

**CITY COUNCIL MEETING  
MINUTES  
March 7, 2023**

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

The City Council Meeting was held in a hybrid format (in-person and via Zoom videoconference and broadcast) from the Pinole Council Chambers, 2131 Pear Street, Pinole, California. Mayor Murphy called the Regular Meeting of the City Council to order at 5:00 p.m. and led the Pledge of Allegiance.

**2. LAND ACKNOWLEDGEMENT**

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

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

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

**A. COUNCILMEMBERS PRESENT**

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

**B. STAFF PRESENT**

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

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

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

#### **4. CONVENE TO A CLOSED SESSION**

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

##### **1. PUBLIC EMPLOYEE PERFORMANCE EVALUATION**

Gov. Code § 54957

Title: City Clerk

##### **2. CONFERENCE WITH REAL PROPERTY NEGOTIATORS**

Gov. Code § 54956.8

Property: 612 Tennent Avenue

Agency negotiator: City Manager Andrew Murray, City Attorney Eric Casher, Community Development Director Lilly Whalen, Suzy Kim (RSG), Sanjay Mishra, Public Works Director

Negotiating Parties: Leonard Williams – LDW Investment Group

Under Negotiation: Price and Terms

#### **PUBLIC COMMENTS OPENED**

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

#### **PUBLIC COMMENTS CLOSED**

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

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

##### **6. CITIZENS TO BE HEARD (Public Comments)**

*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.*

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

## **7. REPORTS & COMMUNICATIONS**

### **A. Mayor Report**

#### **1. Announcements**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### **PUBLIC COMMENTS OPENED**

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

#### **PUBLIC COMMENTS CLOSED**

#### **E. City Manager Report / Department Staff**

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

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

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

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

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

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

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

#### **F. City Attorney Report**

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

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

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

### **A. Proclamations**

#### **1. American Red Cross Month**

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

#### **PUBLIC COMMENTS OPENED**

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

#### **PUBLIC COMMENTS CLOSED**

#### **2. Women's History Month**

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

#### **PUBLIC COMMENTS OPENED**

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

#### **PUBLIC COMMENTS CLOSED**

#### **3. International Women's Day**

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

#### **PUBLIC COMMENTS OPENED**

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

## **PUBLIC COMMENTS CLOSED**

### **4. Disability Awareness Month**

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

## **PUBLIC COMMENTS OPENED**

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

## **PUBLIC COMMENTS CLOSED**

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

## **B. Presentations**

### **1. CalPERS**

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

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

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



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

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

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

#### **PUBLIC COMMENTS OPENED**

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

#### **PUBLIC COMMENTS CLOSED**

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

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

## **9. CONSENT CALENDAR**

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

- A. Approve the Minutes of the February 21, 2023 meeting.
- B. Receive the February 18, 2023 – March 3, 2023 – List of Warrants in the Amount of \$251,090.41 and the March 3, 2023 Payroll in the Amount of \$559,984.94
- C. Award a Contract for \$188,000 to GHD, Inc. to Develop an Active Transportation Plan (ATP) – Capital Improvement Plan (CIP) Project IN2106 [**Action: Adopt Resolution per Staff Recommendation (Mishra)**]
- D. Report on City-Owned Properties and Recommendation to Fund a Property and Facilities Master Plan as Part of the FY 2023/24 – 2027/28 Capital Improvement Plan [**Action: Receive Report and Provide Direction (Mishra)**]

## **PUBLIC COMMENTS OPENED**

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

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

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

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

#### PUBLIC COMMENTS CLOSED

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## 10. PUBLIC HEARINGS

*Citizens wishing to speak regarding a Public Hearing item should fill out a speaker card prior to the completion of the presentation, by first providing a speaker card to the City Clerk. An official who engaged in an ex 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. Introduce an Ordinance Amending Chapters 8.24 and 8.25 of the Pinole Municipal Code to Modify Provisions Concerning Nuisance Abatement Procedures and Related Code Enforcement [**Action: Waive First Reading and Introduce Ordinance (Casher)**]

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

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

### PUBLIC HEARING OPENED

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

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

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

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

## **PUBLIC HEARING CLOSED**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

**PUBLIC HEARING OPENED**

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

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

**PUBLIC HEARING CLOSED**

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

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

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

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

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

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

**11. OLD BUSINESS:** None

**12. NEW BUSINESS**

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

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

**PUBLIC COMMENTS OPENED**

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

Mr. Menis also referenced Page 158 (c) Public Comment, and suggested the language that had been stricken in this section should not be reinserted as a matter of the Brown Act and public policy in that having questions being asked by the public was a net benefit both to the City Council and to the community by allowing for a broader range of items to be brought up by the public, and allowed a more thorough consideration by the City Council and City staff on any given topic.

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

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

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

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

#### **PUBLIC COMMENTS CLOSED**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## **PUBLIC COMMENTS OPENED**

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

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

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

#### **PUBLIC COMMENTS CLOSED**

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

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

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

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



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

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

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

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

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

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

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

*Only open to members of the public who did not speak under the first Citizens to be Heard, Agenda Item 6.*

**Citizens may speak under any item not listed on the Agenda.** *The time limit is 3 minutes and is subject to modification by the Mayor. Individuals may not share or offer time to another speaker. Pursuant to provisions of the Brown Act, no action may be taken on a matter unless it is listed on the agenda, or unless certain emergency or special circumstances exist.*

*The City Council may direct staff to investigate and/or schedule certain matters for consideration at a future Council meeting.*

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

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

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

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

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

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

**Submitted by:**



Heather Bell, CMC  
City Clerk

**Approved by City Council: March 21, 2023**

