

**PINOLE CITY COUNCIL
MINUTES
JANUARY 19, 2016**

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

The Regular Pinole City Council Meeting was held in the Pinole Council Chambers, 2131 Pear Street, Pinole, California. Mayor Swearingen called the meeting to order at 5:30 PM and led the Pledge of Allegiance.

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

A. COUNCIL MEMBERS PRESENT

Mayor Roy Swearingen
Mayor Pro Tem Debbie Long
Council Member Tim Banuelos arrived at 6:00 PM
Council Member Peter Murray
Council Member Maureen Toms

B. STAFF PRESENT

Michelle Fitzer, City Manager
Eric Casher, Assistant City Attorney
Neil Gang, Police Chief
Fire Chief, Rob Piper
Patricia Athenour, City Clerk

City Clerk Athenour announced the Agenda was posted on January 14, 2016 at 4:00 P.M. All legally required notice was provided. The Council responded to the City's Clerk question, stating there were no conflicts with any items on the agenda.

City Clerk Athenour announced the following changes and entered the following documents into the record:

Item 7G- Correction on the Title of the Agenda to reflect the additional funding for the Theatre Interior Improvements will be transferred from Measure S 2014; not the Senior Center Roof Project.

Item 8A – Entered staff presentation exhibit materials

Item 7D– Reported that Irma Rupert filed a request to remove this item from the Consent Calendar to speak on the matter via an email received on Friday, January 15th to comment on the notification process for the Public Hearing.

3. CONVENE TO A CLOSED SESSION

At 5:40 p.m., Mayor Swearingen convened the Council to the Notice Closed Session in the Council Community Room.

- A. **CONFERENCE WITH LEGAL COUNSEL- ANTICIPATED LITIGATION**
GC §54956.9(d)(4) – Anticipated Litigation
One Matter

- B. **CONFERENCE WITH REAL PROPERTY NEGOTIATOR**
GC Code §54956.8
Property Locations: 600 Tennent Avenue / APN: 401-142-010
612 Tennent Ave. / APN: 401-142-011
City Negotiator: Michelle Fitzer, City Manager & Hector De La Rosa, Assistant
City Manager
Negotiating Parties: Dale Moore and Jim Rilley
Under Negotiation: Price & Terms

- C. **PUBLIC EMPLOYEE PERFORMANCE EVALUATION**
Pursuant to GC §54957
City Clerk

- D. **CONFERENCE WITH LEGAL COUNSEL—EXISTING LITIGATION**
GC §54956.9(d)(1)
United Professional Firefighters Local 1230 v. City of Pinole
Case No. SF-CE-00864M

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

At 7:07 p.m., Mayor Swearingen reconvened the meeting in Open Session in the Council Chambers. He announced there were no reportable actions from closed Session and Item Item 7B was held over to the February 2, 2016 Council Meeting.

5. RECOGNITIONS / PRESENTATIONS / COMMUNITY EVENTS

- A. Proclamations
- B. Presentations / Recognitions / Community Events

6. CITIZENS TO BE HEARD (Public Comments)

The following speakers addressed the Council:

James Tillman, Pinole resident, addressed Council and raised the following questions:

1. Request that Council to amend review the Wireless Communication Ordinance which was amended in 2010, relative to setbacks from property line.

2. Reported that the City of Walnut Creek was reviewing the authority of the Planning Commission, and said he wanted all items to come to the Council for a “second review” and approval.

3. Asked when the CVS design review and the wireless cellular facility applications would be heard before Council together or separately. He favored it being heard together.

Mayor Swearingen said a response would be forthcoming after discussion with staff.

Bob Kopp, Pinole citizen, distributed a flyer for a “BBQ for the Troops“. Kopp reported donating \$2,087.86 to an organization working with providing services for returning soldiers with PTSD. He asked the Council’s permission to conduct a new fundraiser, a cook-off the day prior to the Annual Northern California Cruisers Car Show in June. The recipient of the fundraiser would be PCTV and the Police Explorers.

Mayor Swearingen said Council would discuss and report back at a future meeting.

