignity. Assemblymember Weeks stood with the women of Iran over the rights of their own bodies and the rights of Iranian citizens to protest injustice without having further threats to their safety and inalienable rights, and she thanked the City of Pinole for the proclamation.

Niosha Nafei-Jamali thanked the Mayor and the City Council for the proclamation and stated on behalf of the non-profit organization she represented, the recognition and the inspiring and empowering proclamation would bring courage to the men, women and youth fighting every day for basic human rights and freedom.

Shiva Kordestani, reported she was from the same Kurdish region as the young woman who had been detained for breaking the Hijab law. She thanked the Mayor and City Council and accepted the proclamation on behalf of all Iranian women who had the courage to fight for basic human rights. She also provided an overview of the Iranian American Women's organization located in Southern California that comprised four chapters and 12,000 members.

Jaleh Niazi, a pediatrician in the City of Berkeley read into the record an extensive speech that detailed the history of human rights violations by the Iranian government and her opinions about the current regime. She thanked the City Council for the proclamation and opportunity to show solidarity with the revolution in Iran for basic human rights led by women and youth, and where protesters had been faced with a militarized and brutal police force. She also presented the background of a woman who had been fighting for these basic human rights for years, was facing 38 years in prison and 148 lashes while on medical furlough, all for being the protestors' lawyer and for speaking on behalf of youth. She read into the record an excerpt from an interview that individual had provided to Time magazine on September 29, 2022 at great peril to herself, and also referenced President Biden's first State of the Union speech regarding upholding human rights around the world, and former President Obama's recent comments he should have done more to support the 2009 Green Movement.

The United States and any other democratic country was encouraged not to support the Iranian Republic in any way and legitimize the brutal regime by negotiating or considering a nuclear deal, but seize all assets of Iranian government officials and deport them out of the country since they had been found guilty of crimes against humanity in international courts, and the United States should ask its allies to do the same. Women leaders and other female influencers should also repeatedly show their solidarity with the women and people of Iran, and while military intervention was not an option, support of Internet and communication systems was a must.

The Mayor was thanked for the proclamation. It was noted that Pinole was the fourth City to consider such a resolution and others were considering it, to put the Islamic Republic on notice that its behavior was no longer acceptable.

Esfandiar Imani, a resident of Berkeley, thanked the Mayor and the City of Pinole for the proclamation and the support of the Iranian people who needed and deserved support from all corners of the world. He too spoke to the uprising and protests led by Iranian women against tyranny and oppression, the fight for freedom and democracy, and showing solidarity with the Iranian people to let the Islamic Republic government know the world was watching and would hold them accountable. He urged everyone to contact their state and federal government representatives to voice support for the Iranian people and stop any nuclear deal or sanction negotiations. Like many Iranians who had migrated abroad since the 1970s, the Iranian people were well known for their generosity and the people in Iran and around the world were fed up with exploitation, government corruption and divisive governance, disastrous domestic and foreign policies, lack of respect and values for their own citizens and wanted a free secular government by and for the Iranian people.

Rafael Menis, Pinole, was pleased the City Council was taking a strong stand in support of the rights of women and people in Iran in the face of a regime intent on crushing liberties, freedom and lives. He suggested this proclamation was not an overreach on the part of the City Council since it was important for the City of Pinole to show its shared values with the protestors in Iran fighting for a secular republic and to have equal rights regardless of gender, ethnicity or religion. These were American and City of Pinole values, which was why the proclamation was so important. He also commented that Iran was now sending drones into Ukraine and had in 2014 tried to oppress the Ukrainian people and stifle their spirit.

Christopher Behnam stated he was an Iranian-American citizen and reported his father had been a prisoner under the current Iranian regime and had suffered for it, but had later migrated to the United States where he had lived out the rest of his life. He suggested Iranians should come together and unite since there was power in unity, and he provided the details of a 501 (C)(3) non-political organization he helped to create, [helpfreeiran.net](http://helpfreeiran.net). He emphasized the need to be the voice of Iran and requested one million signatures that could be sent to the American government stating what people in Iran wanted. He added that people needed to be educated on the differences between the Islamic Republic of Iran and the Iranian people. Funds collected via the organization would be used to place advertisements in the New York Post and New York Times to move this effort forward. He urged everyone not to buy-into the misinformation from the Iranian government but listen to the Iranian people, hear their cries and support them.

Soheila Bana, thanked the City of Pinole for standing with the Iranian people and standing up for women's rights. She described her personal background, education in this country and her husband who had been a political prisoner and had to be smuggled out of Iran, but who had enjoyed life in the United States for many years. The Iranian-American community thanked the City of Pinole for its support and she introduced a well-known Iranian writer present in the audience. She emphasized that many Iranian-Americans had been unable to go back home, that human rights were universal and the Iranian people had been deprived of human rights and self-determination, which was important for a sustainable democracy.

#### PUBLIC COMMENTS CLOSED

Mayor Salimi declared a recess at 7:34 p.m. The City Council meeting reconvened at 7:56 p.m. with all Council members present.

#### 1. Breast Cancer Awareness Month

The City Council read into the record a proclamation recognizing Breast Cancer Awareness Month. The proclamation was accepted by Council member Toms who on behalf of all women who had struggled with or survived breast cancer, emphasized the importance of screening for breast cancer.

#### PUBLIC COMMENTS OPENED

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

#### PUBLIC COMMENTS CLOSED

#### 2. Indigenous People's Day

The City Council read into the record a proclamation recognizing Indigenous People's Day with the proclamation presented to Mayor Pro Tem Murphy who thanked the City Council for the proclamation.

**PUBLIC COMMENTS OPENED**

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

**PUBLIC COMMENTS CLOSED**

**3. National Hispanic/Latinx Heritage Month**

The City Council read into the record a proclamation recognizing National Hispanic/Latinx Heritage Month with the proclamation presented to Council member Martinez-Rubin.

**PUBLIC COMMENTS OPENED**

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

**PUBLIC COMMENTS CLOSED**

**B. Presentations: None**

The City Council returned to the remaining items under Item 7. Reports & Communications.

**B. Mayoral & Council Appointments: None**

**C. City Council Committee Reports & Communications**

Council member Toms reported she had attended National Night Out, which had been very successful and she thanked all City staff for their work on the event. She had also attended a forum on electrifying one's home, which information was important when considering modifications to the Building Code in the future. She had also attended a WestCAT Board meeting reminding residents that WestCAT was offering free rides during the month of October.

Council member Martinez-Rubin reported she had also attended the WestCAT Board meeting and briefed the Council on the discussions and actions taken at that meeting.

