

**CITY COUNCIL MEETING
MINUTES
November 19, 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 5:04 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

Kelcey Young, City Manager
Heather Bell, City Clerk
Eric Casher, City Attorney
Matt Avery, Interim Chief of Police
Andrea Dwyer, Community Services Director
Lilly Whalen, Community Development Director
David Hanham Planning Manager
Faby Guillen, Capital Improvement/Environmental Program Manager
Kapil Amin, Sustainability Fellow
Roxane Stone, Deputy City Clerk

City Clerk Heather Bell announced the agenda had been posted on November 14, 2024, at 4:45 p.m. with all legally required written notices. No comments had been received in advance of the meeting. The staff reports for Items 9F and 12A had been reposted on the City website after publication to correct a formatting issue and Page 3 of the attachment for Item 12A had been corrected.

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 Roxane Stone reported there were no public comments.

7. REPORTS & COMMUNICATIONS

A. Mayor Report

1. Announcements

Mayor Toms reported she had attended a League of California Cities Conference and a number of sessions related to energy and electrification issues. She briefed the City Council on the discussions and reported she had spoken with a vendor who wanted to highlight for Public Works staff, street lighting, whether for pedestrians or streets with a lot of new solar technology available which was something to keep on eye on to address pedestrian and vehicular safety. She had also participated in two East Bay Wildfire Coalition meetings, which discussions included approval of a tentative budget. She reported the City of Pinole's contribution to the Coalition would be \$3,000 for 2025, while other cities and Contra Costa and Alameda counties had higher asks. The Coalition only approved a budget for this current fiscal year since the City of Oakland's budget was much higher, Oakland was facing financial issues and would be unable to commit to the next fiscal year.

Mayor Toms had also attended with Council member Murphy, a Marin Clean Energy (MCE) Workshop with a field review of the Pittsburg Unified School District (PUSD) all-electric transportation facilities and solar wind energy program.

Mayor Toms had also participated in the Pinole Valley High School Homecoming Parade, Ellerhorst Elementary School event for Halloween, and welcomed a new fire truck to Station 73, with a number of new fire trucks having been delivered to the Contra Costa County Fire Protection District (CCCYPD).

Mayor Toms congratulated the City and staff on the passage of Measure I, and had also participated in the Ruby Bridges Walk to School Day and Mayors' Conference, with a report on the Concord Naval Weapons Station project. The project would add over 12,000 residential units to the area along with 6 million square feet of office and would take the next 30 years to build out. Also, the Mayors' Conference representative to the East Bay Regional Communications System Authority (EBRCSA) reported that EBRCSA would need to fund approximately \$64 million in capital equipment replacement including radio and repeaters over the next six to eight years, with the cost for agencies to be increased incrementally from the current fee of \$31 per month per radio up to \$46 a month over a five-year period. Pinole would need to consider this expense when considering the budget.

B. Mayoral & Council Appointments

1. Appointment of two Council members to Serve on an Ad Hoc-Downtown Pedestrian Improvements Subcommittee

City Manager Kelcey Young summarized the request to appoint two Council members to serve on an Ad-Hoc Downtown Pedestrian Improvements Subcommittee, whose purpose would assist in the creation of parameters for applicants who wanted to be involved in the community-based project to paint City crosswalks. This project was in the conceptual phase and the Subcommittee would make recommendations to the full City Council. Subcommittee meetings would be held during the day to allow coordination with staff who would oversee the projects. The Subcommittee duration would likely be no more than six months with an opportunity to extend if the project continued to grow.

Mayor Toms, Mayor Pro Tem Sasai and Council member Martinez-Rubin expressed interest in serving on the Subcommittee.

ACTION: Motion by Mayor Pro Tem Sasai/Council member Murphy to appoint Mayor Toms and Council member Martinez-Rubin to serve on an Ad-Hoc Downtown Pedestrian Improvements Subcommittee.

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

C. City Council Committee Reports & Communications

Mayor Pro Tem Sasai reported he had attended a WestCAT Board of Directors meeting with a discussion of the agency's comprehensive operations analysis, which included two surveys that when available would be shared with residents.

Council member Murphy thanked the League of California Cities for its recent conference and the City Manager for joining in the discussions and providing ideas. He reported he had attended the National League of Cities Summit in Tampa, Florida, which celebrated the agency's 100 years of service and advocacy to cities across the nation, and briefed the City Council on the discussions and sessions attended, with the next conference scheduled for March 2025. He encouraged the City Council to attend if able and stated there was more information on the National League of Cities website.

Council member Murphy had also participated in a Boardmember orientation with staff for the Green Empowerment Zone, briefed the City Council on the purpose of the group and discussions, with the meetings to be open to the public and with more information on the Contra Costa County website. He thanked City staff for their meetings with County staff and for continuing the City's advocacy around renewable energy. He also thanked all of the voters in the region who voted and to Pinole voters in particular for the exceptional turnout in support of Measure I.

Council member Murphy further reported that while ballots were still being counted related to the new state legislature, he congratulated Assemblymember Buffy Weeks on her re-election and reported she would Chair a Select Committee on Permitting Reform, which was applicable to the City of Pinole since many residents had raised concerns with permitting in the past. He had recently met with Assemblymember Weeks about the City of Pinole's advancements and how the City could be a model at the state level. They had also been joined by MCE which had discussed the work MCE was doing and partnerships with Pinole and other cities in Contra Costa County.

Council member Tave understood staff was preparing information to be presented to the City Council on Artificial Intelligence (AI) policies. He reported during the League of California Cities Conference, the City of American Canyon had provided information on its AI policies. He referenced a recent newspaper article about a teenager who had been involved with an AI bot and asked parents to monitor their children's Internet usage. He too thanked the voters for the passage of Measure I, for trusting the City Council and he looked forward to future communications between residents and the City.

Council member Martinez-Rubin had participated in a number of community events including the monthly creek clean-up and she highlighted the October event and the work of code enforcement. She reported a new fence had been installed which helped to prevent litter from entering the creek and trail and she encouraged the public to participate in future clean-ups. There was more information in The Pulse.

Council member Martinez-Rubin also reported she had listened and observed the responses from the Police Chief candidates and had taken part in asking some of the questions of the individual candidates. She found the process to be helpful and another way to interact with the public. She further reported that City staff had hosted Commissioner Appreciation Day over the past few years, and she had participated in the latest event. She appreciated all of the City's Commissioners who volunteered their services. In addition, she had participated in the Crafts Fair at the Senior Center. She also highlighted the San Francisco Bay Ferry Richmond to San Francisco trips that would be free to commuters every Friday for the rest of the year and she encouraged everyone to take advantage of this service.

D. Council Requests for Future Agenda Items

Council member Murphy offered a motion, seconded by Council member Tave to direct staff to present a plan for early 2025 for a Measure I Town Hall that could be in the form of a Special Meeting of the City Council, to acknowledge the work done, what got them here and engage the public in moving forward on how to expend the funds as they were generated.

Mayor Toms asked whether the request could be folded into the budget time period or preparing for the budget.

Council member Murphy suggested early 2025 to lead into the budget.

City Manager Young reported staff had already been discussing this issue and would be happy to bring something forward either in-person or through a survey.

ACTION: Motion by Council members Murphy/Tave to direct staff to present a plan for early 2025 to have a Measure I Town Hall that could be in the form of a Special Meeting of the City Council, to be used to acknowledge the work done, what got them here and engage the public in moving forward to expend the funds generated.