7. CONSENT CALENDAR

Mayor Swearingen removed Item 7D on behalf of Ms. Ruport;’s request and Item 7E

ACTION: Motion by Council Members Banuelos / Toms, the Council Approved the Consent Calendar Items A, B, F, and G.

Vote: Passed: 5-0
Ayes: Banuelos, Long, Murray, Swearingen, Toms
Noes: None
Abstain: None
Absent: None

- A. Approved the Minutes of the Meeting of December 8 and December 15, 2015
- B. Received the December 12, 2015 – January 15, 2016 Lists of Warrants and the December 18, 2015 payroll in the amount of \$346,847.44, the December 31, 2015 payroll in the amount of \$321,612.42 and the January 15, 2016 Payroll in the Amounts of \$371,250.94
- C. Adopted **Resolution 2016-01**, Approved Escrow Agreement with Wells Fargo Bank for the Pinole-Hercules Wastewater Treatment Plant Upgrade Project [Council Report No. 2016-01; Action: **Adopt Resolution Per Staff Recommendation (Miller)**] Toms / Murray approved – 5-0

ACTION: Motion by Council Members Banuelos / Toms, the Council Approved the Consent Calendar Items 7C.

Vote: Passed: 5-0
Ayes: Banuelos, Long, Murray, Swearingen, Toms
Noes: None
Abstain: None
Absent: None

- D. Set the Public Hearing on February 9, 2016 On or After 7 PM to Consider An Appeal of the November 16, 2015 Planning Commission Denial of Design Review (DR 14-26) and Conditional Use Permit (CUP14-13) for a Wireless Communications Facility Located On Property Located At 2518 Pfeiffer Lane, APN: 360-131-036 [Council Report No. 2016-02; Action: **Approve By Minute Order (Athenour)**] REMOVED FOR DISCUSSION

- E. Authorize The City Manager To Request A 30-Year Loan Term For Repayment Of The California State Water Resources Control Board Clean Water State Revolving Loan **[Council Report No. 2016-03; Action: Adopt Resolution Per Staff Recommendation (De La Rosa)] REMOVED FOR DISCUSSION**
- F. Adopted **Resolution 2016-03**, Approved A Grant of Easement to the Contra Costa County Flood Control District For Access to APN No. 401-010-010, Related To the Pinole Waste Water Treatment Plant Project **[Council Report No. 2016-04; Action: Adopt Resolution Per Staff Recommendation (Petrie)]**
- G. Adopted **Resolution 2016-04**, Awarded the Bid and Authorized the City Manager to Execute a Construction Contract with Fortier Builders In An Amount Not To Exceed \$89,000 For the Pinole Community Playhouse Interior Alterations - 601 Tennent Avenue And Authorize the Finance Director to Amend the FY 2015/16 Budget to Reallocate Funding From Measure S 2014 to the Community Playhouse Project **[Council Report No. 2016-05; Action: Adopt Resolution Per Staff Recommendation (Petrie)]**

Items Removed From the Consent Calendar

Item 7D.

Irma Ruport, Pinole citizen, requested additional noticing of the Verizon appeal hearing posted on street corners, on the PCTV scroll, and mailed notices sent not only to properties within 1,000 feet of the subject property, but to the entire community.

Mayor Swearingen said he would take her comments under advisement.

David Ruport Pinole citizen referenced a letter he wrote to City Attorney Reyes regarding the Verizon Appeal Hearing scheduled as a “de novo” hearing, and said he disagreed with the scope. He reported speaking to Mr. Reyes regarding questions and said the Pinole Municipal Code was vague on the subject of appeals. He said the timeframe is short and he requested an answer to his letter earlier than a few days prior to the hearing. He said Verizon indicated that the Planning Commission decision was based on the whole federal code. Ruport said it would be prudent to get information to the public well before the hearing.

Mayor Swearingen said he would attempt to provide a response in the next few weeks.