Mayor Pro Tem Murphy reported he had attended the Grand Opening of HomeGoods; joined the Bay Front Chamber of Commerce in welcoming a new small business, Broadway Rhythm Dance Studio; and attended a California Natural Resources Agency, California Extreme Heat Symposium and briefed the Council on the discussions. He had also joined the St. Joseph Church Oktoberfest and detailed the programs available at the Senior Center thanking staff for hosting a number of incredible programs including the monthly Food Bank on the second Monday of each month. In addition, he had attended a workshop on smart phone usage at the Senior Center with another workshop scheduled for October 28, 2022. In addition, the Quinan Street Project would be holding its annual Halloween Festival on Saturday, October 29, 2022, and he detailed the Federal Student Aid Relief program, with more information at [studentaid.gov](https://studentaid.gov).

**D. Council Requests for Future Agenda Items**

Mayor Pro Tem Murphy requested a future agenda item for a presentation on what other cities were doing to use their shared wealth to make more sustainable purchases. Consensus given.

Council member Tave requested a future agenda item to discuss refreshing and updating existing murals or other artwork in the City with staff to provide a report on what that process looked like. Consensus given.

Council member Martinez-Rubin requested a future agenda item for a proclamation honoring the 75<sup>th</sup> Anniversary of the St. Joseph community. Consensus given.

Council member Martinez-Rubin also requested a future agenda item to discuss possible enhancement to the Pinole Municipal Code (PMC) with respect to the placement of campaign signs and understanding the rules and regulations, the misplacement of campaign signs, and to more explicitly identify what public property meant in the PMC.

City Attorney Eric Casher explained there was a section in the PMC that regulated signage and the City relied on that section for code enforcement related to campaign signs. Staff could make a presentation to the City Council with possible updates or an expansion of that section and provide an overview of some of the laws that impacted campaign signage in the City along with what other cities had done, and identify the cost to the City to remove misplaced campaign signs.

Council member Toms asked whether that direction could be provided to the Municipal Code Update Subcommittee first, and City Attorney Casher stated subject to City Council direction the Subcommittee could provide recommendations to the City Council in the form of a discussion.

Consensus given that the discussion be submitted to the Municipal Code Update Subcommittee which would make a recommendation to the City Council.

Mayor Salimi requested a future agenda item to consider a Sister City with one of the first liberated cities in Ukraine and Sister City opportunities with the French government, with staff to follow-up. Consensus given.

Mayor Pro Tem Murphy otherwise inquired of the status of how the City accepted non-profit donations and City Manager Andrew Murray reported that City staff was working on policies related to donations of City funds to non-profits as well as the acceptance of donations and sponsorships from private businesses. He confirmed that in-kind donations would be included in such a policy and would be part of future discussions with the City Council.

**E. City Manager Report / Department Staff: None**

**F. City Attorney Report**

City Attorney Casher reported that Governor Newsom had announced the COVID-19 related State of Emergency proclamation declared in March 2020 would end effective February 28, 2023, which would impact the City's ability to rely on Assembly Bill (AB) 361 and the way public meetings were conducted on other City boards and committees/commissions. Staff would review the potential impacts that relied on the State of Emergency proclamation.

## PUBLIC COMMENTS OPENED

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

## PUBLIC COMMENTS CLOSED

The City Council returned to Item 6, Citizens to be Heard.

### **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.*

Sal Spataro, Pinole, congratulated and thanked the City Council, City Manager, Fire Chief and Supervisor John Gioia for the merger of the Pinole Fire Department and the Contra Costa County Fire Protection District (CCCFPD), which had been a long time coming. Given the completion of that effort, he suggested the focus should now be on the Police Department and he wanted the City Council to find ways to make that Department better. He encouraged young people eligible to vote to get out and vote, and emphasized the importance of registering, voting and becoming involved to ensure a good outcome.

Rafael Menis, Pinole, and a candidate for the Pinole City Council, provided an update on COVID-19 related case statistics for the City of Pinole. He commented on how Pinole's future could be protected by making it more transparent, engaged, and resilient with many people unaware of the City's long-term fiscal challenges and large unfunded health care liability separate from pensions, with no plan for payment other than on a pay-as-you-go basis. City roads were in need of maintenance and the City's Storm Sewer Master Plan had been moved from this year's Capital Improvement Program (CIP), which was a concern because until the system had been evaluated it was unknown whether the sewers leaked into the main sewer line. In his opinion, once residents were aware of the problems facing the City and became more engaged, residents would support the resources needed to fund the challenges the City faced. He identified his website address and appreciated everyone's vote.

Tony Vossbrink, Pinole, asked for an update on the regulations related to censorship of public comments suggesting there were violations of Robert's Rules of Order and the Brown Act. As an example, the Mayor had extended the time to speak for some speakers but had cut off others and he understood the Mayor had discussions with the City Manager and City Attorney about leaving some of his duties to the Mayor Pro Tem since the Mayor was not running for re-election. As to the Indigenous People's Day proclamation, he suggested the Ohlone people should have been given greater recognition than a simple proclamation. As an example, the Adobe Road Trailhead caretaker's home should be dedicated to the Ohlone people, the property should be cleaned up, an existing breach repaired and that should be a future agenda item. In addition, the lighting situation up and down Pinole Valley Road remained a concern and needed to be resolved. He suggested too much time and money was being spent on other projects such as the Faria House.



Mayor Salimi reminded speakers there were two opportunities for public comment; one at the beginning and one at the end of each meeting agenda. Residents were also encouraged to submit any concerns in writing to City staff or members of the City Council. He added that responses to questions were not always possible during the meeting but any responses to questions outside of the meeting could be attached to the meeting minutes.

Debbie Long, Pinole, understood in 2016 or 2017, the then-City Council and Assistant City Manager had established a policy or the beginning of a policy to consider ways to redo existing murals in Pinole but had to contact private property owners to gain permission to access those properties, and there should be something on file in the City's records. She thanked Council member Toms for positing that Ruth Cartwright, a long-time resident of Pinole, had recently passed away and was the mother of a Pinole Police Department employee who worked at the front desk. She asked for a Moment of Silence in her memory.

Roy Swearingen, Pinole, asked the City Council to consider a part-time on-staff grant writer given the funding opportunities available, particularly related to wildfires with current staff limited and unable to do this work. He also recognized the recent passing of former West County Superior Court Judge Bessie Poulos Dreibelbis, who had been an icon in West County as a judge and community leader. He added that he had become aware of a flyer that had been distributed in the community associating his name with something he reportedly had said and which had been included on the flyers of two City Council candidates. He emphasized that information was incorrect, did not state the facts, and should be ignored.

Mayor Salimi asked staff to send flowers on behalf of the City of Pinole to the family of former West County Superior Court Judge Bessie Poulos Dreibelbis. He again rearranged the meeting agenda and moved onto Item 10B at this time.