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

ACTION: Motion by Mayor Toms/Mayor Pro Tem Sasai to draft a letter from the City Council to Caltrans to be copied to State legislators, requesting solid barriers and trash barriers on I-80 to prevent trash from coming down onto the on- and off-ramps and into the creek.

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

Council member Martinez requested a presentation from Friends of Pinole Creek Watershed regarding the efforts to create a creek side park.

Mayor Toms asked whether the project was already in the works as the City was preparing a grant application.

ACTION: Motion by Council member Martinez-Rubin/Mayor Toms to request a presentation from Friends of Pinole Creek Watershed regarding the efforts to create a creek side park.

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

PUBLIC COMMENTS OPENED

Rafael Menis requested the City Council recognize Transgender Day of Remembrance, traditionally recognized on November 20 each year as a future agenda item. He read into the record the names of those who had been killed in the past year for being transgender persons, as reported on glaad.org/tdor-memorial.

Irma Ruport requested the extension of an invitation to the new Director of Contra Costa Animal Services to provide a presentation to the City Council. She pointed out this request had been made previously and was necessary, particularly given the issue with pets in West County.

As to whether Ms. Ruport's request had been included on the existing list of future agenda item requests, City Clerk Bell stated she would have to review the list.

Jonay Brownlee commented on the number of challenges she faced trying to reserve the Senior Center for a non-profit event. She detailed the communications she had with the Manager of the Senior Center and the information that was available on the City website. She understood the Senior Center held events by other non-profits as well as City events and was aware a non-profit event had been planned and reserved for 2025. She questioned why some people were able to reserve the facility while others had been placed on a waiting list and expressed concern with preferential treatment. She asked for clarity on the City's policies that she found to be inaccurate, confusing and unfair.

Mayor Toms explained the City had experienced some challenges with staffing at the Senior Center after COVID-19, and there have been efforts to increase staff and try to accommodate all requests. She reported someone would have to get back to the speaker on this issue.

PUBLIC COMMENTS CLOSED

E. City Manager Report / Department Staff

City Manager Young stated when moving into the holidays that she was grateful to be part of the community and have the opportunity to work with the City Council and an engaged community concerned with the health and safety of its citizens and others in the country.

City Manager Young reported a selection had been made for Police Chief, negotiations were underway and she hoped to make an announcement by the end of the week. She highlighted the Police Chief Meet and Greet event and thanked everyone who had participated. All three candidates were well qualified and received a great deal of community support. She found the process helpful to learn about the programs and areas the community would like to see strengthened or areas where the Police Department was doing well.

Regardless of the candidate chosen, many of the programs and priorities expressed by the community would still move forward.

City Manager Young hoped to continue to have these conversations as the City moved forward to ensure they were doing what the community wanted them to do. She also thanked those who had participated in her office hours and provided feedback. She recently spoke with Pinole Grove and answered some questions and was pleased to learn of the community priorities, particularly for her area of operations. She encouraged people to continue to provide feedback and contact her to schedule a visit.

City Manager Young also appreciated the Crafts Fair at the Senior Center and thanked the Community Services Department and Commissioner Appreciation Day, thanking the City Clerk's Office and all those who had participated.

City Manager Young reported the lights on Pinole Valley Road near Trader Joe's and the Pinole Library were out, the Public Works Department was working on the issue and solar lights had been ordered. Staff was also working on getting a contractor to set the various lights. In addition, a survey for the public was available on the City website to provide feedback on Pinole Community Television (PCTV), with the information to be used to determine what the community was looking for to help the City develop a strategy.

City Manager Young also highlighted some of the items on the Consent Calendar and congratulated the Community Development Department for the receipt of a California Energy Commission Grant in the amount of \$700,000 for the Local Government Building Decarbonization Challenge, as reflected on the Consent Calendar.

Community Services Director Andrea Dwyer provided an update on a mailer that had been sent to residents in the last week, which included information on winter events and information on the Pinole Valley Park Project. Copies of the mailer were provided to the City Council. She also reported the City's Annual Tree Lighting Ceremony had been scheduled for December 7, 2024, at 3:00 p.m. at Fernandez Park and Shop and Stroll with local businesses would occur after the ceremony. More information was available on the City's Instagram page and social media and she highlighted a number of the businesses that planned to participate in the event. Additionally, a Holiday Breakfast had been scheduled for December 14, 2024, where there would be opportunities for photographs with Mr. and Mrs. Claus.

Community Services Director Dwyer also provided an overview of Glow Pinole, a way to decorate a business or home for the holidays with the best of the best to be voted on, a program that was free to participants. Early signups would be provided with signage promoting the event and an interactive map was also planned. Everyone was encouraged to participate and enroll online at pinolerec.com.

F. City Attorney Report: None

PUBLIC COMMENTS OPENED (Items 7D through 7F)

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

PUBLIC COMMENTS CLOSED

8. RECOGNITIONS / PRESENTATIONS / COMMUNITY EVENTS

A. Proclamations

1. Native American Heritage Month

The City Council read into the record a proclamation recognizing November 2024 as Native American Heritage Month with the proclamation to be presented to Pinole Valley High School students.

2. Sikh Awareness Month

The City Council read into the record a proclamation recognizing November 2024 as Sikh Awareness and Appreciation Month.

3. World Town Planning Day

The City Council read into the record a proclamation recognizing November 8, 2024 as World Town Planning Day, with the proclamation presented to the City's Planners.

PUBLIC COMMENTS OPENED

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

PUBLIC COMMENTS CLOSED

B. Presentations

1. Safe Technology Presentation by Environmental Health Trust

Zoe Berg, Legal Fellow, provided a PowerPoint presentation on Why Having a Strong Local Telecommunications Ordinance is Good Governance from Environmental Health Trust, which included an overview of the Environmental Health Trust, advocates for the responsible and thoughtful deployment of wireless telecommunications infrastructure, who empowered local governments to exercise greater control over the placement of wireless telecommunications infrastructure and raised awareness about wireless radiation health and environmental risks.

Ms. Berg highlighted the strongest overall Telecommunications Ordinance from the City of Encinitas, the City of Pinole's Telecommunications Ordinance strengths and opportunities for improvement, California municipalities with strong installation setback requirements and an environmental impact assessment. Additionally, information was provided on monopine cell towers and plastic pollution.

Responding to questions from the City Council, Ms. Berg and City Manager Young clarified the following:

- The distance regulations from the public for many jurisdictions as it related to small antenna facilities and larger cell facilities and the recommendation the City's ordinance be strengthened by adding the following language: *Freestanding wireless telecommunications facilities shall not be located within the required setback of any residential development and shall be at least five-hundred (500) feet from a pre-existing residential use and/or educational facility including schools and daycares.* In terms of potential partnerships with other utilities' rights-of-way, a follow-up on this question would be required. (Tave)
- The Federal Communications Commission (FCC) had not updated its Radio Frequency (RF) limit for human exposure since 1996, but as seen in other municipalities in the state, the FCC implemented setbacks that were more protected than those in the City of Pinole, and those restrictions/setback limitations were allowed. Nothing in the law had changed that would not allow a city to do something like that and the City of Pinole was encouraged to consider stronger setback restrictions. (Martinez-Rubin)
- Alternative options to monopine cell towers may include flag poles, camouflage flag poles, poles that appeared to be cacti and a series of different camouflage solutions. Acknowledged monopine cell towers remained popular throughout the country. Recognized the City of Pinole had a camouflage cell tower within a clock tower and acknowledged a request that image be part of a future presentation as Environmental Health Trust advocated throughout the country. (Martinez-Rubin)

PUBLIC COMMENTS OPENED

Anthony Vossbrink asked about Electromagnetic Field (EMF) contaminations of pollution that had impacted several European countries but due to lobbyists and large cell phone carriers EMF studies had been shut down. Rather than hold a cell phone next to one's ear, a hands-free device or holding the phone a certain distance away should be considered. He asked whether that same information applied to the cell towers throughout the City of Pinole and how cell towers had been regulated to protect the public whether located on City, public or private property. He identified a number of existing cell towers in the Pinole Valley, up and down San Pablo Avenue, near the former Sugar City building, Senior Center parking lot and Union Pacific property. He wanted some idea of how EMF was impacting the community and whether the City controlled the number of towers and more information on the plastic solutions that impacted the City's drains, waterways, creeks and the Bay.

