

**CITY COUNCIL MEETING
MINUTES
July 2, 2024**

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 Toms 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

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

B. STAFF PRESENT

Neil Gang, Interim City Manager/Police Chief
Roxane Stone, Deputy City Clerk
Eric Casher, City Attorney
Markisha Guillory, Finance Director
Lilly Whalen, Community Development Director
Sanjay Mishra, Public Works Director
Jeremy Crone, Pinole Police Commander

Deputy City Clerk Roxane Stone announced the agenda had been posted on June 27, 2024 at 3:30 p.m. with all legally required written notices. Written comments had been received in advance of the meeting, distributed to the City Council and staff, posted to the City website and made available in the Council Chambers.

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

4. CONVENE TO A CLOSED SESSION: None

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.

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

There was no 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.

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

7. RECOGNITIONS / PRESENTATIONS / COMMUNITY EVENTS

A. Proclamations: None

B. Presentations: None

8. REPORTS & COMMUNICATIONS

A. Mayor Report

1. Announcements

Mayor Toms reported she had been involved with updates from the Emergency Operations Center (EOC) and that the existing Extreme Heat Warning would be extended through July 9, 2024, and Red-Flag Warnings extended through July 5, 2024 due to gusty winds over 30 miles per hour (MPH), humidity below 15 percent and illegal fireworks. She urged everyone to remain vigilant.

B. Mayoral & Council Appointments: None

C. City Council Committee Reports & Communications: None

D. Council Requests for Future Agenda Items

Mayor Pro Tem Sasai requested a future agenda item for a Letter of Support for Assembly Bill (AB) 2583, Safer School Zones Act, which would lower speeds in school zones and set clear timeframes for when those speed limits were in place.

On the motion, Council member Martinez-Rubin asked for clarification of the potential reduction in speed limit, and Mayor Pro Tem Sasai understood the speed limits in school zones could be reduced from 25 to 20 MPH with the speed limits in effect when children were present.

ACTION: Motion by Mayor Pro Tem Sasai/Council member Murphy for a Letter of Support for Assembly Bill (AB) 2583, Safer School Zones Act.

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

Mayor Toms asked whether any Council member served on the League of California Cities Transportation Committee and whether AB 2583 had been discussed.

Council member Murphy confirmed that AB 2583 would be discussed as part of the July Committee meeting.

Mayor Pro Tem Sasai offered a motion, seconded by Council member Tave for a future agenda item for a Letter of Support for Assembly Bill (AB) 1955, Support Academic Futures & Educators for Today's Youth Act (SAFETY Act) which would prohibit forced outing policies in public schools.

On the motion, Council member Martinez-Rubin requested more information on AB 1955.

Mayor Pro Tem Sasai explained that AB 1955 would prohibit outing policies to inform parents that their students were transgender non-conforming.

ACTION: Motion by Mayor Pro Tem Sasai/Council member Tave for a Letter of Support for Assembly Bill (AB) 1955, Support Academic Futures & Educators for Today's Youth Act (SAFETY Act).

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

Mayor Pro Tem Sasai offered a motion, seconded by Council member Murphy, for a future agenda item to revisit and potentially amend the Pinole Municipal Code (PMC) to update restrictions on smoking in multi-unit dwellings.

On the motion, Mayor Toms asked whether the Mayor Pro Tem had discussed the item with the City Attorney and whether it would require an amendment to the PMC.

Mayor Pro Tem Sasai confirmed he had discussed this item with the City Attorney.

City Attorney Casher reported that currently Chapter 9.28 of the PMC placed restrictions on smoking in multi-unit dwellings as it applied to apartments, with a requirement that smoking was not allowed in the individual unit but in a common area, with the common areas depending on the building, which could be located close to apartment units. There was an interest in discussing the common areas to ensure they were not close to the apartment units.

Mayor Pro Tem Sasai advised it was to benefit sensitive groups, such as seniors who could be sensitive to smoke inhalation.

Mayor Toms asked whether there was existing language in the PMC that would require keeping a distance from air intakes, to which City Attorney Casher was uncertain at this time but stated there were some restrictions around smoking within an individual unit.

Mayor Toms clarified her comments were around the budget and being sensitive to any work asked of the City Attorney.

ACTION: Motion by Mayor Pro Tem Sasai/Council member Murphy for a future agenda item to revisit and potentially amend the Pinole Municipal Code to update restrictions on smoking in multi-unit dwellings.