#### **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.*

- B. Comprehensive Design Review, Tree Removal Permit, Density Bonus Request and Notice of Exemption Determination Pursuant to CEQA for Pinole Vista Apartment Complex (223 Units) at 1500 Fitzgerald Avenue (APN 426-391-010) [Action: Conduct Public Hearing and Adopt Resolution per Staff Recommendation (Hanham)]**

Reporting on ex-parte communications, Council member Martinez-Rubin reported she had met with representatives of Metrovation via Zoom to hear about the design of the proposed vacant Kmart building.

Mayor Salimi reported he had two meetings with the applicants to review the designs.

Council member Toms reported she had two meetings and two telephone calls with the applicant.

Mayor Pro Tem Murphy reported he had met with the applicant and had a telephone call.

Council member Tave reported he too had met with the applicant in the same capacity.

Community Development Director Lilly Whalen provided an extensive PowerPoint presentation of the Pinole Vista Apartment Complex at 1500 Fitzgerald Avenue which included an overview of the planning entitlement process; summary of the project review history; and a general overview of the project request to demolish a 91,000 square-foot retail building and construct a five-story, 263,862 square-foot, 223-unit apartment building on a 5.93 acre/253,310.8 square-foot development site to consist of 13 Very Low Income units, 14 Low Income Units, 80 percent County Median Income units and 196 units to be market rate.

The project also included an application for State Density Bonus Law (SDBL) and was exempt from the California Environmental Quality Act (CEQA) per Section 15332, Class 32-Infill Development Projects, Section 15168 Consistency with Program EIR, and Section 15183, General Plan/Community Plan Exemption) and under Government Code Section 65457, Consistency with Specific Plan.

The land use designation included a General Plan Designation of Service Sub-Area, SSA; Three Corridors Specific Plan Land Designation, Service Sub-Area Appian Way Corridor, and a Zoning Designation of Commercial Mixed Use, CMU. The entitlements requested included Comprehensive Design Review, Density Bonus Review, Tree Removal Permit, CEQA Determination and Affordable Housing Regulatory and Density Bonus Agreement.

A table of the proposed uses and density at the site, layout and unit mix, colors and materials, and State housing laws including the SDBL and the City of Pinole's Inclusionary Housing Regulations was provided. In addition, a table of what was considered to be affordable housing in Contra Costa County based on a household of four for the Extremely Low, Very Low, Low, Moderate and Above Moderate income categories had been provided along with a summary of the major standards and codes used to analyze compliance review. The Planning Commission had recommended modifications to a number of Conditions of Approval. The major comments from the Planning Commission related to pedestrian safety on Fitzgerald Drive, a children's play area, the pathway behind the site to connect to the middle school, fencing to separate residential/commercial, a roadway survey and a fiscal analysis. The staff responses to each of the Planning Commission's areas of concern had been shown in Table 1 on Pages 12 through 23 of the staff report dated October 18, 2022. The required findings for design review and an overview of the environmental review were highlighted and all details had been included in the staff report.

Community Development Director Whalen outlined the staff and Planning Commission recommendations for the City Council to conduct the public hearing and approve the resolution contained in Attachment A to the staff report, approving a Comprehensive Design Review (DR21-12), Tree Removal Permit, and Density Bonus Request to construct a 223-unit apartment building located at 1500 Fitzgerald Drive and finding the project to be exempt from CEQA.

Chris Cole, Managing Partner, Metrovation, 25 Bridge Avenue, Suite 150, Red Bank, New Jersey, representing Retail Opportunity Investments Corporation (ROIC), introduced the Project Team present in the Council Chambers and via Zoom. He was pleased to be able to present the project to the City Council after the Planning Commission had unanimously approved the project in July 2022.

Mr. Cole provided a PowerPoint presentation that included an overview of the 223-unit, five-story and 55-foot high apartment building located at 1500 Fitzgerald Drive, with the project to interact with the shopping center. He also detailed the numerous revisions that had been made to the project after the initial submittal of the application by adding more windows, building articulation, changes in building colors, increased pedestrian connectivity from both the residential building to the shopping center and also to the play areas, and within the shopping center along Fitzgerald Drive as well as across Fitzgerald Drive, and increase in the amount of open space and amenities in the play areas. The six-acre site consisted of two different courtyards open to the shopping center, creation of a stronger pedestrian connection from the residential building to the commercial as well as from the residential to the play area, to be covered trellis areas creating a strong visual connection between the projects.

Rick Schoebel, Chief Operating Officer (COO) of ROIC, provided the background of ROIC, a real estate investment trust specializing in grocery-anchored centers and the revitalization and repositioning of shopping centers up and down the West Coast, with the projects only successful when integrated into the community. He described the history of ROIC's continued investment in Pinole having purchased the Pinole Vista Center in 2011, and the façade improvements to date in the amount of \$3 million, Americans with Disabilities Act (ADA) work to date in the amount of \$520,000, the Lucky Supermarket fee and ground lease interest purchased by ROIC in 2015, Kmart purchased by ROIC in 2018 and Goodyear purchased by ROIC in 2021. The consolidation of the property under one ownership would offer a cohesive appearance and shopping experience for the community.

Mr. Schoebel also provided an overview of a multiyear effort to find a replacement retail tenant or multiple tenants for the former Kmart building, which had proven to be unsuccessful leading to the subject proposal for the site.

Amber Write, ROIC, Leasing Director, further detailed the efforts to find a successful retail tenant or multiple tenants for the former Kmart building and explained that those efforts had proven to be unsuccessful due to economics, timing, and the fact the infrastructure of the building was in disrepair, and while there had been temporary tenants in the building at one time they had to leave early due to the condition of the property. She identified the potential tenants who had been in discussions to lease the building and the number of vacant big box retailers in the area. She commented on the number of existing tenants who supported the proposal and as a Leasing Director, she suggested the project would be a vital component to the success of the Pinole Vista Shopping Center and she appreciated the support of the City Council.

Mr. Cole continued the PowerPoint presentation and highlighted the analyses of alternate uses for the site; project traits including strengthened neighborhood connections, transit-oriented development (TOD), the affordable housing component, and the amenity rich and sustainable features. Additional safety measures included a fence around the perimeter of the building, security cameras, safety lighting on during the evening, key FOBs required to enter the building and property management on-site daily.

Isaiah Stackhouse, Principal, Tractenberg Architects, provided the architectural details for the project consisting of a five-story building, 54.6 feet in height, 20 feet below the 75-foot height limit, 275 parking spaces, 160 bicycle parking spaces, over 5,500 square feet of residential amenity spaces, and over 82,00 square feet of outdoor open space. The SDBL project met all requirements for height, setbacks and open space with no waivers.

