

**JOINT PINOLE CITY COUNCIL & SPECIAL MEETING OF SUCCESSOR AGENCY  
TO THE FORMER CITY OF PINOLE REDEVELOPMENT AGENCY  
MINUTES  
AUGUST 18, 2015**

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

The Joint Regular Pinole City Council Meeting and Successor Agency was held in the Pinole Council Chambers, 2131 Pear Street, Pinole, California. Mayor Murray called the meeting to order at 6:05 PM and led the Pledge of Allegiance.

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

**A. COUNCIL MEMBERS PRESENT**

Mayor / Chair Peter Murray  
Mayor Pro Tem Roy Swearingen  
Council Member Tim Banuelos  
Council Member Phil Green absent / excused. The voting record reflects his absence.  
Council Member Debbie Long

**B. STAFF PRESENT**

Belinda Espinosa, City Manager  
Benjamin Reyes, City Attorney  
Hector De La Rosa, Assistant City Manager  
Dean Allison, Development Services Director  
Andrea Miller, Finance Director  
Fire Chief, Rob Piper  
Patricia Athenour, City Clerk

City Clerk Athenour announced the agenda was posted on August 13, 2015 at 4:00 P.M. and all legally required notice was provided. Following an inquiry by the City Clerk, the Council members stated there were no conflicts on any item on the Agenda.

City Clerk Athenour announced the following amendments to the Agenda:

- Item 5B-2 was continued to September 1, 2015 at the request of the presenter
- Item 10A was continued to September 1, 2015 at the request of the presenter

Regarding Items 7E and 7F, the Local 1 and AFSCME Labor Groups MOUs, which were provided in draft form in the packet, have completed the final review and approved the MOUs, in as drafted, with minor typo edits, and staff directs the approval, allowing the City Manager's to make any non-substantive changes.

City Clerk Athenour entered the following items into the record, provided subsequent to the publication of the Agenda:

- 5B-3 – PowerPoint Presentation – Animal Shelter by County presenter
- 8A – Staff PowerPoint Presentation – Utility User Tax

- Receipt of emails from four Pinole citizens regarding Closed Session Item 12A which were forwarded to the City Council members.

### 3. CONVENE TO A CLOSED SESSION

At 6:13 p.m., Mayor Murray convened the noticed Closed Session of the City Council and Successor Agency.

- A. CONFERENCE WITH LEGAL COUNSEL—ANTICIPATED LITIGATION  
 Gov. Code § 54956.9(d)(2)  
 Number of Potential Cases: 1 Matter

#### SUCCESSOR AGENCY ITEMS

- B. CONFERENCE WITH REAL PROPERTY NEGOTIATOR  
 Pursuant to Government Code §54956.8  
 Property Location: 2361 San Pablo Avenue, Pinole CA 94564  
 Bank of Pinole building / APN No. 401-162-003  
 City Negotiator: Hector De La Rosa, Assistant City Manager  
 Negotiating Parties: Jason Sterlino/Angelo Dalo and Orton Development  
 Under Negotiation: Price & Terms

- C. CONFERENCE WITH REAL PROPERTY NEGOTIATOR  
 Pursuant to Government Code §54956.8  
 Property Location: 2301 San Pablo Avenue, Pinole CA 94564  
 Corner Lot / APN No. 401-162-001  
 City Negotiator: Hector De La Rosa, Assistant City Manager  
 Negotiating Parties: Orton Development  
 Under Negotiation: Price & Terms

### 4. RECONVENE IN OPEN SESSION TO ANNOUNCE RESULTS OF CLOSED SESSION

At 7 p.m., Mayor Chair Murray reconvened the meeting in open session. He announced there were no reportable actions from Closed Session.

### 5. RECOGNITIONS / PRESENTATIONS / COMMUNITY EVENTS

- A. Proclamations  
 B. Presentations / Recognitions

Mayor Murray recognized and thanked the Boy Scouts for painting the building on Tennent Avenue, which formerly housed Blackie's. He welcomed Scout Geno Ortega to address the Council.

**Geno Ortega** addressed Council and explained that he sought advice from Bob Kopp regarding selection of a project that would be beneficial to City and Mr. Kopp recommended painting the building which formerly housed Blackie's. Geno said he met with City Manager Espinosa to obtain approval of the project and worked the entire weekend on the project. He said Blackie's

was an iconic place in Pinole. He had visited it many times as a young child with his family after games, and he enjoyed “sprucing” it up.

1. Introduction of Finance Director Andrea Miller

City Manager Espinosa introduced Finance Director Andrea Miller. She announced that Ms. Miller has 25 years of experience in Finance, and last served as the Assistant Finance Director for the City of Pleasanton before joining the City of Pinole on August 3, 2015.

2. Introduction of WCCUSD Board Trustee Liz Block  
**Continued to September 1, 2015 meeting**

3. Contra Costa County Animal Control Services Deputy Director Rick Golphin

**Rick Golphin**, Contra Costa County Animal Control Services Deputy Director addressed Council, provided a PowerPoint exhibit, and said that animal shelters are at a crossroads due to factions influencing and supporting “No Kill”. He explained that “No Kill” means a 90% save rate, which means (as an example) if nine animals are brought in with Parvo and euthanasia is administered, ninety animals must be adopted out. Mr. Golphin said the County provides animal control services via a contract to all cities in Contra Costa County, except Antioch. The cost is \$5.56 per capita. The primary goal of the shelter is public safety, and the challenge is balancing public safety with adoptions. They receive on average 30,000 calls per year average, and received 1,700 calls from Pinole last year. The presentation included other statistics relative to Pinole. He discussed dangerous animals and their cooperation with the Pinole Police Department. Golphin described the legal authorities of the animal control officers and the services offered at the Martinez and the Pinole shelters, and the County Animal Response Team comprised almost all by volunteers. Volunteers represent Animal Services at community events and run the Shelter’s lost and found. In closing, he provided the phone number for those interested in volunteering at the shelters. Mr. Golphin was available for questions.