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

E. City Manager Report / Department Staff

Interim City Manager/Police Chief Neil Gang reminded everyone of the Fourth of July celebrations to commence on July 4, 2024 at 6:30 p.m. at Pinole Valley High School, with live music, food vendors, children's activities and a community parade. He encouraged everyone to participate. He also provided an update on the recruitment process for the Chief of Police and reported a survey had been sent to the community to solicit input from the community on the attributes the community wanted in a Police Chief, with the survey to be sent out again on July 3, 2024, along with a link sent through The Pulse and social media platforms.

F. City Attorney Report: None

PUBLIC COMMENTS OPENED (Items 8E through 8F)

City Clerk Bell reported there were no comments from the public.

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. California Assembly Bill (AB481) Military Equipment Use Policy and Ordinance, Second Read and Adoption. **Action: Waive Second Reading and Adopt Ordinance (Jeremy Crone, Eric Casher)**
- B. Chapter 8.38 "Single-Use Plastic Foodware and Bag Reduction," Second Read and Adoption. **Action: Conduct Second Reading and Adopt Ordinance (Kapil Amin, Lilly Whalen)**
- C. Settlement Agreement with MVP Construction, LLP. **Action: Approve Agreement per Staff Recommendation (Eric Casher)**
- D. Appoint Kelcey Young as City Manager and Authorize the Mayor to Execute an Employment Agreement. **Action: Adopt Resolution per Staff Recommendation (Stacy Shell)**

Council member Martinez-Rubin requested that Item 9B be pulled for discussion.

Mayor Pro Tem Sasai requested that Item 9A be pulled for a separate vote.

For Item 9B, Council member Martinez-Rubin referenced Page 49 of 87 of the agenda packet, Attachment A, Ordinance, Section 8.38.050, Takeout Food, and asked for clarification how the City would implement the regulations for third-party delivery services, and to what extent the City would have the capability of implementing the ordinance if the eatery was not providing food to take out in the packaging per the standards.

Community Development Director Lilly Whalen clarified the ordinance put responsibility on any third-party delivery vendors taking food from restaurants to someone's home. In today's model of DoorDash and other similar groups, they were typically not providing the takeout foodware in that the business did the packaging of the items and had them ready for the third-party to pick-up. The ordinance allowed for enforcement on the third-party delivery company if the model changed and the third party provided their own bags or bagged up the food at a restaurant and took it to someone's home, where the City may enforce the ordinance on third-party delivery vendors.

Council member Martinez-Rubin again referenced Page 55 of 87 of the agenda packet, Attachment A, Ordinance, Section 8.38.150, City of Pinole – purchases prohibited, which currently read: *The City or City Facility Users shall not purchase any Disposable Foodware that does not comply with the Disposable Foodware Standards in Section 8.38.080, nor shall any City-sponsored event utilize non-compliant Disposable Foodware.* She asked for clarification since she understood the intent of the ordinance was that the City or City facility users not *use* disposable foodware that did not comply rather than *purchase* it, and she offered an example. She recommended this section be revised to read:

The City or City Facility Users shall not use Disposable Foodware that does not comply with the Disposable Foodware Standards in Section 8.38.080, nor shall any City-sponsored event utilize non-compliant Disposable Foodware,

Community Development Director Whalen suggested the change made sense.

Council member Martinez-Rubin suggested the header for Section 8.38.150 may also need to be modified and she would leave that to staff to modify.

PUBLIC COMMENTS OPENED

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

PUBLIC COMMENTS CLOSED

ACTION: Motion by Council members Murphy/Martinez-Rubin to approve Item 9B, as amended and Items 9C and 9D, as shown.

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

ACTION: Motion by Mayor Toms/Council member Martinez-Rubin to approve Item 9A, as shown.

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

10. PUBLIC HEARINGS

- A. First Reading of Electric Vehicle Charging Station Ordinance. Action: Conduct First Read and Public Hearing. (Eric Casher, Sanjay Mishra)**

Public Works Director Sanjay Mishra provided a PowerPoint presentation for the first reading of the Electric Vehicle Charging Station Ordinance, which included an overview of adding Chapter 10.80 to the PMC. The City Council was asked to conduct the first reading, open the public hearing and take public testimony.

Council member Martinez-Rubin asked why the definitions of the different types of fees had not been included in the ordinance language.

Public Works Director Mishra clarified the definition of various fees could be added to the Master Fee Schedule to accommodate potential changes in the future.

PUBLIC HEARING OPENED

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

PUBLIC HEARING CLOSED

ACTION: Motion by Council members Murphy/Tave to waive the first reading of an ordinance adding Chapter 10.80 EV charging stations, to the Pinole Municipal Code to establish restrictions for city-owned EV parking spaces and to establish a schedule of rates for EV charging stations.