The design was based around two courtyards which opened to engage with the retail setting. As one entered the main project entryway, they would be greeted by a café/lounge, leasing office, a fitness center and three lobbies across the front and with each courtyard to have a clubroom which opened onto it. The perimeter would be wrapped with well-landscaped sidewalks, engaged with the private patios for all ground level units, with fencing around the perimeter and a new strong trellis covered connection walkway to open space and over to the retail. The Level Five Plan would include a community room which opened to a roof deck overlooking and enhancing the project entry. Thirty nine percent of the units would be two bedrooms, 44 percent one bedroom and 16 percent studios with all units generously sized.

Mr. Stackhouse walked through the west and north elevations with highly-articulated massing, bay windows, Juliet balconies, a highly articulated ground level and cornice line and elevations from Fitzgerald Drive along with views of the trellis walkway connection between the new project and existing retail, views of the typical sidewalk conditions and private patios with the highly-articulated facades and other details, and views from the shopping center back to the project.

Dave Brown, Adobe, provided an overview of the overall grading and bio-retention for the project with various utilities through the site and with the site well set up to support the structure for sewer, water, storm drain, electric and gas.

Don MacNair, MacNair Landscape Architecture, provided an overview of the landscaping design intended to be long lasting and enhance the project. Pedestrian scale landscaping would be utilized both around and internal to the buildings, in the courtyards and roof terrace. Parking areas would be shaded to the extent possible and would include drought tolerant, large deciduous shade trees such as Chinese Pistache and elm and a number of California native tree species including coastal live oak, island oak, Catalina ironwood, western red bud, Pacific wax myrtle for the areas along Fitzgerald Drive and the open space at the rear, with small ornamental accent trees proposed in the interior courtyards to include Japanese maple, crape myrtle, dogwood and another unidentified tree species.

Along the sidewalk of the perimeter of the building columnar maples, a tall narrow tree had been proposed to provide vertical relief, interest and seasonal color to the building. Bio-retention features had been incorporated into the landscaped areas located along the west side of the property and in the parking lot, with all planting rated low to moderate water use, and along with the irrigation system would meet or exceed the current Water Efficient Landscape Ordinance for the City of Pinole. The project included several areas of open space. The front area along Fitzgerald Drive would include the creation of a park-like space to include benches, a path, and incorporate a metal-like retention area and serve as a barrier between the project and Fitzgerald Drive. Courtyard A was intended as a passive space with a barbeque area, community fire pit and water feature.

In response to the Planning Commission, Courtyard B would be oriented towards family activities and include a barbeque area, two play structures and small lawn area. In each of the courtyards individual living units would face the interior space with a landscaped buffer for privacy.

At the rear of the property, the existing hillside area would be utilized as park space, the fenced area would include children's play structures, a picnic area, discovery path meandering across the hillside and for safety purposes the area would be enclosed with access crossing the parking drive aisle on a paver path adjacent to the proposed gate with an overhead trellis.

Along the west side of the property, an existing chain link fence would remain to provide separation between the two properties. Along the east side, the main parking area and north edge of the hillside park area, a 48-inch tall green screen fence had been proposed, would be transparent and provide solid support for vine growth and be an effective barrier. The west and south parking areas would include security gates at each end to be automated steel picket gates, with matching fence panels. The east, south and west boundaries of the hillside park area would include a 6-foot high black vinyl coated chain link fence.

Three types of lights had been proposed for the site including large area luminaries for the main parking lot, small-square mounted area luminaires for the sidewalk and bollards for the landscaped paths and courtyard lighting. All lighting would be Dark Sky compliant and meet or exceed City standards.

Brian Canepa, Principal, W-Trans, provided an overview of the traffic and parking analysis, and reported that a Traffic Demand Management Program (TDMP) had been prepared for the project. He highlighted the existing retail parking analysis and stated the project would significantly exceed the expected peak demand. He also highlighted the proposed project traffic analysis with daily trips less than a retail use, and identified the site as transit oriented with a considerable amount of WestCAT and AC Transit services in the area, and with a great deal of pedestrian activity anticipated from the commercial to retail uses about it.

Mr. Canepa also detailed the evaluation of Level of Service (LOS) at six intersections near the project site from an existing LOS to a future LOS. The LOS would remain the same at all intersections with or without the project. Referring to Driveway 2, the primary driveway to the project site, he reported that in working with the applicant and the City a better connection for pedestrians had been developed with pedestrian access along Fitzgerald Drive to access uses across the street and transit services, and with the introduction of a continental crosswalk, yield lines, flashing pedestrian beacons and a pedestrian refuge island.

Jon Haveman, Marin Economic Consulting (MEC), provided an overview of the economic impact analysis for the development which had looked at changes in business revenue, jobs, and changes in revenue to the City of Pinole. The economic analysis contained two phases; the construction phase which was likely to yield \$112 million in business revenue over two years in Pinole and surrounding areas and approximately \$6.5 to \$7 million in permit and City fees, and the creation of 503 jobs over the course of two years with as much as \$584,000 accruing to Pinole.

In terms of the operations and resiliency phase, the project would provide an additional \$6.5 million in business revenues, as much as \$42,000 in new taxes accruing to Pinole, an additional 33 jobs, an additional \$85,000 in annual property tax revenue to Pinole and an increase from \$14,000 from Kmart to \$99,000 from the apartment development with the net tax gain to Pinole as much as \$80,000 in tax revenues on an ongoing basis.

Mr. Haveman clarified the differences between the fiscal analysis prepared by MEC and the fiscal analysis prepared by the City. The City's fiscal analysis had included additional expenses for the City not replicated in the report from MEC in that the City's report had been biased towards retail. Also the retail numbers in the forecast in the City's report were hoped for, and it was difficult to make forecasts on retail over the next few years given the pandemic and changes in consumer habits. He emphasized it may take up to ten years for the property to be re-tenanted.

Mr. Cole further highlighted the numerous sustainability features associated with the project including TOD; new covered bus stops; walking distance to groceries, restaurants and services; new pedestrian crosswalks; low emission glass; approximately 175 to 200 new trees on-site; stormwater control; drought tolerant plants and non-invasive plant species; a low-flow irrigation system; rooftop solar and solar carports; electric vehicle (EV) charging with conduits for expansion; room for 160 bicycles and electric bike charging; electric EnergyStar appliances in apartments; and 16 Tesla charging stations in front of Big 5.

Mr. Cole explained that the applicant had reached out to the existing tenants who had expressed support for the project and looked forward to increasing pedestrian activity to Lucky, Saigon 2 and Noah's Bagels. He looked forward to a positive recommendation from the City Council.