Mayor Murray commended him for his excellent presentation to enlighten the community about the shelter and their services.

Council Member Long commented about the training of on sight personnel and volunteers. She shared a personal experience she had at the Pinole shelter which was less than satisfactory and said that did not adequately underscore her experience. She also suggested providing booties to stop transmission of Parvo from the shelter. Council Member Long said that the non-profit adoption agencies do a total outreach and know best what methods work to place animals. She raised the following questions:

1. How many direct adoptions are done from the shelter?
2. How does the County market the Pinole shelter?

Mr. Golphin responded, stating there were approximately 1,700 adoptions per year. He explained that they have a limited marketing budget and are in the process of retaining a marketing position for branding and community outreach.

Council Member Long suggested she should take her comments to the Board of Supervisors and though that the County perhaps should not be in the adoption arena.

Council Member Banuelos said if the Shelter has a community event, the PCTV could provide advertisement. He asked the number of volunteers serving in Pinole and was told there were twenty.

Mayor Murray suggested bringing back the Pet of the Week in the newspaper. He discussed the receipt of comments from dissatisfied citizens about the shelter. He said he now understands the services they provide everyday and thanked him and hoped to find a way to showcase the shelter is West County and offered use of the PCTV channel.

Deputy Director Golphin said they are clearly responsible for their customer service and promised that would be addressed and asked that any other customer service issues be brought to his attention.

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

The following citizens addressed the City Council:

**Ana Morales**, Local 1, thanked Council in advance for approval of the contract and noted the hard work in negotiations

**Lisa Davis**, Local 1 Business Agent also thanked Council in advance for the three-year agreement.

**Nick Snyder**, CCC Climate Leaders, addressed Council about PG&E's On-bill Financing for Energy Efficiency Upgrades which helps eligible customers pay for energy efficiency retrofit projects with zero interest and zero penalty loans, an also the PACE program, a program for commercial property owners to pay for energy efficiency upgrades.

Mayor Murray thanked Mr. Snyder and said the City could use him as a resource on these programs going forward.

**Jeff Helvig**, Pinole Methodist Church member and Pinole resident announced that the church will be celebrating its 125<sup>th</sup> anniversary in October and promoted the upcoming activities. He officially requested that October 18<sup>th</sup> be named as Pinole Methodist Church Day in the City of Pinole.

**Bob Kopp**, Pinole citizen and Community Services Commissioner, announced the following community events:

- Dumpster Day - September 12<sup>th</sup> sponsored by the City of Pinole
- BBQ for the Troops – September 13<sup>th</sup> - sponsored by the Military Support Corporation and the City

**Jeff Rubin**, Pinole citizen, updated Council regarding a meeting regarding the construction of the new Pinole Valley High. He, Council Member Long, and Planning Commissioner Toms have been serving on an Adhoc committee with the District that met earlier today. Rubin discussed cuts proposed by the District at the last meeting and reported at the meeting today only two items remained on the list. The District proposed to eliminate the south end of the school, modifications to other portions of the proposed campus and revisions to the quad space. The three Pinole members said no to their entire proposal and today only two items remaining for discussion; replacing the terrazzo flooring with polished concrete and replacement of the exterior brick with porcelain tile. Those alternatives were also not supported by the committee members. On September 16 at 6:30 at 27<sup>th</sup> & McDonald, the Board of Trustees will consider approval of the project and send it out for bid. Rubin urged citizens to attend and let the District know it is critical to support the building of our school as designed.

**Irma Ruport**, Pinole citizen, thanked the Police and Fire Departments, as well as other regional dignitaries and community members, for attending the National Night Out event at her house. She also announced the Richmond-Pinole Lion's 50's Dance Party on August 29 at the Sportsman's Club.

**Jim Tillman**, Pinole citizen, discussed the Pinole-Hercules Waste Water Treatment Plant agreement and said the capital costs are unfairly calculated based on Pinole's build out numbers. He asked that this come back to the Council at a future agenda, and mentioned West County Sanitary District.

**Anthony Gutierrez**, Pinole citizen, requested an update on the Successor Agency Long Range Property Management Plan (LRPMP).

Mr. De La Rosa responded that there would be an update in the City Manager's Weekly Report, and noted that he had responded to requests for additional information from the State and hoped to be back to the Oversight Board with an amendment to the state and hope to be back to the oversight board with an amendment to the LRPMP in forty-five days. One piece of property was omitted from the original report and would be added.

## 7. CONSENT CALENDAR

Council Member Long removed Items 7D, H and I, and Item 7C was removed at the request of a member of the public.

**ACTION: Motion by Council Members Swearingen / Long, the Council Approved the Consent Calendar, With the Exception of Item C, D, H, and I.**

<b>Vote:</b>	<b>Passed:</b>	<b>4-0</b>
	<b>Ayes:</b>	<b>Banuelos, Long, Murray, Swearingen</b>
	<b>Noes:</b>	<b>None</b>
	<b>Abstain:</b>	<b>None</b>
	<b>Absent:</b>	<b>Green</b>

- A. Approved the Minutes of the Meeting of July 7 and July 21, 2015
- B. Received the July 18 - August 14, 2015 Lists of Warrants and the July 31, 2015 Payroll in the Amount of \$313,860.02 and the August 14, 2015 Payroll in the Amount of \$333,493.15
- C. Adopted **Resolution 2015 – 56 & Resolution 2015-57**, Authorized the City Manager to Execute Two (2) Purchase Orders To Be Funded from Measure S 2014; a Purchase Order with CDCE, Inc. for Tablet Computers and Accessories for Police Vehicles in the Amount of \$74,893.03 and a Purchase Order with Pursuit North for Antennas & Hardware Installation in the Amount of \$6,408.62 **[Council Report No. 2015-65; Action: Adopt 2 Resolutions Per Staff Recommendation (Janke)] REMOVED FOR DISCUSSION**

Mr. Gutierrez requested removal of the item to state support for the tablets and asked why cameras weren't also being considered.