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

B. FY 2023/24 Utility User's Tax (UUT) Review. Action: Adopt Resolution Per Staff Recommendation (Markisha Guillory)

Finance Director Markisha Guillory provided a PowerPoint presentation of the Fiscal Year (FY) 2023/24 Utility User's Tax (UUT) Review, which included an overview of the background of the UUT; annual review pursuant to the PMC requiring an annual review of the UUT in June during the budget process, a summary of amounts realized and a resolution to approve changes to household income levels for UUT exemptions. The total UUT collections over the past ten years, actual collections for FY 2023/24, gas and electricity and telecommunications UUT collections were highlighted along with the UUT exemption guidelines and recommended changes to income exemption thresholds. Staff recommended the City Council adopt a resolution authorizing the UUT exemption thresholds.

Council member Martinez-Rubin asked whether the City website included a section that described the UUT and exemption process.

Finance Director Guillory confirmed that information had been included in the Finance section of the City website.

PUBLIC HEARING OPENED

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

PUBLIC HEARING CLOSED

ACTION: Motion by Council member Murphy/Mayor Pro Tem Sasai to adopt a resolution modifying the Household Income eligibility thresholds for exemptions from the Utility User's Tax for Fiscal Year (FY) 2024/25.

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

11. OLD BUSINESS: 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.*

Rafael Menis reported on COVID-19 trends in wastewater, which data had shown while it was leveling off slightly in some points there had been increases in others. He encouraged precautions in high-risk areas such as large indoor gatherings and grocery stores. He otherwise wished everyone a happy Fourth of July and reminded everyone the City had a ban on the use of fireworks. Given the high heat and Red-Flag Warnings, he urged people not to use fireworks but attend the drone show planned at Pinole Valley High School on July 4, 2024.

Anthony Vossbrink reported he had no response from City staff or the City Council about an ongoing project at Fernandez Park. He had made the same inquiry at the last Planning Commission meeting at which time the Planning Manager and Public Works Director stated they had no idea what was going on. He referred to a number of truckloads of dirt along the right, left and centerfield fencing along Fernandez Park, with drain pipes and signage on the sidewalk and street, and asked whether there was a sewer project being constructed or something else. Also, a few trees had been cut down in the same area and he questioned that staff would have no knowledge of what was going on. He also questioned why the Mayor or Interim City Manager had not provided any information about public access for the drone show planned for the Fourth of July celebrations given the limited parking in the neighborhood of the high school. The library parking lot was small and he asked whether a corner lot would be opened for parking.

In response to the public comment and to the Mayor, Public Works Director Mishra clarified work was not being done in the railroad right-of-way (ROW) area. The pile of dirt adjacent to Fernandez Park was related to the Phase 1 Pinon Sewer Project, which had been completed and the contractor was in the process of closing out the project.

As to the parking for the Fourth of July event, Mayor Toms reported that parking would be available at Pinole Valley High School, the church and Pinole Library since the library would be closed at the time, and residents who lived in the neighborhood could walk to the event. She added that a workshop would be held at 7:00 p.m. after the adjournment of the City Council meeting to discuss the sewer fees, with the Zoom link for the workshop the same link for the subject City Council meeting. She encouraged people to attend the workshop and take advantage of the air conditioning at City Hall or participate via Zoom.

City Attorney Casher acknowledged the City Council had approved the Consent Calendar items, which included Item 9D, the appointment of Kelcey Young as City Manager and authorized the Mayor to execute an Employment Agreement but since it involved executive compensation, an oral record needed to be read into the record about the compensation the incoming City Manager would receive. As a result, he asked that Item 9D be reopened.

The City Council reopened Item 9D at this time.

City Attorney Casher reported pursuant to Government Code Section 54953 (c)(3), Item 9D, was a recommendation to appoint Kelcey Young as City Manager and authorize the Mayor to execute an Employment Agreement, in accordance with the Employment Agreement effective August 26, 2024 with a starting salary of \$265,000 per year, and with the item having no fiscal impact to the General Fund as the position's pay and benefits had already been incorporated into the Fiscal Year (FY) 2024/25 budget. He asked that the City Council revote on the item at this time.

ACTION: Motion by Council member Tave/Mayor Toms to approve the Appointment of Kelcey Young as City Manager and Authorize the Mayor to Execute an Employment Agreement.

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

14. **ADJOURNMENT** to the Regular City Council meeting of July 16, 2024 in Remembrance of Amber Swartz.

At 5:39 p.m., Mayor Toms adjourned the meeting to a Regular City Council meeting on July 16, 2024 in Remembrance of Amber Swartz.

Submitted by:



Heather Bell, CMC
City Clerk

Approved by City Council: July 16, 2024