Council member Toms clarified with Mr. Cole the location for the charging stations for EV bicycles, the conduit for future EVs, and the six Level One EV charging stations to be installed immediately. Once the units had been occupied, the property management team would inform the developer of the demand where more EV charging stations could then be considered.

Council member Toms asked whether the TDMP would include the Clipper Card system and Mr. Canepa commented they had tried to include the Clipper Card system but it had been cost prohibitive, although Council member Toms suggested an introduction to the Clipper Card system should be considered.

Council member Toms noted that the project would include prime parking spaces that were behind a secured gate with half of the parking spaces unsecured. She asked whether those parking spaces would be first come, first served and whether any incentives would be provided for a non-vehicle user not to have to pay for a parking space.

Mr. Cole clarified there would be two different levels of charges for the parking; one for the parking spaces behind the gate and another for those parking spaces that were not secured. Residents would be encouraged to use local transit and with the nearby retail it was hoped that would be an incentive for residents not to have to use a vehicle.

Council member Martinez-Rubin asked the status of an underground fuel storage unit and plans to augment the safety of potable water for future tenants given residents had expressed concern with water usage, and was informed by Mr. Cole that an underground fuel storage tank had been removed as part of Phase 1, the soils were clean and the drinking water was not from underground water sources but would be piped in.

Council member Martinez-Rubin asked the duration of the affordability requirement, to which Assistant City Attorney Mog stated it would be 55 years from the date of the issuance of the Certificate of Occupancy.

Council member Martinez-Rubin asked the breakdown of the affordable units, and Mr. Stackhouse reiterated that 39 percent of the units would be two bedrooms, 44 percent one bedroom and 16 percent studios.

Assistant City Attorney Mog clarified that under the City's Affordable Housing Ordinance, the mix of units must match the mix of the project. The affordable agreement as part of the project would come back to the City Council for final approval at a later meeting if the project was approved.

Council member Martinez-Rubin asked for further clarification of the economic impact analysis, and Mr. Haveman reiterated his prior comments with the construction phase to occur over a two-year period and the remaining information in terms of the anticipated revenue to the City, annual and recurring.

City Manager Murray confirmed when asked by Council member Martinez-Rubin that the applicant's PowerPoint presentation would be posted to the City website.

Council member Martinez-Rubin also asked for clarification of the proposed safety improvements, and Mr. Canepa explained that some details had not been available at the time the project had been reviewed by the Planning Commission, but the applicant had since reached agreement with City staff to incorporate some safety improvements into the project, as earlier described.

Planning Manager David Hanham advised that some of the Conditions of Approval contained in Exhibit A, to City Council Resolution 22-XX, Conditions of Approval, had been revised in response to Planning Commission input as detailed in staff's PowerPoint presentation, and as outlined in Table 1 of Pages 12 through 23 of the staff report.

Council member Martinez-Rubin again clarified the details for the open space areas and asked whether or not something could be included to address pet waste if pets were to be allowed in the development, and Mr. Cole confirmed while that was a property management issue if pets were included such an amenity would be provided.

Mayor Pro Tem Murphy referenced the revisions to the initial submittal that had been identified and asked how they had come about, and Mr. Cole explained that some of the revisions had come about as a result of neighborhood meetings the developer had conducted, staff recommendations, and recommendations from the City Council, Planning Commission and members of the public.

Mayor Pro Tem Murphy also confirmed the covered transit stop would support WestCAT and AC Transit passengers and clarified with the architect the café was intended as a multi-purpose room for residents only. The maximum capacity for the room was around 45 occupants but there would be some indoor/outdoor connections with indoor/outdoor seating. There were also large clubrooms off of the courtyard, the fitness center and lobbies, and the fifth floor had a roof deck and attached community space. The room with the largest capacity would be the clubrooms, which could support standing room of close to 100 people if including the attached patio.

Mayor Pro Tem Murphy asked the applicant what had been the most challenging part of the project and the most challenging part of working with City staff, and Mr. Stackhouse described the project as an evolution with the applicant having explored a lot and having made changes and adjustments.

Mr. Cole suggested the challenge was the connection to the shopping center from the residential development to appear as one project rather than two. Another challenge had been communication and getting responses back from City staff due to the pandemic.

Mr. Schoebel described another challenge as the unwinding of property level documents and the negotiations required with the existing tenants.

Mayor Salimi advised that all of his questions had been answered prior to the meeting.

#### **PUBLIC HEARING OPENED**

Nick Goodwin, Business Manager, Plumbers and Steamfitters, Local 159 Martinez, representing the many men and women who resided in Contra Costa County, supported the Pinole Vista project which would keep the doors open to blue collar jobs, provide housing opportunities in Pinole and apprenticeship programs for local youth, women and veterans. He urged the City Council to support the project.

Rafael Menis, Pinole, referenced Condition 26 of Exhibit A to Attachment A, which he understood was to be removed as a condition for the project since it was primarily intended for a project that was to replace the former Doctor's Hospital site and was not relevant to the subject project. Condition 81 had previously been stricken but was still shown as a condition and he asked for clarification about the 50 percent cost projection for security check costs versus other costs as noted on Page 972 of the agenda packet. He appreciated the fact that City staff had provided information on the cost assumptions more concretely in terms of the analysis of City costs for retail and service areas versus just overall assumptions.

Josh Vallis, Pinole, a fourth generation resident and a sheet metal worker, urged the City Council to approve the project that would benefit the City of Pinole, use the local workforce and noted the sheet metal training programs offered living wages and numerous benefits to workers. He was also pleased with the changes the developer had made to the project including solar panels on the roof, roof covered bus shelters, additional open spaces, façade upgrades and cohesiveness, additional trees and a flashing crosswalk, which was much needed for safety reasons.

Sadakao Whittington, San Pablo, asked the City Council to support the project, which he described as a catalyst for great things to happen. While a resident of San Pablo, he spent 85 percent of his income in the City of Pinole. He supported the project given the job opportunities that could be provided for apprenticeships. He detailed his own personal experience having previously been incarcerated and the work opportunity in the trades that allowed him to become an apprentice, model citizen and taxpayer, and with the training opportunities offered in the trades that had ultimately led him to being internationally certified to conduct inspections, testing and maintenance on water-based fire protection systems. He had been involved in the majority of inspections for existing construction projects on Fitzgerald Drive and if the subject project was approved there was the opportunity for his company to conduct the inspections for the Pinole Vista project, which was important since he had the opportunity to join the union and gain the necessary skill sets required to survive and take that experience anywhere around the world. The project would also provide local hiring, local apprentices, teach those skill sets to others and move those opportunities forward.