Ms. Espinosa said the department already uses body cameras. IT Administrator Sherry Janke said in more body cameras would be purchased in the next phase to outfit all the officers with cameras.

- D. Receive the FY 2014/15 3<sup>rd</sup> and 4<sup>th</sup> Quarter Financial Reports And Approve 2014/15 Year End Budget Adjustments [**Council Report No. 2015-66; Action: Receive Reports & Adopt Resolution Per Staff Recommendation (Miller)] REMOVED FOR DISCUSSION**

Council Member Long raised a question regarding the Sewer Enterprise analysis on page 5 regarding 31% of service collected and the \$12 Million refund. .

Finance Director Miller responded that the original budget was estimated at 17.2 million based on the sewer plant upgrade that has not occurred yet, so staff recommended reducing the budget.

Council Member Long concurred with her response. Council Member Long also referred to the Recreation Analysis which noted contributions made by the Pinole Area Senior Foundation, and clarified that the entire contribution was for the Senior Center.

Assistant City Manager De La Rosa responded that Council Member Long's statement was correct.

**Anthony Gutierrez**, Pinole citizen, asked how the reserves could be underestimated and posed a question on the \$17 million forecasted and said it was a strong indicator that things are not going well with the Sewer project, suggesting something was wrong with the Revolving Fund loan or the project was completely awry and off by one year. He requested a response. .

Assistant City Manager De La Rosa addressed the question about the \$12 million dollars, stating that originally planned to be under construction late this year and projected our budget assuming we were getting the funds by now. The City is moving forward on the project and Public Works Director Allison can address that matter. The State revolving fund loan is in the final stage of its approval and the City has almost been assured to receive the funding timely to go to bid and accept the project.

Ms. Espinosa confirmed the project was not awry; it was on schedule. Finance Director Ms. Miller said property tax receipts have come in substantially higher than expected.

Council Member Long said the \$2 million surplus was inclusive of what was already in reserves.

**ACTION: Motion By Council Members Swearingen / Banuelos, the Council Adopted Resolutions 2015-56 and 2015-57, Authorized the City Manager to Execute Two (2) Purchase Orders To Be Funded from Measure S 2014: CDCE, Inc. for Tablet Computers & Accessories for Police Vehicles in the Amount of \$74,893.03 and with Pursuit North for Antennas & Hardware Installation in the Amount of \$6,408.62 (Item 7C) & Adopted Resolution 2015-58, Approving 2014/15 Year End Budget Adjustments (Item 7D).**

<b>Vote:</b>	<b>Passed:</b>	<b>4-0</b>
	<b>Ayes:</b>	<b>Banuelos, Long, Murray, Swearingen</b>
	<b>Noes:</b>	<b>None</b>
	<b>Abstain:</b>	<b>None</b>
	<b>Absent:</b>	<b>Green</b>

- E. Adopted **Resolution 2015 - 59** Approved A Memorandum Of Understanding Between The City Of Pinole And Public Employees Union Local One For The Period Of July 1, 2015 – June 30, 2018 and Adopted **Resolution 2015 - 60** Approved An Amendment to the PERS Health Insurance Cap , Effective 10/1/2015 for Local One Employees [**Council Report No. 2015-67; Action: Adopt 2 Resolutions Per Staff Recommendation (De La Rosa)**]
- F. Adopted **Resolution 2015 - 61**, Approved A Memorandum Of Understanding Between The City Of Pinole And Public Employees Union AFSCME 512 For The Period Of July 1, 2013 – June 30, 2018 and Adopted **Resolution 2015 - 62**, Approved An Amendment to the PERS Health Insurance Cap, Effective 10/1/2015 for AFSCME 512 Employees [**Council Report No. 2015-68; Action: Adopt 2 Resolutions Per Staff Recommendation (De La Rosa)**]
- G. Adopted **Resolution 2015 – 63, Resolution 2015-64, & Resolution 2015 - 65** Approve the Amendments to PERS Health Insurance Cap Effective 10/1/ 2015 for Management, Unrepresented / Confidential Employee Groups and Elected Official Group [**Council Report No. 2015-69; Action: Adopt 3 Resolutions Per Staff Recommendation (De La Rosa)**]
- H. Authorize Overtime and Portal-To-Portal Pay For Fire Deployments (Strike Teams) Away From Pinole [**Council Report No. 2015-70; Action: Adopt Resolution Per Staff Recommendation (Piper)**] **REMOVED FOR DISCUSSION**

Council Member Long asked if A City employee is injured, would this cover the cost of overtime to fill the shift also. Chief Piper responded that it would.

- I. Approve an Amended Job Description for the Administrative Fire Battalion Chief Job Description Approved on June 19, 2015, and Rescind Resolution 2015-45 [**Council Report No. 2015-71; Action: Adopt Resolution Per Staff Recommendation (Piper)**]

Council Member Long referred to page 2 of the staff report, regarding the need for strong educational background, and request clarification what level of education he was seeking. She also referred to the requirement to obtain a drivers license and an EMT-D license and asked who was responsible for the licensing expense.

Chief Piper responded and explained he was looking to move solely from a requirement for a degree to balance it with field experience and recognize a State Fire Officer's degree. HE also confirmed that the licensing was the responsibility of the employee.

Chief Piper also thanked the Police and Fire employees for attending National Night Out.