Ms. Berg confirmed that cell towers did contribute to EMF pollution, but in terms of regulating the siting of such facilities the City had considerable control over where the equipment may locate. The purpose of this discussion was to encourage consideration of even stronger regulations to ensure maximum protection within the confines of the law.

Community Development Director Lilly Whalen explained that wireless communications regulations were focused more on aesthetics and less on RF and safety measures per the FCC.

Planning Manager David Hanham provided an overview of the City's conditions of approval related to wireless telecommunications facilities that primarily addressed setbacks, the equipment cabinets used and with some standard regulations that were consistent with the FCC.

The City's code for wireless telecommunication facilities had last been adopted in 2010, with all of the cell towers in the City having a Conditional Use Permit (CUP) and set conditions that had been applied as part of the code and when a CUP had been approved. The most recent facility had been approved in 2019 and others in the 1990s. Those sites were monitored as the companies co-located antennas, and when the City reviewed the CUP staff would ensure an applicant was up to date with the conditions of approval. Further research could be done on the facilities approved in the 1990s.

Mayor Toms noted the faux tree near the Senior Center was actually located in the City of Hercules. There was a faux tree on San Pablo Avenue near the new senior housing development.

Community Development Director Whalen identified other faux trees located in Pinole.

Manelle Sablan thanked Council member Murphy and the City Manager for coordinating the presentation. As someone who was electric sensitive, home schooled her children and could be harmed by the RF emissions from cell phones and cell towers, she strongly encouraged the City Council to consider updating its ordinance to be in the best shape to protect its residents, children and schools and join other cities doing great work around this issue.

Rafael Menis wanted to see more of the peer review evidence the Environmental Health Trust was making for its argument to change the language in the City's ordinance since there had also been studies in 2012 and 2016 he could find on the Internet that had done population-wide comparisons in the U.S. and in Australia tracking to see whether there were increased risks of brain cancer associated with cell phone usage. Those studies appeared to indicate there was not an increased risk in the way that the presenter seemed to be arguing. He suggested the City should also look into such avenues before it took action to change its ordinances.

Mayor Toms noted Ms. Berg offered to provide additional information that could be sent to the City Manager or the Community Development Director that could be distributed to the City Council.

Council member Murphy thanked the presenter for the presentation and the community members working on this issue. While excited, he was concerned about this issue as most of the issues around wireless cell towers predate his time on the City Council. He supported such presentations to the City Council since it was important to hear the expertise that could help address public health concerns to be able to make better informed decisions to protect residents and the environment.

Council member Murphy offered a motion, seconded by Mayor Pro Tem Sasai, to direct staff to review, evaluate and develop a comprehensive update to the City's Telecommunications Ordinance, which should take into account the recommendations from the Environmental Health Trust as well as similar city ordinances, as mentioned and any other research City staff could do to strengthen local oversight, enhance protections for public health and safety, preserve aesthetic and environmental considerations and ensure compliance with federal and state telecommunication regulations.

On the motion, Mayor Toms wanted to see the information from Ms. Berg prior to adding to the staff workload.

Council member Martinez-Rubin asked the City Manager how the request for future work on updating an ordinance would align with future plans.

City Manager Young suggested there needed to be more conversation about the entire issue of staff capacity and City Council priorities for this and next year. There were numerous items that were still on the future agenda item list that the City Council should discuss as a group to determine priorities. If the City Council wanted to add this request to that list with the idea of more information that could be done to see where this falls within the City Council priorities.

Whether the request should be added to the list now or a discussion of prioritizing staff work at the City Council Retreat, City Manager Young suggested the retreat was an ideal time to prioritize staff work, look at the list of priorities and evaluate the time and cost for all of the future agenda items and the most efficient way to move forward.

Council member Tave suggested the future agenda item list was a working list and it was important for the City Council to identify those items for the City Manager and staff, the earlier the better. There would also be one-on-ones adding to the list and it was important to decide where this request would fall within the list, which was another conversation to have. He did not want to discourage additions to the list, but with the understanding it may take time and staff needed to communicate the time needed, which may mean something less than a detailed report. He noted the topic of wireless communications had been an issue in the City, it had been almost 20 years since the ordinance had been evaluated and given the new information some attention was required. He expressed concern with potential changes in law that were not being addressed and he wanted to be mindful of potential impacts.

Council member Martinez-Rubin pointed out the members of the public don't always see the work required behind the scenes to get something to the City Council that could be approved and on the books. She cited the plastics ordinance as an example that involved two years of work. She supported the motion, recognized this topic was a health concern and acknowledged the expectation of the public and the need for attention.

Mayor Pro Tem Sasai recognized some future agenda items required extensive staff time to work through but given there was existing language already proposed it may take the City Attorney and his staff less time to develop something. He hoped staff was keeping track of any changes at the state level.

City Attorney Eric Casher advised that would depend, the intent was that the City Council have all information to make informed decisions, language changes were straightforward but what informed that language to allow the City Council to make a decision was really the issue.

Council member Tave recognized there was also a conflict between language and intent. He offered examples of past changes in state law that had been in conflict with City regulations requiring discussions of the City Council and realignment.

City Manager Young confirmed all of those things took resources, time and capacity and Pinole had a lean and small City staff for the types of projects Pinole chose to take on, which must also be taken into consideration.

Further discussing the motion, Mayor Toms commented it was not a matter of just changing the language but taking a look at existing cell sites, and if imposing greater setbacks, the City would not be able to co-locate other facilities on those towers or switch out equipment. She understood a discussion of priorities would be discussed at the Council Retreat.

ACTION: Motion by Council member Murphy/Mayor Pro Tem Sasai to direct staff to review, evaluate and develop a comprehensive update to the City's Telecommunications Ordinance, to take into account the recommendations from the Environmental Health Trust as well as similar city ordinances, as mentioned, and any other research City staff could do to strengthen local oversight, enhance protections for public health and safety, preserve aesthetic and environmental considerations and ensure compliance with federal and state telecommunication regulations.

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

Mayor Toms thanked Ms. Berg for the presentation.

2. Pedestrian Safety Improvements in Pinole, including Introduction of Pilot Program Concepts in Downtown/Old Town Area.

City Manager Young thanked the Community Development Director and Faby Guillen, Capital Improvement/Environmental Program Manager, for working on the presentation. She reported that the City Council would be provided more presentations like this in the future, with staff creating actual programs and looking at fewer tasks and more ways to consolidate and provide information. She looked forward to the feedback on the presentation.