ACTION: Motion by Council Members Murray/Long, the Council Set the Public Hearing to Consider the Verizon Appeal of the November 18, 2015 Planning Commission Decision on February 9, 2016 on or after 7:00 PM in the Pinole City Council Chambers

Vote:	Passed:	5-0
	Ayes:	Banuelos, Long, Murray, Swearingen, Toms
	Noes:	None
	Abstain:	None
	Absent:	None

Assistant City Attorney Casher provided the following timeline for submission of public comments for inclusion in the Council agenda packet regarding the Verizon appeal.

- Prior to appeal hearing, submit information to the City Clerk by 4:30 p.m. per the following timelines

- Submit by January 27 to be addressed in staff report and included in Council agenda packet
- Submit by February 3 to be included in Council agenda packet (won't be addressed in staff report)
- Information submitted after February 3 will be presented to the Council on the dais at the February 9 hearing

Item 7E.

Mayor Swearingen removed the item, stating that he was concerned this would increase the price of the project by a million dollars. He does not believe it was a fair valuation and was very concerned increasing the term to a 30-year loan. While he did not expect support among the Council, the public needs to know that the sewer rates would rise, which was the reason he was in opposition to the matter. .

Mayor Pro Tem Long said the matter would have to be agendaized to have a complete discussion. She said moving to a 30-year loan would avoid having to consider a sewer increase. She said his issues would be more appropriately discussed at the February 16 Council meeting and the matter before the Council tonight was whether to extend the term of the loan.

Mayor Swearingen closed stating that the Wastewater Upgrade Project was running over and the public needed to be aware.

ACTION: Motion by Council Members Long/Toms, the Council Adopted Resolution 2016-02, Authorizing the City Manager To Request A 30-Year Loan Term For Repayment Of The California State Water Resources Control Board Clean Water State Revolving Loan

Vote:	Passed:	4-1
	Ayes:	Banuelos, Long, Murray, Toms
	Noes:	Swearingen
	Abstain:	None
	Absent:	None

8. PUBLIC HEARINGS

A. Conduct a Public Hearing and Consider Three Ordinances to Prohibit Cultivation of Medical Marijuana:

1. Establish an Urgency Ordinance Pursuant to Government Code Section 36937 Prohibiting Medical Marijuana Cultivation
2. Establishing an Ordinance Amending Title 8, the Health and Safety Section, to Prohibit Medical Marijuana Cultivation and Delivery; and Title 5, the Licensing Section, to Prohibit Medical Marijuana Cultivation and Delivery

[Council Report No. 2016-06; Action: Conduct a Public Hearing, Introduce and Adopt Urgency Ordinance on January 19, 2016, and Introduce Ordinance Amending Title 5 & 8, and Schedule Adoption & Second Reading on February 2, 2016, Per Staff Recommendation (Reyes/Casher)]

Eric Casher, Assistant City Attorney presented Council Report 2016-06, and summarized the background report and the proposed action to adopt an emergency ordinance to prohibit medical marijuana cultivation. The recommendation also included introduction of an ordinance amending Title 5 and Title 8 of the Pinole Municipal Code related to cultivation as a health and safety concern. He provided statutory authority.

Police Chief Gang spoke in support of the ordinance and presented urgency ordinance findings. He expressed concern from discussions with other agencies in the process of adopting this ordinance and if Pinole did not have an ordinance, we could attract such use, which deals with quality of life issues. HE also discussed the use of combustible fertilizes and the associated fire risks. While he understood there are qualified medical marijuana users in Pinole, there are here points of sale in the immediate area outside Pinole boundaries, and caretakers could take their patients to those locations to obtain their medical marijuana.

Casher advised that the ordinance must be in place by March 1, 2016, and if approved the ordinance would be effectively immediately and the amendments to Chapter 5.64 and Chapter 8.33 will define medical marijuana cultivation and declare it a prohibition, and will be agendized for second reading and adoption on February 2, 2016..

At 7:45 p.m., Mayor Swearingen opened the Public Hearing. No speakers addressed Council and the Public Hearing was declared closed. The matter brought before Council for comments and action.

Council Member Murray sought clarification to insure there was nothing that could stop the City from repealing the ordinance should the State approve legislation.