**ACTION: Motion by Council Members Swearingen / Long, the Council Adopted Resolution 2015-66, Authorized Overtime and Portal-To-Portal Pay For Fire Deployments (Strike Teams) Away From Pinole Approved (Item 7H) and Adopted Resolution 2015 - 67, Approved an Amended Job Description for the Administrative Fire Battalion Chief Job Approved on June 19, 2015, and Rescinded Resolution 2015-45 (Item 7I).**

**Vote:            Passed:        4-0**  
**Ayes:            Banuelos, Long, Murray, Swearingen**  
**Noes:            None**

**Abstain: None**  
**Absent: Green**

- J. Adopted **Resolution 2015 – 70**, Approved A Letter Of Support Urging The State Of California To Provide New Sustainable Funding For State And Local Transportation Infrastructure [**Council Report No. 2015-72; Action: Adopt Resolution Per Staff Recommendation (Espinosa)**]
- K. Authorized the City Manager to Execute A Memorandum of Unrecorded Grant Agreement / Deed Restriction for the Pinole Creek Demonstration Project [**Council Report No. 2015-73; Action: Execute Per Staff Recommendation (Allison)**]

#### SUCCESSOR AGENCY ITEM

- L. Adopted **Successor Agency Resolution 2015 – 07**, Termination of the Maintenance, Operation and Reciprocal Easement Agreements (MOREA's) On Property Owned by D & B Western Properties Located at 930 and 940 San Pablo Avenue [**Successor Agency Report 2015-74 Action: Adopt Resolution & Approve Per Staff Recommendation (Downs)**]

#### **8. PUBLIC HEARINGS**

- A. Conduct a Public Hearing to Conduct the Utility User Tax Annual Review and Set the Exemption Rates for Fiscal Year 2015/2016 [**Council Report No. 2015-75 Action: Conduct Public Hearing & Adopt Resolution Per Staff Recommendation (Miller)**]

**Andrea Miller**, Finance Director presented Council Report 2015-75 into the record. The report covered the mandated annual review, recapped the utility user tax collections in FY 2014-15 and to consider updating the Household Income Eligibility Thresholds for tax exemptions. She reported a continued decline in Utility User Tax collections, dropping 1.9% from the prior fiscal year. The decline in collections resulted primarily from the Internet Tax Freedom Act. The highest collections occurred in FY 2008-09. The FY 2014-15 budget estimated collection higher than actual, resulting in a budget adjustment reduction of \$98,107. The City currently uses and recommends continued use of the PG&E CARE Program to determine eligibility for UUT exemptions in FY 2015-16. The threshold is approved annually by the State PUC and is increased \$200 per year per individual in the home for FY 2015-16. Ms. Miller recommended approval of the exemption rates, and was available for questions.

Council Member Swearingen discussed the reduced PG&E rates due to installation of solar for energy efficiency and asked what percentage reduction was anticipated in the next five years.

Finance Director Miller said she did not have a projected percentage, but agreed it will be less.

Council Member Banuelos asked if there is a mechanism to insure that the number of residents living in the home was accurate. Ms. Miller said it is based on IRS returns.

To that, Council Member Long asked if there was any cross reference to Social Security and did the applicant need to provide Social Security numbers for the persons in the household.

Mr. De La Rosa said, from past experience in another agency, there was no cross referencing to Social Security. A resident cannot state there are additional persons beyond the number of dependents shown on the IRS tax return.

At 8:25 p.m., Mayor Murray opened the Public Hearing to receive testimony from members of the public. The following speakers addressed the City Council:

**James Tillman**, Pinole citizen, addressed Council and questioned the quality of the eligibility absent a staff person verifying by visiting each residence. He also added that many senior citizens earn over \$30,000 annually, but it requires a higher income to live in the Bay Area. He said this should be addressed and hoped if it comes up again, it will be discussed further.

At 8:30 p.m., Mayor Murray closed the Public Hearing.

**ACTION: Motion by Council Members Swearingen / Banuelos, the Council Received the Annual Review of the Utility User Tax and Adopted Resolution 2015-68, Setting the Exemption Rates for Fiscal Year 2015/2016.**

<b>Vote:</b>	<b>Passed:</b>	<b>4-0</b>
	<b>Ayes:</b>	<b>Banuelos, Long, Murray, Swearingen</b>
	<b>Noes:</b>	<b>None</b>
	<b>Abstain:</b>	<b>None</b>
	<b>Absent:</b>	<b>Green</b>

**9. OLD BUSINESS**

- A. Report from the Fair Political Practices Commission Regarding Resolution of the Conflict of Interest Inquiry on Mayor Peter Murray [**Council Report No. 2015-77; Action: Receive Report (Reyes)**]

**Benjamin Reyes**, City Attorney presented Council Report 2015-77 into the record, stating in response to his request, the FPPC has concluded that Mayor Murray has a “remote” interest if Contra Costa Electric is listed as a subcontractor on the Wastewater Treatment Plant Upgrade Project. As such, Mayor Murray would be required to recuse himself from participation any City Council decision involving contract with Contra Costa Electric. They also concluded that Mayor Murray does not have a financial interest under Section 1090 or the Political Reform Act in the project labor agreement and may participate in the decisions involving the Project Labor Agreement, as stated in Attachment B of the report.

In response to Council questions, City Attorney Reyes said, as an example, that Mayor Murray could not vote on change orders involving Contra Costa Electric if they are a subcontractor but could address questions raised on the project by citizens.

The following speakers addressed the City Council on this matter.

**Anthony Gutierrez**, Pinole citizen, asked why this matter was conducted as Old Business and how it applied to past decisions. He said he read it differently and Mayor Murray has entered into discussion in the past on this project and others. He asked if this opinion was retroactive to earlier portions when decisions were made to consider a Project Labor Agreement. Gutierrez said the timing seemed odd, stating that Contra Costa Electric had participated in many projects in the past.

City Attorney Reyes responded, stating the opinion was not retroactive and at this point the Council had not made any binding decisions. The City has acted within the law on this matter and the FPPC Legal Counsel had interviewed him during preparation of their opinion letter.