Tom Hansen, Business Manager International Brotherhood of Electrical Workers (IBEW), Local 302, stated that IBEW Local 302 was pleased to work with ROIC on the project and ROIC would be a good partner for the City. He suggested the project would be a new walkable/livable community with nearby transit and retail. He described it as a city living environment captured in a small space, with citizens being provided a brand new experience not found elsewhere in the area. He also urged the City Council to approve the project and the many benefits that could be provided, as earlier described. He commented that given the lateness of the hour and other time-sensitive matters, he had no problem with the City Council continuing Item 12C.



Eric Haynes, Business Representative for Sheet Metal Workers (SMW) Local 104, agreed that Item 12C could be continued to a future meeting. He too supported the proposed project and along with the other buildings trades stood with the developer to support the project as long as it promoted equity and sustainability in the communities where their members lived. The project did both and would be more equitable with the use of a local workforce paying family-supported wages, provide much-needed workforce housing and with many of the units to be priced below market promoting sustainability via a transit-oriented development, close to major transit centers and included rooftop solar and EV charging stations for both residential and commercial uses. He asked the City Council to approve the Pinole Vista project.

Sal Spataro, Pinole, a retiree from Plumbers and Steamfitters Local 159 Martinez, stated as a union member he had been pleased to see there would be a Project Labor Agreement (PLA) between the developer and the construction unions. He echoed the comments from the previous speakers related to the provision of good benefits, wages and apprenticeship support. As a Pinole resident, he found Kmart to be emblematic of the retail desert since the building had been vacant for years. While he had hoped the building could easily be re-tenanted and dividable that had not happened. He suggested the proposal was a good use and the City would benefit via additional revenue versus no sales taxes from a vacant building. The nearby retail would also benefit from the development and increase the sales tax revenue to the City. He suggested the positives outweighed the negatives, suggested this was the best that could be done for the City and agreed it would be considered city living given the retail and nearby commercial uses and transit opportunities. He urged the City Council to approve the project.

Debbie Long, Pinole, suggested this was a case where people had to keep an open mind. She and others had spoken with the developer on a few occasions and had offered suggestions that the developer had addressed. She was pleased the project would include a PLA, echoed the positive comments offered by the labor unions but would have preferred that a couple of apartment units had been designated for those with disabilities. If that could not be done with this project she urged it be kept in mind for future projects. She also referenced Senate Bill (SB) 99, and suggested a landlord tenant mediation board should be addressed with the management company and with the City. She also understood a law would be signed soon by the Governor that would require the allowance of "ordinary" pets such as cats and dogs, and since it was likely pets would be on-site things such as pet waste needed to be addressed. She was pleased with the way the project had come about, was happy she had kept an open mind, and agreed the project would benefit the community and local workers.

**ACTION: Motion by Mayor Salimi/Mayor Pro Tem Murphy to Extend the City Council meeting to 11:30 p.m.**

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

Tony Gutierrez, Pinole, asked whether the units would be rentals or a condominium model, whether a security force would monitor the property, whether there had been any contemplation of traffic calming measures, and whether the units would include filtration systems or certain areas to allow the smoking of cigarettes and/or cannabis.

Community Development Director Whalen responded to the questions from the public and clarified the Planning Commission had asked staff to look at a condition related to construction traffic and drop-off and pick-up hours at the nearby schools. After discussion, staff determined there should be a condition to address the potential of construction traffic exacerbating the traffic in the Appian Way Corridor, which condition had along with Condition 81 been merged into Condition 26.

Roger Dale, Managing Principal, The Natelson Dale Group, Inc. (TNDG), explained that his firm had prepared the fiscal analysis for the City of Pinole. The analysis had been revised based on comments provided at the Planning Commission and had originally started with a methodology that was standard for fiscal impact studies and which had evaluated the relative cost impacts of residential and commercial uses based on the effective populations on the site. At the request of the Planning Commission, TNDG had evaluated data from the Pinole Police Department that indicated the amount of service calls to several shopping centers comparable in size if the site were to be re-tenanted with commercial uses, and had also analyzed service calls for residential apartments scaled to be comparable to what had been proposed. He stated the original numbers had overstated the residential police costs relative to what would be compared with a commercial project. As a result, the analyses had been adjusted to bring the ratios more in line with what the actual data had shown.

Community Development Director Whalen further clarified the project would be a rental project. Also, the Community Development Department had worked closely with the Public Works Department to come up with the strongest pedestrian safety improvements that could be made at the Fitzgerald Drive crossing, as earlier described. In addition and pursuant to state law, smoking was not allowed in or outside multifamily properties.

Assistant City Attorney Mog further added the City had an ordinance in place that prohibited smoking in multifamily complexes, which would include cannabis use although there was the possibility for an outdoor smoking area pursuant to criteria for allowing outdoor smoking.

Mr. Cole clarified a leasing agent would be present on-site during the day as well as property management and maintenance, and along with security cameras would work together to keep things safe. The key FOBS and the lighting that had been proposed would also help to keep things safe along with eyes on the site at all times given the retail during the day and residents present during the evening.

Peter Murray, Pinole, stated he had also spoken with the applicants about the project given he had major concerns when he had first learned of the proposal. He understood this was to be a mixed-use project at one point and had been unaware the Specific Plan had changed due to state overrides, but he now understood the project was an approved project for the use as prescribed. He remained concerned with the security issues given the proximity of the I-80 Corridor, which was one of the top freeway corridors with criminal activity, and with Fitzgerald Drive being an easy off- and on-ramp to the freeway. He questioned the adequacy of the security on-site since he did not want the City to be overburdened as a result. He had concerns with the open parking and suggested the City should have some pre-planned agreement to address problematic issues that could occur, and that the property management group be required to address those issues within a reasonable period of time.

If the City's public safety personnel had to routinely respond to the site, Mr. Murray suggested there should be some baseline identified and if the development exceeded that baseline, the cost for response would become the owner's responsibility and should compensate the City for the expense of those services. He otherwise was pleased with the inclusion of a PLA as part of the project.

#### **PUBLIC HEARING CLOSED**

Council member Martinez-Rubin asked for clarification about the use of the trades and assuming the project was approved the timeline for breaking ground to actual completion. She also asked whether it was feasible to have an agreement in place for the applicant to pay a fee to the City for calls for service to the site and whether ADA units would be included as part of the design.

Mr. Cole clarified the PLA would be for the whole construction project. The construction period had been estimated at 24 months. He noted that construction drawings had not yet been prepared or bid out. Essentially all of that pre-construction work would take about a year, with construction about a year after that resulting in potential construction to start three years from now.

Assistant City Attorney Mog explained that a fee for police services was not something the City could impose absent the creation of a taxing district, which the City had not proposed to create at this time.

Mr. Stackhouse clarified that every unit in the project would be fully accessible and meet all provisions of the State Building Code pursuant to Chapter 11A.

Council member Martinez-Rubin thanked the applicant for not proposing a warehouse.