Assistant City Attorney Casher concurred that was a correct statement. Eric said that was correct.

ACTION: Motion by Council Members Long/Banuelos, the Council Introduced and Adopted Ordinance 2016-01, Urgency Ordinance Pursuant to Government Code Section 36937 Prohibiting Medical Marijuana Cultivation

Vote:	Passed:	5-0
	Ayes:	Banuelos, Long, Murray, Swearingen, Toms
	Noes:	None
	Abstain:	None
	Absent:	None

ACTION: Motion by Council Members Long/Banuelos, the Council Introduced Ordinance 2016-02, Amending Title 8, the Health and Safety Section, to Prohibit Medical Marijuana Cultivation and Delivery; and Title 5, the Licensing Section, to Prohibit Medical Marijuana Cultivation and Delivery

Vote:	Passed:	5-0
	Ayes:	Banuelos, Long, Murray, Swearingen, Toms
	Noes:	None
	Abstain:	None
	Absent:	None

9. OLD BUSINESS

- A. Approve Amendment No. 1 To The Professional Services Agreement With Carollo Engineers For Additional Services Related To The Pinole-Hercules Water Pollution Plant Upgrade Project, In An Amount Not To Exceed \$196,876 [**Council Report No. 2016-09; Action: Adopt Resolution & Approve Per Staff Recommendations (Petrie)**]

Al Petrie, Interim Development Services Director presented Council Report No. 2016-09 into the record which contained the first amendment in the amount of \$196,876, to add fiscal administrator services to the Carollo Engineers construction management contract. Mr. Petrie entered a Scope of Work as an exhibit, which was also contained as an attachment to the staff report. Mr. Petrie introduced Robb Grantham, Carollo Engineers.

Mayor Pro Tem Long commented that the position appears to be budgeted as a full-time position at \$6,700 per month. She had a difficult time justifying a full-time position to pay bills. And that the hourly rate, as well as the time allotted was excessive.

Robb Grantham, Carollo Engineers said Carollo intended to use support staff when possible to lower the cost to the City. He explained the scope of the services and the process involved in being the Fiscal Administrator. In addition this was originally budgeted for 24 months and now was extended to 30 months. Grantham explained there would peak periods at the front end and the middle. It is necessary to have a person who understands construction as well as accounting. Mr. Grantham also responded to questions raised by Mayor Pro Tem Long related to experience and outsourcing tasks.

Mayor Pro Tem Long said she would like the numbers reviewed again by the Assistant City Manager and Finance Director.

Council Member Banuelos said it appeared that some tasks would be addressed under general project administration, and sought clarification regarding tasks specific to the fiscal administration and how they fit together.

Mr. Grantham responded; Carollo would provide monthly forecasts to evaluate future costs, coordinate reimbursements with the State, with Wells Fargo on draws. None of those tasks are part of the current construction management contract. Mr. Warrinier would be performing the construction management.

Council Member Murray shared the same concerns as Mayor Pro Tem Long, believing the accounting portion had a steep hourly rate. He asked if the scope of the project management was duplicated in function.

Mr. Grantham said the contract was based on time and materials and there would be no duplication.

Mayor Swearingen shared some concerns of his colleagues and felt sections of the scope of work should have already been included in the construction management scope.

Mr. Grantham said monthly reports would be provided to the City. He said it was unlikely there would be additional fees if the contract goes over a few months, however if it was more than that it would be a different situation. Grantham said the scope was developed from the efforts of staff from both Pinole and Hercules.

Mayor Pro Tem Long said looking at the cost overruns is already part of the project manager responsibility.

Council Member Toms requested that the Council receive the monthly reports.

The following speakers addressed the City Council:

Ken Kretschmer, Western Water Contractors, Inc., addressed Council said he thought the public would appreciate knowing why the same concern wasn't asked on the Project Labor Agreement.

Anthony Gutierrez Pinole citizen, asked if this could be put out to bid to provide some distance from the construction management to insure everything is being done properly.

Mayor Swearingen took the comments under advisement, and said he believed retaining a separate consultant would raise the costs and slow the process.