**The Council received the report. No action was required or taken.**

**Irma Ruport**, Pinole citizen, addressed Council and said that the date of this report was August 10<sup>th</sup>, not August 18<sup>th</sup>. City Attorney Reyes explained it was the date he prepared the report. She directed a question to the Mayor, asking if Contra Costa Electric is retained by the City, do you have to recuse yourself.

Mayor Murray responded, stating should Contra Costa Electric become a subcontractor of a general contractor who is awarded the job, he would then recuse himself. He said he initiated this process for complete transparency. .

Ms. Ruport continued her questions, asking the following:

1. How many contracts have been awarded to Contra Costa Electric and what were the contract amounts. Requested a written response.
2. Explain the reference to the 1090 rule in the 2<sup>nd</sup> paragraph on the FPPC letter mean?

Ms. Ruport said, in her opinion this was an impropriety, and asked to be fair and equitable to all parties.

**Jim Tillman**, Pinole citizen, reported that a Hercules council member made a comment about conflict at a Subcommittee meeting several months ago and he assumed this Agenda item was an outcropping of that comment. Mr. Tillman asked how Mayor Murray was going to isolate himself from this project and what measures had been put forth to satisfy that.

Mayor Murray explained he sought this advice because it is the right thing to do, not because he was asked by anyone. The City has a City Attorney who is well versed in this subject.

Council Member Long said she keeps hearing this in regards to the Panattoni project and as she understands, until the contractor is awarded the project and at such time they decide which subcontractors they will retain, it is at that point, a conflict could occur, and Mayor Murray would then recuse himself. She applauded Mayor Murray for being so transparent.

Ms. Espinosa said bids are sealed; taped and secured in a safe place until they are opened. No council members are involved in the process. The FPPC is the last and final word on this subject.

Mayor Murray said this was all precautionary because he does not know if his company even intends to bid the project.

Mr. Tillman said he is trying to protect the City from lawsuits, so if Mayor Murray is isolated then the City could go to court and state that did not happen.

Mayor Pro Tem Swearingen commented that City Attorney Reyes knows the law better than anyone else. He also said he has watch Mayor Murray on the City Council for over 20 years and he has always been honest and trustworthy. No need to try to continue to beat a dead issue.

Council Member Banuelos concurred with the prior Council comments about Mayor Murray's integrity and City Attorney Reyes knowledge and his advice to request an FPPC opinion.

**ACTION: Long / Swearingen accepted the report. Vote: 4-0.**

**ACTION: Motion by Council Members Long/ Swearingen, the Council Accepted the Report from the FPPC Regarding Resolution of the Conflict of Interest Inquiry on Mayor Peter Murray.**

**Vote:            Passed:        4-0  
                  Ayes:            Banuelos, Long, Murray, Swearingen  
                  Noes:            None  
                  Abstain:        None  
**Absent:        Green****

- B. Introduce the Project Labor Agreement between the City of Pinole and the Contra Costa County Building and Construction Trades for the Pinole-Hercules Wastewater Treatment Plant Upgrade Project [**Council Report No. 2015-76; Action: Agendize for Approval on September 1, 2015 (Espinosa)**]

**Belinda Espinosa**, City Manager opened the discussion regarding the Project Labor Agreement. She introduced Legal Counsel Jonathan Holtzman to present Council Report 2015-76 and the draft tentative agreement into the record.

**Jonathan Holtzman**, Legal Counsel displayed Exhibit materials into the record, and his presentation included the following points:

- Definition of a PLA
- How Did We Get Here – PLA Negotiations
- Overview of the Proposed PLA
- Unique Challenges of Construction & How a PLA Helps
- Terms Negotiated in Proposed PLA for the Construction of the Pinole Hercules Wastewater Treatment Facility, which is scheduled for adoption by Council on September 1.

He reported a tentative agreement was reached after approximately three months of negotiations and discussions regarding the unique challenges of this construction project which would create economic opportunity for local residents.

Mr. Holtzman discussed the PLA terms, including, but not limited to the terms listed below:

1. Brings together contractors and employees to Master Collective Bargaining Agreements of the participating unions for the life of the construction project.
2. Scope of the PLA is limited to the construction work at the wastewater treatment plant facility.
3. Brings labor peace - prohibits strikes and lockouts in order to protect against labor related work disruptions, prohibits picketing, creates a dispute resolution process and prevents disputes over negotiations of new collective bargaining agreements from disrupting the project.
4. Establishes Prefabrication/Offsite provisions – the PLA applies to any off-site or prefabrication work covered by a current Union Schedule A agreement. Supplemental agreements provide there are only two Master Agreements that govern offsite or prefabrication work; Plumbers and Sheet metal, who have reviewed plans and certified that all manufactured and assembled materials to be brought on site, will be installed, regardless of origin.
5. Social Policy Goals address local hire, apprenticeship provisions and participation in the Helmets to Hardhats Program, as identified in the document.

Council comments and questions followed and responses were provided by Legal Counsel Holtzman.

Council Long asked how residency would be verified. Mr. Holtzman said it requires the union to provide zip codes and the PLA provides the Council the opportunity to determine the monitoring method.

Mayor Pro Tem Swearingen asked whether a foreman can work “hands on” or whether two persons would need to be sent from the hall. He also raised a question about a change to the prevailing wages during the project.

Mr. Holtzman said he understood that the foreman can work with the tools. He referred the question regarding prevailing wage to Aram Hodess who could address it in more detail. If there are negotiated agreements that require increases every year, those would be paid, but a subsequent wage increase not addressed in the PLA would not be warranted.

The following speakers addressed the City Council:

**Nathan Rapp**, Senator Hancock’s Office, District 9, read the Senator’s letter into the record supporting the Project Labor Agreement.

**Mary Nicely**, District Director for Assembly Member Thurmond’s Office, read a letter in support of the Project Labor Agreement.

**Sonia Bustamonte**, staff to Supervisor Gioia, summarized a letter of support into the record and stated that every project over a million dollars at the County is done with a project labor agreement.