Council member Tave offered a motion, seconded by Mayor Pro Tem Murphy to approve the staff recommendation.

On the motion, Council member Toms was thankful the applicant agreed to meet with her and incorporate some of her comments into the proposal. She liked the secured parking but suggested the unsecured parking area could have problems with auto break-ins and if more parking spaces could be secured behind the fence that would be helpful. She recognized the increased revenue the City would receive, liked the idea of decoupling the parking and liked the synergy between the housing and the retail and the walkability. In particular she liked the applicant's responsiveness to the Planning Commission and the public.

Council member Toms also recognized that traditional brick and mortar retail models were shifting away and many vacant retail uses were transitioning to other uses, but the Specific Plan and General Plan designation was Mixed-Use, and unlike other designations that were Commercial, Industrial or Residential, a jurisdiction had the ability to define that Mixed-Use. This Mixed-Use was a mix of 51 percent of one use and 49 percent of another use and was not a development standard but a definition of that use. She suggested the project needed an amendment to the Specific Plan. She recognized this proposal had not been anticipated when the Specific Plan and General Plan had been adopted years ago and while she liked the project, she struggled with the possibility of concessioning away future projects, which questioned the worth of the Specific Plan, and she pointed out the studies and staff report had informed a Specific Plan Amendment would be warranted.

Council member Toms liked the project but disagreed with the staff interpretation on the land use and again struggled as to how to move on. She suggested a future agenda item should be considered to include a discussion of removing the Mixed-Use designation from all shopping centers and make them Conditionally Mixed-Uses. She expressed concern setting a precedent where the Mixed-Use designation had no meaning and while she would not be upset if the project was approved, the City Council had to figure out how to move forward and ensure the Specific Plan and General Plan meant something.

When asked by Mayor Pro Tem Murphy about the Safeway gas station at Tara Hills and Appian Way, Assistant City Attorney Mog clarified the Three Corridors Specific Plan had been amended in that case to allow the gas station but it was not related to housing.

Mayor Pro Tem Murphy acknowledged the concerns raised by Council member Toms and agreed that a future discussion should be considered.

Assistant City Attorney Mog again provided an overview of the SDBL, which required the City to give concessions to projects as defined, and while this request was unusual staff was of the opinion the project qualified as a concession. He added that SB 6 and AB 2011 had created ministerial processes for the approval of residential and commercial centers, and state law had impacted the discretion cities had on the approval of projects.

Mayor Salimi also acknowledged the concerns raised by Council member Toms and agreed a future discussion should be considered.

Council member Martinez-Rubin recognized that the City did not have the capacity to respond to ever-shifting state requirements and new housing laws and expressed her hope that in the future staff may have a program in place to focus on forthcoming legislation related to land use and city business, which would allow discussions prior to approval of a project. She also recognized City staff had done the best it could with the developer to propose a project that would benefit existing and new citizens of Pinole.

**ACTION: Motion by Council member Tave/Mayor Pro Tem Murphy to adopt Resolution No. 2022-XX, With Exhibit A: Conditions of Approval, a Resolution of the City Council of the City of Pinole, County of Contra Costa, State of California, Approving a Comprehensive Design Review (DR21-12), Tree Removal Permit, and Density Bonus Request to Construct a 223-unit Apartment Complex Located at 1500 Fitzgerald Drive (APN 426-391-010) and finding the Project exempt from the California Environmental Quality Act.**

<b>Vote:</b>	<b>Passed</b>	<b>4-1</b>
	<b>Ayes:</b>	<b>Salimi, Murphy, Martinez-Rubin, Tave</b>
	<b>Noes:</b>	<b>Toms</b>
	<b>Abstain:</b>	<b>None</b>
	<b>Absent:</b>	<b>None</b>

Mayor Salimi did not declare a recess but the City Council stepped away from the dais at 11:23 p.m. for photographs with the applicants. The City Council returned to the dais at 11:25 p.m.

The City Council moved onto the Consent Calendar at this time.

## 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 Special Meeting Minutes of September 13, 2022 and Regular Meeting Minutes of September 20, 2022.
- B. Receive the September 3, 2022 – September 16, 2022 List of Warrants in the Amount of \$742,545.67, the September 30, 2022 Payroll in the Amount of \$544,934.81, and the October 14, 2022 Payroll in the Amount of \$534,466.71
- C. Resolution Continuing Authorized Remote Teleconference Meetings Pursuant to AB 361 **[Adopt Resolution per Staff Recommendation (Casher)]**
- D. Resolution in Support of Free and Fair Elections **[Action: Adopt Resolution per Staff Recommendation (Bell/Murray)]**
- E. Approve Updates to the City of Pinole Procurement Policy in Order to Make the City More Competitive for State and Federal Grants by Incorporating Environmentally Preferable Purchases and Practices (EPPP) and Caltrans Local Assistance Program Requirements **[Action: Adopt Resolution per Staff Recommendation (Mishra)]**
- F. Adoption of the City of Pinole Economic Development Strategy **[Action: Adopt Resolution per Staff Recommendation (Whalen)]**
- G. Fixing the Employer's Contribution at an Equal Amount for Employees and Annuitants Under the Public Employees' Medical and Hospital Care Act with Respect to Elected Officials, Management, Confidential, AFSCME LOCALS 1 and 512, PPEA and IAFF **[Action: Adopt Resolutions per Staff Recommendation (Shell)]**
- H. Adopt a Resolution Approving Side Letter Agreement to the Memorandum Of Understanding (MOU) Between the City and AFSCME Local 512 to Amend Article II – Recognition and Attachment A – Salary Schedule **[Action: Adopt Resolution per Staff Recommendation (Shell)]**

**ACTION: Motion by Council member Martinez-Rubin/Mayor Salimi to Extend the City Council meeting to 12:00 a.m.**

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

## PUBLIC COMMENTS OPENED

Rafael Menis, Pinole, speaking to Item 9D, read into the record some of the Whereas clauses in the Resolution contained in Attachment A. He appreciated the Council had approved an earlier resolution condemning the January 6, 2021 insurrection, and expressly attached that to the importance of upholding democracy, linking efforts by a certain party to undermine voting access in certain states, and defined the Constitution and the core responsibilities of the City Council. He cited Page 2 of the Resolution, Section 4 under the Now, Therefore Be It Resolved Clause, and suggested it could be worded better and offered language changes to that effect.

As to Item 9E, Mr. Menis referenced Page 158 of the agenda packet for Attachment A, the City of Pinole Procurement Policy, Other Environmentally Preferable Procurement Products, Services and Practices, Zero Emission and or Hybrid Fuel-Efficient Vehicle Fleet, and asked for clarification as to what “prioritize” meant in that section. For Item 9F, he appreciated the changes made that both the Bay and the creek front would be explicitly counted as waterfront as shown on Page 173 of the agenda packet for Exhibit A, Pinole Economic Development Strategy and that stakeholder/public engagement economic development functions would be tied into the branding and marketing function.