City Manager Fitzer said the addendum contains a "Not To Exceed" amount and staff would be monitoring the contract and invoices.

No motion was entertained. The Council said they wished to see if staff could work with Carollo to reduce the amount of the amendment.

Council Member Murray asked if this was a time sensitive issue.

Andrea Miller Finance Director, addressed Council regarding the timeline which was tied to the escrow agreement. She said if it was not approved now, it would delay the process and require a new agreement with Wells Fargo.

Mayor Swearingen asked about bringing it at the next meeting. Ms. Fitzer advised the Council that the project needed to move forward.

Mayor Pro Tem Long recommended holding the Wells Fargo escrow agreement before presenting it and wait until Hercules also approved it.

Mr. Grantham said the hourly rate was actually below their normal billing rate. He suggested approving a portion of the amendment now, demonstrate the benefit to Council and approve the remainder later.

Ms. Fitzer said another alternative was to provide tentative approval so staff could submit the Wells Fargo agreement and report back to Council after performing a thorough analysis of the contract price.

Mayor Pro Tem Long suggested approving a percentage of the project now, conduct a review and possibly find that there is not a need for the higher rated position.

Mr. Grantham suggested approving 75% of the contract amount and place 25% in a contingency.

Mayor Pro Tem Long supported that suggestion, stating the final payment can be determined later, and this would keep the project moving forward.

ACTION: Motion by Council Members Murray / Long, the Council Adopted Resolution 2016-05, Approved Amendment No. 1 To The Professional Services Agreement With Carollo Engineering For Additional Services Related To The Pinole-Hercules Water Pollution Plant Upgrade Project, In An Amount Not To Exceed \$196,876 - 75% as Contract Price and 25% as a Contingency

Vote: Passed: 5-0
Ayes: Banuelos, Long, Murray, Swearingen, Toms
Noes: None
Abstain: None
Absent: None

- B. Reconsideration of the November 3, 2015 Council Approval of Participation in the State Of California Property Assessed Clean Energy (PACE) Programs And Their Respective Joint Powers Authorities (JPAs) **[Council Report No. 2016-07; Action: Council Discretion (De La Rosa)]**

Michelle Fitzer, City Manager, introduced representatives from California First and from the YGreene Works to speak after Council comments.

Mayor Pro Tem Long explained that cold calling started the day after the Council’s approval. Speaking to the representatives, she feels they get all the rewards without the risks, but citizens are getting calls from people who will not identify themselves. She feels the program opens the door for potential fraud. The websites of the two applicants state that contractors have a valid contractor’s license and there appears to be no vetting of the contractors. She expressed concerns of the accuracy of the information provided to the homeowners and that there is a potential for lowering property values. One part of the report indicated there was a prepayment penalty; the other part stated there was none. Long stated there must be checks and balances and if the contractors leave without finishing the job, your office needs to intervene as the owners have already signed the contract and are on the hook for repayment.

Marcus Savage, PACE Program, YGreene Energy Fund, and Cliff Staton, PACE, Renew Financial, and Oriana Yanes, PACE Hero Program were available for presentations and questions.

Oriana Yanes, PACE Hero Program, explained that PACE is the umbrella financing and different companies are under that umbrella. The HERO program has not launched or promoted yet in Pinole, until their judicial validation is passed. Ms. Yanes said they anticipate going live in mid-April. She will be the primary point of contact for issues locally. Consumer protections are in place and they work with all the contractors to be registered and trained. The entire process and consumer protections were addressed on the record.

Mayor Pro Tem Long asked that the contractors provide information regarding their company affiliation and a call back number.

Ms. Yanes responded that their contractors must identify themselves as a Hero Registered Contractor. There are no prepayment penalty fees in the HERO program. In addition, she said that HERO has started subordinating liens.

Mayor Pro Tem Long to which level they subordinate. Ms. Yanes responded that they are subordinating to the first deed of trust lien holder and become second place.

