

**PINOLE CITY COUNCIL  
MINUTES  
MAY 16, 2017**

**1. CALL TO ORDER**

- a. **PINOLE BOY SCOUTS TROOP 86 PRESENT THE FLAG.**
- b. **PLEDGE OF ALLEGIANCE IN HONOR OF THE US MILITARY TROOPS**

Mayor Long called the meeting to order at 6:01 p.m. and Councilmember Toms led the Pledge of Allegiance. Pinole Boy Scouts Troop 86 was not present, due to scheduling conflicts.

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

A. COUNCIL MEMBERS PRESENT

Mayor Debbie Long  
Mayor Pro Tem Tim Banuelos (arrived at 6:20 p.m.)  
Council Member Peter Murray  
Council Member Roy Swearingen  
Council Member Maureen Toms

B. STAFF PRESENT

Michelle Fitzer, City Manager  
Ben Reyes, City Attorney  
Hector De La Rosa, Assistant City Manager  
Neil Gang, Police Chief  
Tamara Miller, Development Services Director

City Clerk Acosta announced the Agenda was posted on May 11, 2017 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 Acosta announced the following documents were presented subsequent to the publication of the agenda and provided at the dais for the Council and copies at the rear of the Chamber for the public.

- Item 5Ba – Power Point presentation by EBMUD Board President, Lesa McIntosh
- Item 7G – Letter from Contra Costa Association of REALTORS regarding Pinole's Balcony Inspection Ordinance
- Item 7J – Attachment B RSG Staffing

**3. CONVENE TO A CLOSED SESSION**

At 6:02 p.m., Mayor Long convened to a Noticed Closed Session to discuss the following items:

- A. CONFERENCE WITH LABOR NEGOTIATOR - Pursuant to Gov. Code §54597.6  
City Labor Negotiators: Hector De La Rosa, Assistant City Manager and Labor Negotiator Bruce Heid, IEDA  
Employee Organizations: Fire Local 1230  
Pinole Police Employees Association (PPEA)

B. CONFERENCE WITH REAL PROPERTY NEGOTIATORS – Pursuant to Gov. Code §54956.8

Property: Pinole Shores Business Park Phase II / APN: 402-230-020, 402-230-018, 402-230-017, 402-230-016, 402-230-015, 402-230-022

Negotiator: Assistant City Manager Hector De La Rosa

Negotiating Parties: Jordan Lim and Pro2 Solutions

Under Negotiation: Terms

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

At 7:11 p.m., Mayor Long reconvened the meeting in open session and announced there were NO REPORTABLE ACTIONS.

**5. RECOGNITIONS / PRESENTATIONS / COMMUNITY EVENTS**

A. Proclamations

- a. Recognizing May 21 - 27, 2017 as National Public Works Week

Mayor Long presented the proclamation for the National Public Works Week to Senior Project Manager Timbers and thanked the members of the Public Works Department for their service to the community. Senior Project Manager Timbers accepted the proclamation and thanked Council for their continued support.

B. Presentations / Recognitions

- A. Update from EBMUD Board President, Lesa McIntosh

Board President, Lesa McIntosh provided Council with a Water System overview and spoke on the proposed 9.25% and 9% water rate increases. A new public hearing date is scheduled for July 11<sup>th</sup> with a rate increase to go into effect on July 12<sup>th</sup>.

Council Members Swearingen and Banuelos stated their understanding of the need to maintain and protect the aging water infrastructure, but felt the increases would be hard on consumers. Council Member Murray stated his concern that the 9% increase would affect constituents on limited income and facing additional increases from other agencies. He questioned the allocation of funds received from the rate increase, and if they will be assigned to a designated account for EBMUD maintenance or will they be placed in the General Fund. In addition, he asked if there will be future increases. President McIntosh stated that the revenue income received will be placed in the General Fund and not a designated account; in addition rates will continue to increase as the system would continue to need repairs/replacement of the 4,200 miles of aging pipe.

Council Member Toms inquired about a mailer she received stating that the hearing was scheduled for June 13<sup>th</sup> however the meeting has been rescheduled to July 11<sup>th</sup>. President McIntosh stated that written comments and protests would be accepted by mail and they will be sending out updated notifications to consumers.

Mayor Long requested a breakdown of the drought surcharge cost allocation and expenditures. She noted that the City of Pinole water costs would increase by roughly \$10,000 per year due to the proposed rate increase with additional increases in future years. Mayor Long suggested that EBMUD create a separate accounting of each year's increase for accountability. She stated that EBMUD does not work well with the City and cited fire hydrant issues in the past. President McIntosh stated that she is willing to work with the City and asked that she be called directly if

there is an issue with EBMUD staff. Mayor Long suggested that EBMUD create a designated account for the use of revenue collected from the rate increases. She requested a commitment from the EBMUD Board of Directors on accountability of increase revenue and stated that the drought surcharge was supposed to offset the lost revenue caused by the drought.

President McIntosh explained that the surcharge did not cover the revenue shortfall, but went for the purchase of water from other agencies. In addition, Mayor Long questioned the increase from 10 miles to 40 miles of annual pipeline replacement. She stated her concern with the timing of the rate increase hearing that is scheduled for July 11<sup>th</sup>, with the increase scheduled to go into effect on July 12<sup>th</sup>. Mayor Long stated her discontent with the EBMUD Board of Directors actions pertaining to the rate increase and their communication with constituents that voted them into office. It appears that the Board of Directors is “going through the motion” of a public hearing without regard to community concerns. She stated her disappointment in the way the rate increase has been structured.

The following speakers addressed the City Council:

**James Tillman**, resident of Pinole, addressed Council to request rate reduction or exemption for water therapy users with a variety of medical conditions. In addition, he stated his concern about water allotment differentials between communities.