**Ariel Mercado**, Congressman Mike Thompson’s Office, read a letter into the record on Congressman Thompson’s behalf supporting the project labor agreement.

**Mike Mahoney**, Apprenticeship Program, spoke in support of the Project Labor Agreement.

**Bob Lilley**, IBEW, spoke in support of the Project Labor Agreement LA and urged Council to adopt the agreement.

**Niko Hildebrand**, Carpenters Union Local 152, Pinole resident, spoke in favor of the Project Labor Agreement.

**Ken Kreishcher**, Western Water Constructors, stated he was a pre-qualified bidder for this project, and raised questions specific to this Project Labor Agreement:

1. Does any apprentice counts toward local hire?
2. Asked if they understood that many of the master agreements allow for the mobility of workers?
3. The document contains references to oversight. Who is responsible for that cost; Pinole only, or Pinole and Hercules?
4. Arbitrators background and qualifications should be provided in the document
5. What happens if all trades do not sign the agreement?

Mr. Kreishcher concluded that he still maintains that a Project Labor Agreement raises the cost of the contract. EBMUD conducted a survey of contractors who build waste water projects and every contractor said a PLA raises the cost.

Mayor Murray asked Mr. Kreishcher to provide his questions in writing.

**Omar Martin**, Carpenters Union, spoke in support of the Project Labor Agreement.

**Sharon Seidenstein**, Attorney for Building Trades Council, congratulated the Council for their interest in entering into a Project Labor Agreement and spoke in support of the agreement.

**Greg Feere**, Contra Costa Building Trades Council, addressed Council in support of the Project Labor Agreement and spoke specifically about the benefits of the Helmets to Hard Hats program that provides veterans with a helping hand. He also commended the City Manager and Assistant City Manager for their participation in negotiating the agreement which provided an education to him from the City's standpoint.

**Aram Hodess**, Plumber and Steamfitters Local 159, spoke in support of the Project Labor agreement, commended staff and addressed comments made by Ken Kreishcher and his company's participation in other projects with project labor agreements and stated that Mr. Kreishcher's company, Western Water Constructors, is now a union contractor.

**Kevin Van Buskirk**, Sheet Metal Workers / President of the Contra Costa Building Trades Council, addressed Council in support of the Project Labor Agreement, commended the City Manager and Assistant City Manager for their participation in the negotiations and spoke to the merits of the Helmets to Hard Hats Program, and encouraged adoption.

**Anthony Gutierrez**, Pinole citizen, raised a question on page 1 of the consolidated draft relative to the dates. He referred to a letter dated April 13<sup>th</sup> from the Water Quality Board and read an excerpt about requirement that the city bring upgrades by June 1, 2017, and said the reality is they have only 16 months to complete the job. He also said he heard that we have already lost the project manager on this job. According to the SF Water Board, this project is awry and the City staff is in denial.

**James Tillman**, Pinole citizen, spoke in support of the Project Labor Agreement because there are local people who need work, and urged approval of the project. He expressed concern for the timeline. He asked if both cities would participate in the added project costs associated with the Project Labor Agreement.

City Manager Espinosa responded that the cost for negotiating the Project Labor Agreement will be paid by both cities, pursuant to the approved Fiscal Agreement and the Subcommittee Agreement

**Cherie Cabral**, CA State Construction Labor Management Committee, spoke in support of the Project Labor Agreement and commended the Council, and urged support of the agreement on September 1.

Council comments followed.

Mayor Pro Tem Swearingen commented that the agreement stated that any apprentice counts for local hire.

Legal Counsel John Holtzman responded that any "local" apprentice counts for local hire, and any state sanctioned apprenticeship program qualifies.

**Ken Kreishcher** Western Water Works, said the end of 15.3 said the employment of apprenticeship should qualify for local hire, and that was also his question.

Legal Counsel Holtzman said the intention was that if a local apprentice is hired, they qualify for local hire.

Mayor Pro Tem Swearingen said it appears if someone is not a union worker and is required to join a union to work on this project, he would be paying twice for benefits he may already have, and regarding workers below foreman, one can request the hall to send your workers to the job.

Legal Counsel Holtzman said for people who work on the project, the employer will be required to contribution to the pension trust. It is often said that this could result in a disadvantage to the employer if the employer regularly provides benefits to their employees. It is a concern that we raised at the table, but on the pension side, few employers are providing defined benefit programs. On the health side, there could be a short overlap. With respect to the second statement, he said some unions allow travel and some do not. The goal is to cover the entire project, 25% local hire, not 25% from each contractor. He then cited the order of priority.

City Manager Espinosa said there is no consequence in the PLA if the 25% goal is not achieved, but you have commitment from the trades and the City to attempt to reach the goal. The monitoring provides more teeth in the goal.

Council Member Long asked for clarification on Section 6.2 addressing crossing over in the trades.

Legal Counsel Holtzman stated that is regarding Work Stoppage and referred her to page 26, Article 14 and provided an explanation to her question about jurisdictional disputes which would be mediated without any work stoppage.

Council Member Long asked Public Works Director whether, when the bids go out, was there a place where the City can check to see if there had been a record of any disputes. She also asked to have a discussion regarding how the City will verify residency and under Drug and Alcohol testing, asked to add language that this was a Smoke Free Environment.

Public Works Director Allison confirmed that was correct. He also said the language regarding Smoke Free Environment could be included in the specifications.

Mr. Holtzman addressed a question related to liquidated damages as asked by Council Member Long.

Mayor Murray asked Mr. Kreishcher to come to the podium to insure all his questions were answered. Mr. Kreishcher reiterated his questions regarding the responsibility of project management costs of project oversight, the arbitrators' qualifications, and the outcome if one or more union fails to sign the PLA

City Manager Espinosa responded that the Project Manager, Carollo Engineers are the project management firm and the costs attributable to the Project Labor Agreement negotiations will be shared by Pinole and Hercules

Mr. Holtzman added that the arbitrators all have thirty plus years experience and he addressed the question regarding a union refusal to sign, stating it rarely occurs, but there are two options: 1) they are not covered by the PLA and do not receive the benefits of the PLA, and 2) insist they sign as they were necessary to the agreement.