Council Member Toms said she understood they subordinate only the outstanding payments that have not been received, not the outstanding balance. Ms. Yanes confirmed. She explained that the lien is on the property taxes, so it would be the outstanding payments not paid to date.

Marcus Savage, YGreene Energy Fund, said they have two platforms operating in California today. In one program there is no bulk assessment lien. If the contract is approved, the homeowners may use any contractor as long as their license is in good standing. They have a zero tolerance policy. Savage said that one cannot expect contractors to be extremely detailed in financing, but they are trained to be informed as possible and his program staff will be available to answer any questions of homeowners. In these programs there is an option to elect whether the homeowner wishes to have a prepayment penalty.

Mayor Pro Tem Long stated this was the type of information some homeowners do not understand.

Mr. Savage discussed the loans that are recorded against the property and discussed bulk assessment liens recorded with property taxes, recorded as an annual assessment, based on Mella Roos guidelines. He did not believe any of the programs devalue property.

Cliff Staton, Renew Financial, said his program has no prepayment fees, has a call center to answer calls around the state, have a dispute resolution process, outbound calls to every senior to explain the terms to the owner, and comprehensive marketing guidelines, with 1,300 contractors working in the state of California.

Mayor Swearingen brought the matter back to the Council for discussion.

Council Member Murray said they should provide guidelines for their contractors if they are telemarketing.

Council Member Toms expressed concerns regarding the marketing by the different contractors and cited full disclosure to homeowners as essential.

Council Member Banuelos said it sounded like these representatives provided good information and have a good product and it is incumbent that the public are savvy. He said he supported the PACE program.

Mayor Pro Tem Long said there are elements of all three that she wished were standardized. She asked that they insure all contractors have business licenses in the cities they are working. Council raised questions regarding whether there was a cost for contractors to become certified and whether they obtain permits.

Mr. Stanton confirmed they require permits to be obtained. Two of the three representatives said they provide their materials for marketing.

Mayor Swearingen polled the Council Members on the reconsideration. Council Members Murray, Banuelos Toms and Mayor Swearingen agreed no further action was necessary and the approval should stand. Mayor Pro Tem Long abstained.

Council Direction: Action taken on November 3, 2015 stood as approved.

- C. Accept The Provisions Of West Contra Costa Integrated Waste Management Authority Resolutions 15-03, 15-04 And 15-05 Regarding The Disbursement Of Reserve Funds, Authorize The City Manager To Execute An Indemnification Agreement To Receive Pinole's Disbursement In The Amount Of \$431,220, And Authorize The Finance Director To Amend The FY 15/16 Budget To Record The Disbursement As Revenue In Fund 213, Earmarked To Be Used For Programs Similar To Those Of WCCIWMA [**Council Report No. 2016-08; Action: Adopt Resolution and Approve Per Staff Recommendations (Fitzer)**]

Council Member Murray presented the report and explained that the City of Richmond wanted to direct the reserve funds into their General Fund. He explained that the cities may expend the fees for recycling programs but run the risk of being sued to reimburse WCCIWMA and the rate payers if the restricted funds are not used for recycling programs. He recommended Pinole also take their funds and place in a reserve earmarked for mandated and approved programs.

Mayor Swearingen asked how Recyclemore would be funded.

Council Member Murray said it would be funded by the ratepayers, and any future State mandates costs would be borne by the ratepayers.

City Manager Fitzer made one amendment to the staff report, noting that with the exception of one program all of the funds are restricted.

Mayor Pro Tem Long asked Ms. Fitzer if with the exception of the \$31,000 whether these funds were restricted to Waste Management purposes. Ms. Fitzer confirmed that was accurate.