Community Development Director Whalen and Ms. Guillen, Capital Improvement/Environmental Program Manager, provided an extensive PowerPoint presentation on Pedestrian Safety Improvements in Pinole. The presentation included an introduction to a Downtown Pilot Program, daylighting crosswalks, reducing the speed limits on San Pablo Avenue and Pinole Valley Road, additional downtown pedestrian safety improvement pilot concepts including the establishment of a No Turn red along San Pablo Avenue in downtown, conversion of the "pork chop" on San Pablo Avenue at Tennent Avenue to a bus turn only and the development and implementation of a Creative Crosswalks Pilot Program. AB 413, California Daylighting Law, implementation of daylighting crosswalks and the educational strategy was also highlighted

Responding to questions from the City Council, City Manager Young, City Attorney Casher, Interim Chief of Police Matt Avery, Community Development Director Whalen and Ms. Guillen clarified the following:

- The list of daylighting locations of intersections near points of interest needed to be prioritized but staff expected around 90 percent of the intersections may be recommended for striping. It was possible as things changed and additional housing was constructed that additional intersections may be identified for striping.

Striping made enforcement easier and in those areas with a high level of pedestrians red painted curbs were a priority. After the rainy season, Public Works expected to start the work but a contractor may ultimately be needed. It was expected that the list of intersections would be done by October 2025 but staff hoped it could be done sooner. AB 413 was again clarified and in terms of enforcement everything must be a warning until the new year. It was preferred that warnings be done first to educate the public with citations not issued unless there was a repetitive offense. (Mayor Pro Tem Sasai)

- The educational strategy for daylighting was again highlighted. Clarified pursuant to state law, AB 413 required that the City only provide a warning and a citation or fine for any violation could not be issued prior to January 1, 2025. After January 1, 2025, the City may cite and issue a ticket for any violation. It was the City's practice to provide a warning with records to be kept so that with a repeat offender a second or third violation could be accompanied by a ticket or fine. (Murphy)
- The Pinole Municipal Code (PMC) could be amended to add a section to create a violation for offenses and the requirements of AB 413 could be codified in the PMC and be assigned a penalty for violations. (Murphy)
- Pinole's Traffic and Safety Pedestrian Committee (TAPS) had been provided a presentation of AB 413. The TAPS Committee had been receptive and asked a number of questions about marked or unmarked intersections, Police Department enforcement and consequences of non-compliance. (Murphy)
- A gallon of paint had been estimated at \$100 and for now the City's own forces would be utilized but if determined to be a larger task for the Public Works Department, multiple estimates may be provided on contractor costs. (Murphy)
- No action was being asked of the City Council other than to accept the report and if staff had to go out to bid, staff would have to return to the City Council with that information and potential request for funding. (Murphy)
- Acknowledged a recommendation for staff to work with WestCAT on bus stops near a crosswalk as other points of interest and acknowledged the suggestion residents would be pleased to see traffic slowing down, particularly in the residential areas and there may be volunteer interest in this work. (Martinez-Rubin)
- Acknowledged Community Services Day held during the month of May each year and was informed about the work of the Boy Scouts who had refreshed red-painted curbs, and a recommendation that certain groups be trained on how to do the work where the work could possibly be done earlier than anticipated; staff was asked to look into that option. (Mayor Toms)

Continuing the PowerPoint presentation, the Recommended Speed Limit, and 2024 Engineering and Traffic Survey Report (E&TS) was highlighted with the intent of the report to set the basis for establishing, revising and enforcing speed limits in the City. An overview of AB 43, which provided cities with the flexibility for setting speed limits and the segments with recommended speed changes/reductions was also detailed.

It was noted that of the segments shown, Segment 7, San Pablo Avenue from East City limit to Oak Ridge Road, would be corrected with an amended report to be issued to show that the actual speed of 25 MPH would remain.

In terms of the next steps, if the City Council gave direction to adopt an amended (E&TS), an ordinance would be introduced to the City Council on December 3, 2024. The second reading of the ordinance would be on December 17, 2024, with the ordinance adopted on January 16, 2025.

Questions on this portion of the PowerPoint presentation were clarified by staff as follows:

- The Police Department had a designated Traffic Enforcement Division that was currently staffed by one designated Traffic Enforcement Officer but the Department was under discussion to create another position. It may take some time since the Department was understaffed. The City Manager had discussed with the Police Chief candidates, Interim Police Chief Avery and Commander Crone the fact enforcement of the new speed limits and the daylighting would be critical with ongoing conversations about this issue. Staff confirmed all officers would still be responsible for traffic enforcement. (Murphy)
- Acknowledged concerns with racial disparities in traffic enforcement and a reference to a San Francisco Chronicle article about the fact that since 2015 every police agency in the State of California must reveal its numbers on racial profiling if they had any. Acknowledged concern with the fact that Black persons were being stopped three times more than others in Pinole, and the stops for Latinos was two times as much as a white person. Also acknowledged the desire to keep pedestrians safe without the racial disparities when it came to traffic stops. (Murphy)
- Acknowledged a request for staff and the Police Department to be conscious that the City's numbers for those who have been stopped does not look good and there was a desire for cooperation and collaboration between departments, if possible, and moving forward equity as part of the project would be critical. Also acknowledged a recommendation for equity in transportation and policing to be at the forefront of the conversation. (Murphy)
- Clarified the segments with recommended speed changes/reductions and the discretion and options local governments had in reducing speed limits both when the traffic studies justified it and when not justified. Clarified the (E&TS) study had provided recommendations but the City Council may deviate from the recommendations and could recommend a speed limit five miles per hour (MPH) higher or lower than the current listed speed limit but that must be based on specific findings. Staff sought direction from the City Council on the limits the Council would like to see and staff would bring that back in the form of an ordinance and advise whether the recommendation suggested was permitted under the California Vehicle Code (CVC). (Mayor Pro Tem Sasai)
- Staff would bring forward evidence in support of a high traffic bicycle or pedestrian area with whereas clauses to make the appropriate findings to make that designation, and once done the City would then have the ability to adjust the speed limit within those areas. (Mayor Pro Tem Sasai)

- Acknowledged concerns with a reduction in the speed limits and the potential impacts to enforcement. Clarification that radar survey was a tool that allowed officers to enforce speed using radar based on specific road width and lengths when enforcing speed. State legislators did not want Police Departments using speed enforcement as a revenue generator, with a process in place through the City Council and through an engineering survey to justify the speeds that could be enforced. The staff recommendation for the road segments would allow enforcement of the speeds on the roadway. Whether that would stand up in court would depend on a number of factors. The Police Department enforced unsafe speeds, not necessarily a speed limit, and the Police Department used radar and other tools to set the safe speed as a baseline. (Tave)
- Clarified the recommendations for segments with recommended speed changes/reductions, as shown in the PowerPoint presentation. As an example, exceeding the speed limit by 15 MPH would likely result in a citation, and with a valid survey on file, if the recommendation was adopted a judge would likely deem the speed to be unsafe. (Tave)
- Segment 6, Pinole Valley Road from West Simas Avenue to the South City limit was clarified with the recognition that a number of residents had complained about the posted speed limit. Acknowledged the suggestion that findings could be made since the route was heavily traveled as a bicycle route, included an elementary school, large frontage for Pinole Valley Park and three major intersections that did not have stop signs that fed into Pinole Valley Road in that stretch including Galbreth Road, Simas Avenue East and Savage Avenue near the park. Acknowledged a recommendation that Segment 6 be reduced from the existing 35 MPH down to 30 MPH. (Mayor Toms)

Further continuing the PowerPoint presentation, the three different concepts for the Pilot Program concept with a focus on Old Town Pinole specifically focusing on pedestrian safety in the downtown was highlighted including establishment of a No Turn on red along San Pablo Avenue in the downtown, conversion of the “pork chop” on San Pablo Avenue at Tennent Avenue to a bus turn only and development and implementation a Creative Crosswalks Pilot Program.