**Greg Feere** stated that it has never occurred in Contra Costa County. He said in this case the trades have gone to Washington D.C. and they have already blessed the agreement.

**Action: Motion by Council Members Long / Swearingen, the Council agendized the Project Labor Agreement for approval on September 1, 2015.**

There was a brief discussion why the question for approval wasn't called this evening.

Mr. Holtzman recommended that it was best to provide two opportunities for testimony.

Council Member Long amended her motion to place it on September 1 Consent Calendar. Council Member Swearingen concurred, but saw no reason to carry it over for the vote that could be done this evening.

City Attorney Reyes said it is not agendized for approval tonight and agendizing on the Consent Calendar on September 1 was satisfactory. The amended motion was accepted by Council Member Swearingen.

**Action: Amended Motion by Council Members Long / Swearingen, the Council agendized the Project Labor Agreement for approval on September 1, 2015 Consent Calendar.**

<b>Vote:</b>	<b>Passed:</b>	<b>4-0</b>
	<b>Ayes:</b>	<b>Banuelos, Long, Murray, Swearingen</b>
	<b>Noes:</b>	<b>None</b>
	<b>Abstain:</b>	<b>None</b>
<b>Absent:</b>	<b>Green</b>	

Mayor Murray called a recess at 10:43 pm and reconvened at 10:55 pm.

**10. NEW BUSINESS**

- A. Conceptual Presentation of the Proposed Gateway East Surgical Eye Center – Agape, LLC

This matter was continued to the September 1, 2015 meeting, at the request of the presenter due to an emergency that arose earlier in the day.

- B. Receive Report & Approve the PG&E Pathways Project Permit Process  
**[Council Report No. 2015-78; Action: Approve Project Per Staff Recommendation (Allison)]**

**Dean Allison**, Development Services Director, presented Council Report 2015-78 into the record. He introduced PG&E representatives to address the technical issues. Recommendation this evening to provide input to PG&E before meetings with private property owners and also want approval of the removal of 16 trees, and authorize the Development Services Director to negotiate with PG&E regarding the removal of 42 Manageable At Risk trees on City property. He provided a project overview.

At 11:00 p.m., Mayor asked for a motion to extend the meeting.

**ACTION: Motion by Banelos / Long, the Council extended the meeting to complete the agenda.**

**Vote: Passed 4-0.**

Mr. Allison continued his presentation and discussed the forty-two Manageable Risk trees and displayed pictures of Monterey Pines that overshadow the smaller trees. He supports removal of the pines because the smaller trees will flourish when the pines are removed.

Banelos asked for a diagram or map of the 42 trees.

**Treva Reed**, governmental Relations, PG&E, committed to gas safety and presented the Community Pipeline Safety Initiative. Their goal is to work with the City to insure public safety and maintain the character of the community. They need to insure the tree roots are not damaging the underground pipeline leading to corrosion and leaks. They conducted a tree-by-tree review and when a tree is removed will replant a tree working with the City to cite the correct location.

**Marvin Nushwat**, Governmental Relations, PG&E and **Tony Del Greco** Customer Impact Specialist PG&E discussed the private property review process in more detail, similar to how they work with the Development Services Director on City owned properties. .

Council questions and comments followed.

Mayor Murray complimented PG&E on a project that appears to be well thought out but requested a plan depicting the location of all the trees.

Council Member Long asked the following:

1. Would there be PG&E employees or consultants working on this project.
2. Requested a list of the species and a map/plan of the tree locations, depicting all trees, structures, as well as showing all affected residential locations.
3. Have any structures on residential properties been identified for removal, if so, how many?
4. Who insures the health of the replacement landscaping, and for what term?
5. What methods are proposed to insure the security of the residents, and suggested every representative must have a marked truck as well as badges.

Mr. Nushwat said he would email those to the Council tomorrow. Regarding the maintenance of the trees, placing them near an existing irrigation system and would hook into it.

Long requested that PG&E pay for the maintenance for a period of time to insure the viability of the landscape. Mr. Nushwat said currently they are not providing for the long term care of trees, unless it is required in a City ordinance, and deviation would require consideration and approval by their board.

Mr. Nushwat said there are nine properties with structures cited for removal and he would provide the street names but not the specific house number for confidentiality purposes. He also addressed Questions of Council regarding dealing with tenants and proper notification to the homeowners and require the consent of the homeowner.

Marvin Nushwat identified how they watch and manage the manageable risks. They restore the entire areas where they remove trees.

Mayor Murray said staff wants authorization to work with PG&E about the removal of 16 unmanageable trees and 42 additional manageable risk trees on City property and City rights-of-way.

**Direction: The Council directed PG&E to provide documentation on the specific trees and the tree locations. They accepted staff recommendations contained on the staff report, as conditioned:**

1. Insure the security of the residents when meeting with private property owners and during the pipeline safety project initiative.
2. Provide more information on the sixteen (16) Unacceptable Risk trees on City property and city rights of way,
3. Regarding the removal of up to forty-two (42) additional Manageable Risk trees on City Property and right of way, obtain Council input informally as the process moves forward.
4. Accepted but also provide communication to Council regard locations where replacement trees will be installed.

Council Member Long asked Mr. Del Greco and Mr. Nushwat if they were agreeable to those terms. Both gentlemen confirmed they were in agreement.

The PG&E representatives were also asked to provide an information piece to staff to place on the PCTV scroll, the website and the City Weekly report.

## 11. REPORTS & COMMUNICATIONS

### A. Mayor Report

1. Announcements
  - a. Relay for Life

Mayor Murray suggested speaking with the WCCUSD regarding moving the event to the Pinole Valley High School for future events.