ACTION: Motion by Council Members Toms / Banuelos, the Council Adopted Resolution 2016-06, Accepted The Provisions Of West Contra Costa Integrated Waste Management Authority Resolutions 15-03, 15-04 And 15-05 Regarding The Disbursement Of Reserve Funds, Authorize The City Manager To Execute An Indemnification Agreement To Receive Pinole's Disbursement In The Amount Of \$431,220, And Authorize The Finance Director To Amend The FY 15/16 Budget To Record The Disbursement As Revenue In Fund 213, Earmarked To Be Used For Programs Similar To Those Of WCCIWMA

**Vote: Passed: 5-0
 Ayes: Banuelos, Long, Murray, Swearingen, Toms
 Noes: None
 Abstain: None
 Absent: None**

10. NEW BUSINESS

- A. Discussion Regarding Possible Participation In A Community Choice Aggregation Program [**Council Report No. 2016-10; Action: Receive Information & Provide Direction (Fitzer)**]

Michelle Fitzer, City Manager entered Council Report 2016-10 into the record and provided background information on SB 117, a mechanism in which electrical consumers are provided other options other than PGE. She provided the three options as cited in the staff report. She reported that David TWA, County Administrator, sent each City a letter requesting authorization to obtain electrical load data from PG&E and inquiring whether the cities wished to participate in

the technical study. Staff explained these were “opt out” programs not “opt-in” and discussed the process. In terms of Contra Costa County, El Cerrito, Richmond and San Pablo have joined. Mr. Twa said most cities are allowing their data to be provided but not participating in the technical study. Staff sought Council direction whether to release load data to CCC, and whether or not to participate in the County’s Technical Study.

Seth Baruch, Community Choice Energy, said the focus was on electricity, not gas. There are three programs in California to date; MCE Clean Energy, Sonoma Clean Power and Lancaster Choice Energy. The programs offer lower rates than PG&E and the energy mix in the portfolio content have lower emissions than offered from PG&E and most can build reserves that can be used for rainy day funds or projects. He presented best program mechanics, and said the JPA program structure in Contra Costa was similar to the program in Marin and Sonoma. All PG&E programs would still be available to customers.

Baruch discussed the customer opt-out process. Some programs have a charge for opting out after the initial enrollment period. Baruch identified the risks and advantages of the program, and also discussed the options of the Contra Costa County proposal. The load data would help with the technical study and if there was interest, Community Choice Energy would determine the potential cost share for the potential study. Cities must respond by January 31 regarding their interest in participation.

Alex DiGiorgio, Marin Clean Energy (MCE) addressed Council regarding his program, which expands access to competitively priced renewable energy. In 2012, Richmond was the first City in Contra Costa County to join and had the highest percentage of City customers. Since then El Cerrito and San Pablo have joined and El Cerrito now has the highest percentage. Di Giorgio discussed the community benefits, stating that all rate payer dollars go to purchasing energy; there are no shareholders and as a public agency, there are no taxes. DiGiorgio explained MCE’s default option (56% renewable). Currently customers are paying slightly more than PG&E due to the exit fee, but rates change all the time. He summarized the four different energy choices and said there was a one-time fee if you opt out.

Council questions followed.

Council Member Toms asked if MCE has energy sources to service new jurisdictions, speaking of Contra Costa County.

Mr. DiGiorgio said it would be the goal to obtain new sources, and a new procurement cycle coming up.

Council Member Murray asked if there were downfalls to the community joining.

Mr. DiGiorgio responded; the downfall would be if the public is unaware of their choices and unable to make an informed decision. Their goal is to empower the people with choices. MCE partners with a bank that finances the energy efficient program. DiGiorgio also answered questions specifically about a Contra Costa County program. Baruch responded to questions raised by Council Member Banuelos related to the relationship between MCE and PG&E.

Council Member Banuelos asked how MCE works with PG&E.

Mayor Pro Tem Long said she heard delivery of the County project could cost up to Three Million Dollars, and wished the County could have addressed reimbursements in greater detail. Many cities do not have the budgets to join and the numbers were not finalized.

DiGiorgio said from his experience with Sonoma Power, it was \$1.3 to \$1.5 Million range. His estimate was \$1.5 Million and would be completely reimbursable. It takes approximately twelve to eighteen months to launch a program and each City has one vote on the board. He confirmed the letter of intent must be received by January 31, 2016. A resolution, Memorandum of Understanding and the load data to perform a membership analysis must be completed by March 31, 2016 in order to join MCE with no cost. The fee would likely be \$15,000 for later membership. DiGiorgio explained pricing and comparisons to other Community Choice Programs, customer opt-outs and associated fees, after the first sixty days. Once a customer returns to PG&E, they must stay with PG&E one year.