Ms. Guillen recognized the Council Subcommittee had been formed earlier on the meeting agenda and this Subcommittee would assist staff with the recommendations and concepts, with staff to return at a future meeting to the full Council for adoption. The Subcommittee would also work with staff on the creation of the Creative Crosswalks Pilot Program that was intended to enhance pedestrian safety in the downtown by transforming crosswalks into vibrant works of art. The key tasks for the Subcommittee were highlighted.

Examples of Creative Crosswalk Programs that had been successfully implemented in large and small California cities were provided. Potential civic partners and grant sources were also identified.

Staff recommended the following for each component of the PowerPoint presentation:

Daylight Crosswalks:

Recommended Action: Receive Report on the Consent Calendar regarding new state law

Reducing Speed Limits on San Pablo Avenue and Pinole Valley Road:

Recommended Action: Adopt a resolution on the Consent Calendar establishing land or facility that generates high concentrations of bicyclists or pedestrians and reduced speed limits.

Additional Downtown Pedestrian Safety Improvement Pilot Concepts:

Recommended Action: Appoint a two-person Council Subcommittee to assist with the Pilot Program details and consider at a future date.

Additional questions on this portion of the PowerPoint presentation were clarified by staff as follows:

- No research had been done on the creative painted crosswalk examples, although staff had read data that suggested there were additional safety improvements or the paintwork would not cause additional safety issues, although staff could explore some of the data points with the Council Subcommittee. Acknowledged a suggestion the area of San Pablo Avenue and Tennent Avenue could be a prime opportunity for the “scrambled crosswalks” concept and acknowledged a request for more data once available from the Council Subcommittee. (Murphy)

PUBLIC COMMENTS OPENED

Irma Ruport, referenced Consent Calendar Item 9J, which report was 68-pages in length and asked why the TAPS Committee could not review and refer to the report. She commented that many residents had attended the TAPS Committee meetings for questions, and she would like to see the community become more involved.

As to Item 9I, and as a resident of Marionola Way and Marlesta Road, Ms. Ruport pointed out there were WestCAT bus stops at the corners, and she had seen vehicles parked right at the corner with no red zone. There were multiple apartment units around the corner and many vehicles belonged to visitors who parked at the corner of the bus stops. While people could be cited for violations, she suggested people must first be educated on the requirements. She recommended that a warning or signage be considered and she liked the idea of painting the sidewalks.

Ms. Ruport commented that as a current member of the Community Services Commission, in 2023 the members of the Commission had painted the picnic tables at the park. She suggested that possibly City Commissioners and volunteers along with Public Works staff could teach the public how to do that work. She also liked the idea of the Pedestrian Safety Improvements Pilot Program Concepts and commented as a former member of the Economic Development and Affordable Housing Committee, many of the concepts and ideas presented had been brought up at that time including the creative crosswalks program design, which was very important. She was aware of grant opportunities that were available with additional information available in Art 2024 for projects that focused on community spaces. She expressed a desire that the Council Subcommittee consider one TAPS Committee member or Community Services Commissioner to be involved in the Subcommittee, or pass on information to these groups to allow for feedback. She emphasized the need for the City to be inclusive with the projects. She otherwise thanked the City Manager for her attendance at a past Farmer's Market.

Anthony Vossbrink asked whether the people who would be affected by this proposal would be notified. He understood some notices had already been sent out but asked how those people had been notified, whether the City had notified adjoining businesses to the affected intersections and whether there had been any feedback. He suggested the project would only be as good as the enforcement. He also commented on the current speed of traffic along Pinole Valley Road and San Pablo Avenue, the running of red lights and stop signs and emphasized the need for the Police Department to provide better enforcement to ensure people would not have the run of the City as they had in the past as evidenced by the Police Blotter. He was also aware several businesses disliked the red curb law and recalled that Interim Police Chief Avery stood up for those businesses on several occasions before the TAPS Committee and the painting of the red curb had not been done.

Mr. Vossbrink also understood some businesses had been provided passes for parking on the red curbs on sidewalks with no citations throughout the years, which must stop as of January 1, 2025. He further asked whether the City had received a grant for placing No Parking signs up and down the Pinole Valley Road and Appian Way Corridor, whether the City paid for the signs and whether the Public Works Department had installed the signs in advance of the new law. He pointed out the signs had been installed absent City Council approval or public knowledge and he asked for clarification.

PUBLIC COMMENTS CLOSED

Mayor Toms explained the No Parking signs installed along Pinole Valley Road was where there was no parking available anyway and where there were no red curbs. She acknowledged the signs appeared to have been installed overnight but the signs were unrelated to the topic of daylighting at intersections. As to whether or not a business would be contacted about red curb painting, the daylighting improvements were required in compliance with state law and the red curb painting would help notify a driver of the no parking requirement in that area rather than possibly receiving a ticket or a pedestrian not being seen in a crosswalk.

Ms. Guillen added that residents would be noticed of the work before the striping was done to ensure the resident was fully aware of the change and the ability to park elsewhere.

As to including the TAPS Committee or the Community Services Commission on the Council Subcommittee and providing a presentation to the TAPS Committee, City Manager Young reported a presentation on the daylighting had been made to the TAPS Committee and an additional presentation on the speed limits had been planned. She liked the idea of partnerships on adopting the curbs and some of the other pieces and would love to include the Community Services Commission, the TAPS Committee and other groups on that component.

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 Regular City Council Meeting on October 15, 2024.
- B. Receive the October 12, 2024 – November 15, 2024 List of Warrants in the Amount of \$ 1,858,211.73, the October 25, 2024 Payroll in the Amount of \$522,683.51, and the November 8, 2024 Payroll in the Amount of \$528,953.80
- C. FY 2024/25 First Quarter Financial Report. **Action: Receive Report (Markisha Guillory)**
- D. FY 2024/25 First Quarter Investment Report. **Action: Receive Report (Markisha Guillory)**
- E. FY 2023/24 Development Impact Fee Report (AB 1600). **Action: Adopt Resolution per Staff Recommendation (Markisha Guillory)**
- F. Receive an Update on the Restructured and Relaunched Pinole Energy Enhancement Rebate (PEER) Program. **Action: Receive Report (Lilly Whalen, Kapil Amin)**
- G. Adopt a Resolution Authorizing Acceptance of California Energy Commission Grant Funds in the Amount of \$700,000 for the Local Government Building Decarbonization Challenge. **Action: Adopt Resolution per Staff Recommendation (Lilly Whalen, Kapil Amin)**
- H. Public Convenience Necessity Finding for Sprouts Farmers Market at 1300 Pinole Valley Road. **Action: Adopt Resolution per Staff Recommendation (David Hanham)**
- I. Daylighting Law Assembly Bill (AB) 413 - For Intersections and Crosswalks. **Action: Receive Report (Faby Guillen)**
- J. 2024 Engineering and Traffic Speed Survey Report. **Action: Adopt Resolution per Staff Recommendation (Faby Guillen)**

Mayor Pro Tem Sasai requested that Item 9J be removed for discussion.

Mayor Toms requested that Item 9F be removed for discussion.

For Item 9F, Mayor Toms commented on the notifications that had been sent out about launching the Restructured and Relaunched Pinole Energy Enhancement Rebate (PEER) Program and reported some residents who lived within the City limits did not receive mail mailed to them since their address was in El Sobrante. When the mailout was done, she asked that the situation be addressed so that those residents would be appropriately notified. She described how that could be done and expressed a willingness to assist staff in that regard.