City Manager Espinosa responded that the Relay for Life coordinators had said they preferred the quaintness of Fernandez Park.

- b. August 20 - Senior Center Fun Day at the AT&T Park
- c. August 29– Richmond -Pinole Lions 50s Dance Party
- d. September 12 – Senior Center Fundraiser Tri Tip Dinner
- e. September 13<sup>th</sup> – BBQ for the Troops
- f. September 19<sup>th</sup> – Coastal Cleanup

### B. Mayoral & Council Appointments

1. Reappointment of Alternate Delegate Kathy Magann to the Contra Costa Library Commission [**Council Report No. 2015-79; Action: Council Discretion (Athenour)**]

City Clerk Athenour entered Council Report 2015-79 into the record and informed the Council that Kathy Magann has served in the capacity of both delegate and alternate on the County Library Commission since 2009. Currently her term expired at the end of June, and Ms. Magann expressed willingness to serve another term as the alternate.

**ACTION: Motion by Council Members Banuelos/Swearingen, the Council Reappointed Kathy Magann to a Two Year Term Expiring on June 30, 2017 as the Pinole's Alternate on the County Library Commission.**

**Vote:            Passed:        4-0**  
**Ayes:            Banuelos, Long, Murray, Swearingen**  
**Noes:            None**  
**Abstain:        None**  
**Absent:        Green**

C.      City Council Committee Reports

Council Member Banuelos reported on the Wastewater Subcommittee meeting.

**Anthony Gutierrez**, Pinole citizen, added that there was discussion at the Wastewater Treatment Plant Subcommittee meeting regarding the solid waste for creating fuel (anaerobic digestion), and the City Manager was going to look into installation of the purple pipe for future recycled water usage and would talk with Carollo Engineers about putting it in the specifications as an add-on.

The Council asked for an update from Public Works Director Allison on the WPCP Upgrade Project on September 1.

Council Member Long said she would not be present for the September 16<sup>th</sup> WCCUSD meeting on the Pinole Valley High Construction, and asked the Council to make sure that they do not back pedal. Mayor Pro Tem Swearingen said he would attend the meeting.

Council Member Long said she spoke to the owners of A Little Piece of Heaven, who lost the lease on their current location and noted they are looking for another space in Pinole to relocate their business.

D.      Council Requests For Future Agenda Items

1.      Amenities /upgrades to the dog park (Long)
2.      Discussion regarding the ownership of murals in Pinole (Long)
3.      Review of the Recreation Department regarding whether it is meeting City goals (Long)
4.      Update on the Skate Park (Banuelos)

City Manager Espinosa said the Skate Park is on schedule and she had visited the site to place pictures in the Weekly Report. She advised that Public Works Director Allison could provide an update at the September 1 meeting.

E.      City Manager Report / Department Staff

There were no reports.

F.      City Attorney Report

1.      Consider the Process to Fill Vacancy in the Office of the City Treasurer Through an Appointment or Special Election [**Council Report No. 2015-80; Action: Adopt Resolution to Fill Vacancy By Appointment (Reyes)**]

**Benjamin Reyes**, City Attorney presented Council Report 2015-80 into the record providing two options, either by a Special Election or a Council appointment, for filling the vacancy in the City Treasurer's Office created by the death of Treasurer Judy Lee. Additionally he forwarded a recommendation for filling the vacancy by appointment. By Government Code, the office must be filled by appointment within 60 days, or calling a Special election that must be held not less than 114 days from the call of the special election.

Council Member Long said she wished to forward a name for consideration and asked if an appointment could be made without interview.

Council discussion followed. There was not support to move forward without an application and interview process, and said the interviews should be conducted in an open meeting.

**Irma Rupert** said she agreed that the open meeting rules require that the interviews should be in open session and televised.

The City Clerk advised the Council that she had prepared a draft application packet and recommended a filing deadline of September 3, 2015 and asked the Council if they could select a date to schedule the Special Meeting to conduct interviews.

**ACTION: Motion by Council Members Banuelos / Swearingen , the Council Adopted Resolution 2016-69, Directed the City Clerk to Prepare An Application Packet for the Treasurer Vacancy, Schedule A Special Meeting on September 8 at 6 PM to Conduct Interviews and Agendize the Appointment of the City Treasurer at the September 18, 2015 Regular Meeting**

<b>Vote:</b>	<b>Passed:</b>	<b>4-0</b>
	<b>Ayes:</b>	<b>Banuelos, Long, Murray, Swearingen</b>
	<b>Noes:</b>	<b>None</b>
	<b>Abstain:</b>	<b>None</b>
	<b>Absent:</b>	<b>Green</b>

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

**Irma Rupert**, addressed Council regarding the City Managers performance, and did not support a satisfactory performance evaluation.

**Anthony Gutierrez**, Pinole citizen, discussed errors made with the validation order over a set of properties and \$13 million dollars, and hoped the Council would consider these missteps in the evaluation. He concurred with Irma Rupert and her noting of the Verizon cell tower lease and said it should be taken into consideration.

At 12:15 a.m., Mayor Murray reconvened the Council back into a noticed Closed Session regarding the following matter:

- A. PUBLIC EMPLOYEE PERFORMANCE EVALUATION – Pursuant to GC §54957  
City Manager

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

At 12:44 a.m., Mayor Murray reconvened the meeting in open session. He announced there were no reportable actions from Closed Session.

13. **ADJOURNMENT** to the Regular City Council Meeting of September 1, 2015 in remembrance of Amber Swartz and City Treasurer Judy Lee.

At 12:45 a.m., Mayor Murray adjourned the Joint City Council and Successor Agency Meeting to the September 1, 2015 meeting, in remembrance of Amber Swartz and City Treasurer Judy Lee

**Submitted by:**

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**Patricia Athenour, MMC**  
**City Clerk**

**Approved by City Council:**