ACTION: Motion by Council Members Banuelos / Long, the Council extended the meeting to 11:30 p.m.

Vote: Passed 5-0

The following speakers addressed the Council:

David McCord, Sierra club, spoke in favor of Community Choice Programs, citing local control through City representation of the Board and creation of jobs when CCA gets enough reserves to begin contracting for local projects in the community. McCord stated he was an El Cerrito resident and sees a difference and sees no difference in the look of his bill. He opted for 100% renewable energy and his bill fluctuates a little each month.

Charles Davidson, Hercules resident, stated his support to be out of Hercules Municipal Utility and said Contra Costa County has a unique opportunity since there are a lot of areas to develop renewable energy, referring to Pittsburg as an energy supplier to San Francisco.

Mayor Pro Tem Long recommended allowing Contra Costa County to access the load data, make clear Pinole cannot commit any funds, but also sign a letter with MCE and have staff weigh the benefits of MCE and provide a report back to Council.

Council Member Banuelos supported her recommendation. Council Member Toms also concurred, and agreed with deferring participation in the technical study until receipt of firmer numbers related to cost. Council Member Council Member Murray agreed with the other Council Members.

Mayor Swearingen asked whether PG&E poles were being used to run the energy. Mr. Baruth confirmed his question.

ACTION: Motion By Council Member Toms / Murray, The Council Authorized the Release of PG&E Electricity Load Data To Contra Costa County And Proceed With Letter Of Intent For MCE And Defer Any Contributions For A Technical Study With Contra Costa County Until Receipt Of Firmer Numbers Related To The Cost, And Have Staff Return With A Report On the Two Programs

Vote:	Passed:	4-1
	Ayes:	Banuelos, Long, Murray, Toms
	Noes:	Swearingen
	Abstain:	None
	Absent:	None

11. REPORTS & COMMUNICATIONS

A. Mayor Report

1. Announcements
 - a. Rotary Crab Feed – February 20th
 - b. Report on the January Mayors' Conference

B. Mayoral & Council Appointments

Review and Confirm Council Assignments [**Council Report 2016-11; Action: Council Discretion To Amend and Confirm Appointments by Minute Order (Athenour)**]

City Clerk Athenour presented Council Report 2016-11. Mayor Swearingen conducted the discussion among the Council regarding the appointments to the various regional boards and committees. Council Member Toms expressed interest to serve on WestCAT and/or ABAG as either a delegate or an alternate, and also on the West Contra Costa County Unified School District's Adhoc Pinole Valley High Construction Committee.

The Council confirmed the 2016 assignments. City Clerk Athenour said she would disseminate a 2016 Council Committee Assignment List to the Council and to the regional board's staff liaisons.

C. City Council Committee Reports & Communications

Council Member Banuelos reported on the Pinole-Hercules Water Pollution Control Plant Subcommittee meeting.

Mayor Pro Tem Long said more information on the Wastewater Plant Upgrade would be forthcoming at the February 16, 2016 Council meeting. She also reported that WestCAT would be celebrating their 10th anniversary of the Lynx Bus at the Bank of Pinole.

D. Council Requests For Future Agenda Items

1. Code enforcement matter at the property located at Pinole Valley Road and Galbraith. .

Ms. Fitzer said a letter had been sent to the property owner in December and she would check back with staff. Council said all the mulch piles and the oil needs to be removed.

- E. City Manager Report / Department Staff
- F. City Attorney Report

There were no reports.

12. ADJOURNMENT to the Regular City Council Meeting

At 11:32 p.m., Mayor Swearingen adjourned the Meeting to the Regular Meeting of February 2, 2016, In Remembrance of Amber Swartz, Beverly Peterson and David Wakefield.

Submitted By:

Patricia Athenour, MMC
City Clerk

APPROVED BY CITY COUNCIL: February 16, 2016