Still speaking to Item 9F, Mr. Menis also appreciated that training and outreach had been moved to Year One from Year Two; Page 174 of the agenda packet had shown hotel development and eco-tourism as a future growth area for the City of Pinole; he appreciated key outputs with the number of outreach contacts and commercial industrial brokers appeared to be concrete metrics and had shown the successes or failure of progress but was curious about key outcomes that could be tracked in the same way as new tenanted space or change in active business licenses.

Renee Zeimer, a long-time resident of Contra Costa County involved in local elections and working the polls since she was 12-years old, explained it was election season and speaking to Item 9D and on behalf of Contra Costa County voters and a coalition of more than 150 elections integrity and democracy defense non- and bi-partisan C3 organizations, asked the City Council to make a commitment to the Core Principles of Democracy: Free and Fair Elections since voters were at a point where reassurance was needed when entering the mid-term election season. Similar proclamations had been approved by the Contra Costa County Board of Supervisors (BOS) and the City Councils for the cities of Walnut Creek, Pleasant Hill and El Cerrito and the Town of Moraga Town Council, and other cities were moving forward to consider similar resolutions.

Ms. Zeimer acknowledged that the proclamation served as an accountability measure, a tool to debunk misinformation and an opportunity to reassure the public that with few exceptions local election officials were committed to conducting safe, reliable and fair elections, and election results and the peaceful transition of power were widely accepted with confidence and humility by elected leaders and candidates for office alike. The County Elections Division had recently launched a more secure website, [contracostavote.gov](https://contracostavote.gov), the County Elections Office put into place secure and extensive safety and security measures for its networks, facilities and personnel and there was a recorded program roadmap to Voting 2022 available on the County Library YouTube Channel. She thanked Mayor Pro Tem Murphy and Council member Toms for considering the importance of bringing the resolution to the City Council in a timely manner.

In response to Mr. Menis' questions related to Item 9E, City Attorney Casher clarified that "prioritize" was not a defined term in the procurement policy and took on the Webster definition to designate or treat something as more important than another thing.

Public Works Director Sanjay Mishra confirmed the comments provided by the City Attorney and added the City had a grant that would fund the vehicle to be procured with priority for a cleaner vehicle.

City Manager Murray added there was no specific way or requirement in which that aspiration needed to be operationalized in terms of the Procurement Policy.

Mr. Dale also responded to questions related to the metrics in Item 9F, and explained that the Economic Development Strategy had added information based on input from City Council discussions on metrics for tracking the progress of the economic development strategy, which had been divided into two categories: outputs and outcomes. He highlighted how outcomes and outputs had been defined.

#### **PUBLIC COMMENTS CLOSED**

Council member Tave requested an amendment to the third sentence of the last paragraph of Page 18 of the September 13, 2022 Special City Council meeting minutes as follows:

*She [Maria Alegria] also appreciated the work of the Fire Chief and in particular the work of Council member Tave who had taken Measure X to a countywide organization to gain support not just in Pinole but throughout the county.*

Mayor Pro Tem Murphy requested an amendment to Page 2, Section 4, of Attachment A of Item 9D, as follows:

*The City of Pinole will encourage our constituents the people of Pinole to step up to become poll workers or nonpartisan election observers to ensure that elections are nonpartisan and every vote counts.*

**ACTION: Motion by Mayor Pro Tem Murphy/Council member Toms to approve Consent Calendar Items 9A through 9H, subject to amendment to Items 9A and 9D, as shown.**

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

City Manager Murray referenced the remaining agenda items and clarified that none of the New Business items were a priority from an operational perspective.

City Attorney Casher advised that while Item 10A was not time sensitive, he asked the City Council if inclined to continue the item, to open the public hearing and continue the item to a date certain so that the public hearing did not have to be re-noticed. He added two Council members had indicated a conflict of interest and would have to abstain from the vote to continue the item.

City Manager Murray suggested that Item 10A be continued to the City Council meeting of November 1, 2022 with the knowledge the meeting agenda was full and some items may need to be deferred.

#### 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. Ordinance Adding Chapter 17.28, Historic Preservation Overlay, to the Municipal Code **[Action: Introduce and waive the first reading of an ordinance adding Chapter 17.28, Historic Preservation Overlay, to the Municipal Code per Staff Recommendation (Casher)]**

PUBLIC HEARING OPENED

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

PUBLIC HEARING CLOSED

**ACTION: Motion by Council members Toms/Martinez-Rubin to continue an Ordinance Adding Chapter 17.29, Historic Preservation Overlay, to the Municipal Code, to the November 1, 2022 City Council meeting.**

<b>Vote:</b>	<b>Passed</b>	<b>3-0-2</b>
	<b>Ayes:</b>	<b>Murphy, Martinez-Rubin, Toms</b>
	<b>Noes:</b>	<b>None</b>
	<b>Abstain:</b>	<b>Tave, Salimi</b>
	<b>Absent:</b>	<b>None</b>

11. OLD BUSINESS: None

#### 12. NEW BUSINESS

- A. Traffic Safety Improvements on The Tennent Avenue Corridor **[Action: Discuss and Provide Direction (Mishra)]**
- B. Adopt Resolution Approving Communication and Engagement Plan **[Action: Adopt Resolution per Staff Recommendation (Murray)]**
- C. Establishment of a Project Labor Agreement (PLA) Ad Hoc Subcommittee **[Action: Adopt Resolution per Staff Recommendation (Murray)]**

**ACTION: Motion by Mayor Pro Tem Murphy/Council member Martinez-Rubin to Continue Items 12A through 12C to a future City Council meeting.**

<b>Vote:</b>	<b>Passed</b>	<b>5-0</b>
	<b>Ayes:</b>	<b>Salimi, Murphy, Martinez-Rubin, Tave, Toms</b>



Noes: None  
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.*

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

**14. ADJOURNMENT** to the Regular City Council Meeting of November 1, 2022 in Remembrance of Amber Swartz, former West County Superior Court Judge Bessie Poulos Dreibelbis, Ruth Cartwright and Audrey Ann Osman.

At 11:48 p.m., Mayor Salimi adjourned the meeting to the Regular City Council Meeting of November 1, 2022 in Remembrance of Amber Swartz, former West County Superior Court Judge Bessie Poulos Dreibelbis, Ruth Cartwright and Audrey Ann Osman.

**Submitted by:**



Heather Bell, CMC  
City Clerk

**Approved by City Council: November 1, 2022**