Community Development Director Whalen advised staff would circle back to ensure that those residents received the information.

Mayor Toms commented that the same mailing issue may have occurred with other issues such as mailers from the Community Services Department.

For Item 9J, Mayor Pro Tem Sasai referenced the resolution contained in the November 19, 2024 staff report, and identified the typographical error for Segment 7, San Pablo Avenue from the East City limit to Oak Ridge Road, which in an amended report would be corrected to show the actual speed of 25 MPH to remain. He asked whether that correction needed to be reflected in the resolution.

City Manager Young explained if the City Council provided direction, the item would be brought back with the amended reports along with any potential changes to be evaluated along with the ordinance at the December 3, 2024 City Council meeting.

Mayor Pro Tem Sasai again referenced Segment 7 and noted there was no recommended speed limit change, and City Manager Young clarified the recommendation for Segment 7 was the speed limit to be 25 MPH.

Mayor Pro Tem Sasai also referenced Segment 6, Pinole Valley Road from Simas Avenue to the South City limit, and his understanding the City Council recommended the speed limit be reduced to 30 MPH.

City Manager Young understood that if looking at Segment 6 and there were findings that showed a high concentration of bicyclists or pedestrians that may be able to be brought back and reviewed. Based on what staff had looked at, there would likely be findings but she would have to defer to the City Attorney.

Mayor Toms reiterated her ideas for findings for Segment 6, as previously identified and as discussed during the presentation for Pedestrian Safety Improvements in Pinole.

PUBLIC COMMENTS OPENED

Rafael Menis provided the following comments on the Consent Calendar:

- Item 9C, praised the charts that started on Page 88 of 403 of the agenda packet, which showed graphically how the various amounts coming in or going out provided a better sense of how the value compared to prior years and to prior quarters. He praised whoever had created that design. For Page 98 of 403 of the agenda packet, there was no revenue noted for the Cable Access TV Fund and he had provided comments to staff in writing, with staff replying it was due to the timing of revenue receipt being after the reporting period for the First Quarter.
- Item 9G, noted the City had been able to receive a lot more money for its grant than it had applied for which did not happen often and was worth highlighting, and was due to the level of detail the City went into in its Climate Action and Adaptation Plan (CAAP). Praised the Sustainability Fellow for all of the work on the CAAP to ensure the City received all available grant funds.

- Item 9I, commented the presentation noted there was longer-lasting paint available that could last three to five years and the paint suggested was \$100 a gallon, which would cover 90 square feet but would only last a year to a year and a half. Asked about the cost for longer-lasting paint and the staff cost for repainting the roads. Shared the concerns raised by the Mayor Pro Tem for the resolution in the agenda packet related to Segment 7 and was curious how the City could do the 10 MPH speed reduction on Segments 8 and 9 given it was suggested the City could only do a 5 MPH reduction by default.

Irma Ruport referenced Item 9B, Page 52 of 403 of the agenda packet and the expenses shown for Pacific Site Management for monthly landscaping services in the amount of \$20,000, and commented it appeared the City was paying \$10,000 a month for landscaping services. The contract for landscape services had not detailed the time, date or when a project had been completed and suggested those details were important. As a Senior Center volunteer and someone who walked around the City, she had never seen the landscape company working and sought sites, dates, times and monitoring of the contracts. She understood the City of Hercules had a landscaper that City had let go since they were not doing the job and she was unsure whether it was the same company. She sought better management and monitoring of the contract.

PUBLIC COMMENTS CLOSED

Mayor Pro Tem Sasai again spoke to the resolution shown for Item 9J and commented that in addition to Segment 6 being supported for more findings, he would like to see the speed limit be reduced. For Segment 7, he asked whether staff could explore the designation of this area as a Business Activity District. He noted pursuant to AB 43, there were four criteria to designate something as a Business Activity District and the corridor must meet three of the four requirements as detailed in AB 43. He suggested Segment 7 would be eligible as a Business Activity District and asked that be brought forward to the City Council.

Ms. Guillen advised staff could include that recommendation in the research needed for the two segments.

City Clerk Bell referenced Item 9J and understood there was mention of a correction of a typographical error for Segment 7. She asked whether the City Council intended to adopt the resolution for Item 9J with that correction.

Mayor Toms asked that Item 9J return with some findings, as discussed, but asked the City Attorney to provide clarification.

City Attorney Casher explained the resolution for Item 9J would be the acceptance of the traffic survey. The City Council also provided direction on what it wanted to see in the ordinance. He recommended the resolution for Item 9J could be adopted with the modifications the City Council wanted to see in the ordinance, as duly noted in the record.

Mayor Toms asked that the ordinance include the findings in the staff report which the City Attorney confirmed.

Mayor Pro Tem Sasai asked that the resolution for Item 9J correct the error for Segment 7 and bring back findings for Segments 6 and 7. For Segment 7, he noted the goal was to reduce the speed from 25 to 20 MPH.

Mayor Toms wanted also to include a reduction in the MPH for Segment 6 from 35 to 30 MPH, with a negative 5 MPH change.

ACTION: Motion by Council member Murphy/Mayor Pro Tem Sasai to adopt Consent Calendar Items 9A through 9I, as shown, and Item 9J subject to the modifications identified by the City Council.

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

10. PUBLIC HEARINGS:

- A.** First Read of Pinole Municipal Code and Specific Plan Amendments Related to Housing Element Programs No. 10, 12 and 15, and Regulatory Consistency.
Action: Conduct Public Hearing and Waive First Reading of Ordinance. (Justin Shiu, David Hanham)

Planning Manager Hanham provided a PowerPoint presentation with an overview of the Specific Plan Amendments related to Housing Element Programs 10, 12 and 15. The City Council was asked to conduct the first reading and adopt an ordinance considering the Municipal Code and Specific Plan Amendments related to Housing Element Programs 10, 12 and 15, and regulatory consistency with additional recommendations for revisions provided by the City Council.

Responding to the City Council, Mr. Hanham and Community Development Director Whalen clarified the following:

- The City must remain consistent with state law and while some items such as density bonus were not in the PMC, they were consistent with state law. The amendments would ensure continued consistency with state law, they would be in the PMC and the City was not doing anything outside of state law even if it was not necessarily in the PMC. (Murphy)
- Three different slates of ordinance amendments were planned to be brought forward to the City Council as part of the Housing Element, all required to be completed by April 2025. (Murphy)
- A Low Barrier Navigation Center had been defined on Page 299 of 403 of the agenda packet. The City was not building a Low Barrier Navigation Center at this time, no applications had been submitted, but a process was required due to sea rise and other criteria. The City had created this section of the ordinance to be compliant with state law and this would allow a Low Barrier Navigation Center to be created and different zoning districts had been identified where one could be built. (Murphy)

- The Housing Element programs included implementation timelines for completion and this would be the first part of amendments to be brought forward as part of the implementation window for the first two years. (Murphy)

PUBLIC HEARING OPENED

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

PUBLIC HEARING CLOSED

Mayor Toms commented the annual report that was due to the State Housing and Community Development Department (HCD) was due on April 1, 2025. It would be advantageous for staff to check the box and have everything the City said it would do be done by April 2025. She looked forward to future amendments.

Council member Martinez-Rubin offered a motion, seconded by Mayor Toms to adopt an ordinance consisting of the Municipal Code and Specific Plan Amendments related to Housing Element Programs 10,12 and 15 for regulatory consistency.

Council member Murphy understood the City Council needed to waive the first reading as part of the process.

City Clerk Bell advised the motion could be to approve the ordinance on first read and it had been waived since the ordinance did not have to be read. The ordinance would return for a second read and it would be on the Consent Calendar at the next City Council meeting.

ACTION: Motion by Council member Martinez-Rubin/Mayor Toms to adopt an ordinance consisting of the Municipal Code and Specific Plan Amendments related to Housing Element Programs 10,12 and 15 for regulatory consistency.

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

11. OLD BUSINESS: None

12. NEW BUSINESS

- A. Review Updated Development Impact Fee Nexus Study and Recommended Fee Structure in Accordance with AB 1600. Action: Review Report and Schedule Public Hearing per Staff Recommendation (David Hanham)**

Planning Manager Hanham provided a brief introduction to the project as outlined in the November 19, 2024 staff report. He introduced Dino Serafini with Michael Baker, International to provide a PowerPoint presentation.

Community Development Director Whalen stated the City Council would be provided the report and staff sought feedback on the presentation. Adoption of the fees as part of a public hearing had been scheduled for January 21, 2025.

Dino Serafini, Michael Baker, International provided an extensive PowerPoint presentation for the City of Pinole Update of Development Impact Fees and Wastewater Capacity Charges, which included an overview of the definition of one-time only impact fees; how capacity charges and impact fees had been codified in the Government Code; facilities studied in the City of Pinole including public protection, police and fire, parks and recreation, general government (City) buildings, transportation, stormwater drainage and wastewater; anticipated growth in Pinole; service population; residential fee calculation; summary of proposed and current fees for residential and non-residential; facility needs for new development; wastewater capacity charges proposed and current and fee comparisons.

Responding to questions from the City Council, Mr. Serafini, Planning Manager Hanham and Community Development Director Whalen clarified:

- In terms of new development and fair share of impact fees paid by developers, the fees had been based on a level of service, established by the City and its General Plan documents or established by the (park) facilities on the ground now with examples provided. The City could only charge in a fee what the level of service or existing standard of service was, which was fair, with the developer or the person purchasing a home to be affected by the impact fee. State law was very specific: the City could not charge for deficiencies or ask a developer to pay for a higher level of service unless the population was willing to match dollar for dollar what it would take to obtain that level of service. The same applied to every facility category usually based on the size of the facility, floor area and investment in the facility. The impact fee was also tied into what the City experienced now and the idea was not to diminish the level of service to the existing population but match services, provide new facilities, provide new parks, repair roads and the like, and retain the level of service and keep facilities for existing development as well as accommodate new development. (Martinez-Rubin)
- The proposed fee structure would involve a public hearing scheduled for January 21, 2025. AB 602 required at least 30-days of notice for a public hearing, and to get that 30-day period the public hearing had to be postponed to January 2025. There would then be a 60-day waiting period after the public hearing date before the fees would go into effect and before the new fees could be charged to a developer. State law had also recently been changed with respect to Development Impact Fees where they had previously been collected at building permit issuance. The City was no longer allowed to do that and the fees could now only be collected at the Certificate of Occupancy phase, which would result in a lengthy delay before payment to the City. (Martinez-Rubin)
- Two large housing developments that were currently being built in Pinole and had already paid the Development Impact Fees with the fees collected at building permit issuance. Appian Village Development Impact Fees had been locked in pursuant to Senate Bill (SB) 330 and were subject to the fees in place in 2021 when the applicant had submitted the application. BCRE on Pinole Valley Road, the former Kmart property, and Pinole Shores would be subject to the new fee structure. (Martinez-Rubin)

- Food service was defined as a restaurant or fast-food service, anywhere where food was prepared and served. (Martinez-Rubin)

PUBLIC COMMENTS OPENED

Rafael Menis referenced the moderate degree of variance between the agenda packet and the presentation that he understood would be adjusted to match with the presentation, which was more accurate. He commented that a lot of the averages seemed to be calculated comparing Pinole to the higher values for Orinda and not treating the not-applicables as zeros, as shown on Page 333 of 403 of the agenda packet, which seemed strange. He asked why the drainage value was dropping to such a great extent between the current and proposed values for drainage, in particular, which he acknowledged was largely offset by increases in other subcategories.

Mr. Menis also commented he had questions with regards to the allocation of certain subcategories such as the institutional category and was informed it was largely due to differences in the agenda packet and the presentation; however, there were also some categories where items like drainage and transportation where the values seemed different. In addition, he noted that much of what would be expected to be seen in transportation and the like tied into maintenance but impact fees were explicitly not allowed to include maintenance, which was a factor to consider.

PUBLIC COMMENTS CLOSED

In response to the public comment, Mr. Serafini explained that if including a community, it should be stated that it was a value of zero and if there was no fee in that category, then it should not be N/A but zero, which would tend to drop the average quite a bit. The only comparable city in terms of the fee would be the City of Orinda owing to the fact its park fee was so much and it had transportation and drainage at \$25,000, and if placing zeroes everywhere the average total fee would be only \$13,000. He had not included the sewer districts other than the wastewater capacity charges. The average, if going by the total, would be \$13,000 versus what had been shown in the PowerPoint presentation at \$22,000.

Community Development Director Whalen asked the last time the cities shown in the PowerPoint presentation had updated their development impact fees, and Mr. Serafini was uncertain but it would not be a difficult thing to identify since they had the fee schedules that had indicated when the fees had been adopted. As an example, the Master Fee Schedule for Orinda appeared to be dated 2023, which was probably just when it had been updated by the inflation factor. The actual nexus study date was uncertain.

Community Development Director Whalen noted they would have to go back and look at the date of the enacting resolution. She found that an important factor to consider was the age of some of the cities' fees. She acknowledged Pinole had not updated its fees since 2008.

Mayor Toms suggested N/A should not be used in the Fee Comparison table as part of the PowerPoint presentation since the City of Orinda was not collecting a fire fee, although the Moraga-Orinda Fire District (MOFD) may well be collecting the fee. The same may apply to the City of San Pablo and the CCCFPD.

Mayor Toms added that there were some different variations with the fees shown since the fees those municipalities were collecting were for other services where other entities may be collecting the fee.

Council member Murphy suggested the City could do better with fee comparisons that were more like Pinole, and while the cities shown in the PowerPoint presentation were near Pinole they were not necessarily similar to Pinole in terms of the calculation. He sought a fee comparison of like cities and other counties, if possible, in time for the public hearing. The information for Orinda and Moraga could remain in the comparison since they had a Fire District, but presently the fee comparison was not a true comparison and the chart would not help the City Council when making a final decision.

Council member Murphy also noted the question from the public about the proposed drainage fee decreasing and he would like more information and why the proposed fee for fire was decreasing.

Mr. Serafini explained that drainage was quite a bit lower than it was in 2008. A couple of things had happened; they had assumed different densities, assumed higher-density buildings, which typically was because of the fact they were stacked up the drainage impact would be no different than a one-story building, and the fact they had used quite a bit of the development projected to 2030 as multi-family, higher density which tended to drive the drainage costs down. Drainage improvements nowadays had to be done largely on-site and that tended to reduce costs. There were a number of improvements indicated by the City in its Capital Improvement Plan (CIP) for drainage, which was a big driver as improvements the City may propose or need for transportation, as another example, with little identified in that regard mostly because it was not needed or had not been analyzed. He understood at one point a drainage study was to have been prepared but it had never been done and he was unsure where that was in the process. He explained they could always come back and revise or revisit one category or another to bring it up to date if more information had been provided.

Mr. Serafini added that with the City's switch to the CCCFPD, the apparatus belonged to the CCCFPD whereas the fire stations belonged to the City, and by agreement the CCCFPD was occupying those stations, which was a big requirement in impact fee studies paying for new engines. The CCCFPD had purchased a new engine but its cost would be spread out over all of the service users/contract cities that used the CCCFPD services.

Council member Murphy asked if the statements being made were assumptions or whether there was a legal basis for the comments, particularly related to drainage. He noted the City's CIP had identified drainage improvements with two projects. In terms of the fire perspective, he noted the City of Pinole had a contract for fire service with the CCCFPD but had not consolidated or annexed and asked if the comments about the CCCFPD were assumptions.

Mr. Serafini stated his comments were not assumptions, the apparatus belonged to the CCCFPD pursuant to the agreement between the City of Pinole and the CCCFPD. If not true, and everything in Station 74 belonged to the City, then the City would add the cost of those facilities and equipment to the fee and that could be an area to look at for verification. He acknowledged some educated assumptions had been made based on experience, such as for storm drainage where a rate of runoff was different for higher density development than for single-family.

Mr. Serafini noted they had also assumed that would hold for the City of Pinole, with general practice numbers having been used, but he acknowledged they could be called assumptions.

Council member Murphy suggested that when information returned for the public hearing, a fee comparison would be a great thing to look at to see whether that could be redone, and whether educated assumptions or not, the understanding of the impacts of development was important, and he wanted to ensure the City Council would make a strong decision. He again sought a better understanding of what assumptions had been made and what were legally based and clear evidence when the item returned for the public hearing, particularly since he was not seeing that information at this time.

Mr. Serafini clarified the Mitigation Fee Act mandated a Nexus Study but did not define the process to do that and much was left up to the practitioner. They could identify something that was scientifically determined versus something based on engineering knowledge. A Civil Engineer by education, he may assume a lot of things than people who don't have the same background and may tend to question and wonder where the numbers come from. He suggested the information in the study had been documented fairly well, it was not all made up, but they had to make some assumptions and decide where they would fall, whether this was the correct number to use and to the extent where they had data to go by, such as the bedroom counts, as an example. Those numbers were not always available but they were available for the City of Pinole, as were the number of people who worked in a non-residential and retail or factory/warehouse based on the floor area.

All data available from the Association of Traffic Engineers was data based on the trip generation rate for single-family or multi-family units and not based on square footage and Mr. Serafini understood the law and requirements in order to incentivize smaller homes but it made it very difficult to do those types of analyses. He reiterated Pinole was fortunate in that it could take advantage of a study done that had shown the number of occupants per home based on the number of bedrooms. The use of bedroom count was now a standard.

Community Development Director Whalen summarized the direction from the City Council when the item returned for the public hearing: to do a better job documenting in the study, to footnote the areas where assumptions had been made, and to provide information on cities more comparable to Pinole. She wanted feedback from Mr. Serafini on what he suggested would be best to look at for comparable cities if looking directly in the area of Pinole and the potential to lose development to another nearby city or to take a look at population size. She sought more guidance on that issue.

Mr. Serafini commented the fee comparisons seemed to take on a life of their own. He understood why they were done for comparison cities to Pinole, whether similar due to location, size, socio-economic categories and the like. The idea was to stay within the area for the reasons mentioned since those were the competitors for housing as an example. One idea would be to go statewide to see what other cities had been charging.

Mr. Serafini added that the Turner Center in the City of Berkeley had conducted an analysis the last several years and those numbers could be cited as a comparison. City size was a good metric and comparison but to identify cities that had similar fee structures sounded a bit self-serving and he was not sure they were advocating to find cities charging the same fees as Pinole.

Mr. Serafini commented as part of the analysis that Michael Baker, International had prepared, it included a list of cities they had agreed to check, which had been done. They could find a few others that may be good matches and throw that into the mix to see what happened, but as previously stated there were a lot of reasons why fees were different with no formula arrangement provided by the state. The state just required the nexus study to identify a fair share, the improvements needed to serve the community development, and to show any deficiencies and level of services.

Mr. Serafini stated a comparison was not part of the nexus study but was what city councils wanted to see and that was something worthwhile but the cities chosen did not have the same fee structures possibly because they were old but they could look to see whether the fees had been updated over the last few years to see whether that had changed anything.

Mayor Toms asked that the fee comparison for Orinda and San Pablo include something similar for what had been done for the Central Sanitation District, East Bay Municipal Utility District (EBMUD) and West County Wastewater, and include the MOFD and the CCCFPD for those two cities. She added that El Cerrito had its own Fire Department and Rodeo-Hercules had a fee shown in the Fee Comparison table she assumed was going to their fire district. She asked whether staff had enough direction to bring the item back.

Community Development Director Whalen again summarized the City Council's comments for more work on the comparable studies and document better the assumptions in the study. She also clarified, when asked by Council member Murphy, the public hearing requirements and public notification process for a public hearing item.

ACTION: Motion by Council members Martinez-Rubin/Tave to accept the staff recommendation to schedule a public hearing on the recommended fee structure.

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

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

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

Citizens may speak under any item not listed on the Agenda. *The time limit is 3 minutes and is subject to modification by the Mayor. Individuals may not share or offer time to another speaker. Pursuant to provisions of the Brown Act, no action may be taken on a matter unless it is listed on the agenda, or unless certain emergency or special circumstances exist. The City Council may direct staff to investigate and/or schedule certain matters for consideration at a future Council meeting.*

Rafael Menis provided an update on COVID-19 overall wastewater rates, which had been better when tracked on August 10, 2024, but commented there often tended to be an increase in the wastewater and infection incidents starting around now and peaking in mid-January, and while

current levels were low, he urged maintaining caution during the holiday season and getting a booster and flu shots.

Mr. Menis also congratulated Roy Swearingen on his likely victory for City Treasurer, although all votes had not yet been tabulated. He appreciated the votes from those who had voted for him, everyone who worked to support his campaign behind the scenes or directly having gone door-to-door and those who contributed to his campaign. Additionally, he highlighted and read into the record the Oath of Office people had taken as candidates and as elected Council members, pursuant to the State Constitution, which was important to highlight based on some of the choices and statements of the President-Elect. He suggested the City Council may be called upon to honor that oath and offered examples in the event the President-Elect abused his powers and he urged the City Council to be ready to defend the Constitution and consider actions that may be required to taken in defense of the Constitution.

Anthony Vossbrink asked for a status update on the negotiations for the Safeway Tara Hills project, the Adobe Road caretaker's home and noted the Public Works Department had done some electrical work on the property over the past two weeks and the potential sale of the Faria House. He commented on the number of street light outages along Pinole Valley Road and the fact the lights were not timed to be consistent with the change in daylight savings and the same issue applied to the locks for public restrooms. Also, the restrooms in the Pinole Valley Park playground and dog park needed to be cleaned and painted with guard rails installed. In addition, green receptacles were to be installed in the dog park and barbeque grove areas and he asked the status of those issues.

14. ADJOURNMENT to the Regular Meeting of December 3, 2024 in Remembrance of Amber Swartz.

At 9:58 p.m., Mayor Toms adjourned the meeting to the Regular City Council Meeting of December 3, 2024 in Remembrance of Amber Swartz.

Submitted by:

Roxane Stone, CMC Roxane Stone for
Heather Bell, CMC
City Clerk

Approved by City Council: December 17, 2024