Board President McIntosh stated that the water allotment is equal for all consumers regardless of their location.

- B. Update on San Pablo Avenue Bridge Replacement over BNSF Railroad – Complete Street from Tamara Miller, Community Development Director/City Engineer Tamara Miller

Item 5Bb was removed from agenda to be presented at a future Council meeting.

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

The following speakers addressed the City Council:

**Bob Kopp**, resident of Pinole, addressed Council to invite Council and members of the public to attend the Community Service Day on Saturday, May 20<sup>th</sup>. He discussed blight properties in his neighborhood and thanked staff for their support in resolving his previous concerns; he has identified additional properties in need of repairs and will provide City Manager Fitzer with property locations.

**Jack Meehan**, resident of Pinole, addressed Council to state that the Bayshore Trail in Pinole was dedicated 29 years ago on May 28, 1988, the project is still incomplete awaiting connection with Hercules Bayshore Trail, and he requested an update on the status of the project.

## 7. CONSENT CALENDAR

The following speaker addressed the City Council on Consent Item 7E:

**James Tillman**, resident of Pinole, addressed Council, to state his concern on public notification for item 7E. He stated his opposition to the form of noticing about the increase and consumer rights. Mayor Long stated that the rate structure is the last increase of a 5 year approved rate increase. City Attorney Reyes stated that the notification is compliant with Prop 218 requirement for resident notification.

- A. Approve the Minutes of the Meeting of May 2, 2017
- B. Receive the April 28 – May 12, 2017 Lists of Warrants and the May 5, 2017 Payroll in the Amount of \$335,495.68
- C. Notice of Completion for the Rehabilitation of San Pablo Avenue – Appian Way to Sunnyview Drive Paving Project  
[Action: Approve Resolution Per Staff Recommendation (T. Miller)]
- E. Receive and File Notification of Sewer Rate Increase effective July 1, 2017  
[Action: Receive and File Notification (H. De La Rosa)]
- F. Second Reading and Adoption of Ordinance Adding Chapter 8.35 to the Pinole Municipal Code to Regulate Loud, Unnecessary or Unusual Noise Within the City  
[Action: Approve Ordinance 2017-XX (B. Reyes)]
- H. Approve a Resolution Authorizing the Purchase of One (1) Motorola MCC 7500 Elite Dispatch Console for the Police Department Dispatch Center  
[Action: Approve Resolution Per Staff Recommendation (N.Gang)]
- I. Approve a Resolution Authorizing the Purchase of Two (2) Vesta 911 Consoles for the Police Department Dispatch Center  
[Action: Approve Resolution Per Staff Recommendation (N.Gang)]
- K. Approve an Amendment to the Task Order for 4Leaf for Contract Building Inspector Services In An Amount Not to Exceed \$135,000  
[Action: Approve Resolution Per Staff Recommendation (T. Miller)]
- L. Approve an Application for Grant Funds from California Climate Investments Urban Greening Program for the Shale Hill Sustainable Streetscape Project  
[Action: Approve Resolution Per Staff Recommendation (T. Miller)]

**ACTION: Motion by Council Members Murray/Swearingen Approving the Consent Calendar Items 7A, 7B, 7C, 7E, 7F, 7H, 7I, 7K and 7L**

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

**Staff requested to pull Item 7D for further discussion prior to consideration by Council:**

- D. Finalize Design Review Request 16-29 and Conditional Use Permit 17-01 and 17-02: Gateway East Medical Dialysis Clinic  
[Action: Adopt Resolution Per Staff Recommendation (W. Rhodes)]

Planner Rhodes provided Council with an update of the Council subcommittee findings and recommendations. The subcommittee reviewed all items recommended by the Council and discussed with the applicant. All items have been accepted by the applicant.

**ACTION: Motion by Council Members Murray/Toms Approving the Consent Calendar Item 7D.**

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

**Councilmember Swearingen requested that item 7G be removed from the Consent Calendar for discussion.**

- G.       Second Reading and Adoption of Ordinance amending Chapter 8.30 and Adding Chapter 8.36 to the Pinole Municipal Code to Require Balcony Inspections in the City  
           **[Action: Approve Ordinance 2017-XX (B. Reyes)]**

Councilmember Swearingen stated that Council received a letter from Contra Costa Association of Realtors pertaining to the Balcony Inspection Ordinance and requested that the item be pulled for further review. City Attorney Reyes stated the letter was reviewed and addressed by the subcommittee prior to adopting the ordinance. He stated that these concerns were discussed with Heather Shiffman and given to the subcommittee.

The following speakers addressed the City Council on Consent Item 7G:

**Renee Bartels**, of Coldwell Banker Bartels, addressed Council, stating her disapproval of the Point of Sale Balcony Inspection and requesting that the Council review the ordinance and consider alternate safety measures that will not impact property buyers and sellers.

Councilmember Toms stated that the ordinance was not intended to delay escrow transactions due to balcony inspection; it was intended as a safety measure for residents. Mayor Pro Tem Banuelos stated that the ordinance was carefully drafted with no need for modifications. City Attorney Reyes stated that the ordinance does not prohibit escrow closing due to balcony inspection and future repairs. He stated that the City will require a 3<sup>rd</sup> party safety inspector to conduct safety inspections for the residential inspection program and point of sale for sellers.

The ordinance covers all residents of Pinole and was drafted with input from members of the subcommittee and not intended to impact home sales or escrow proceedings. Mayor Long stated that the ordinance was reviewed and input was received from Lynda Bartels and Heather Shiffman of the Contra Costa Association of Realtors.

The City of Pinole will issue a Certificate of Compliance once the inspection report is submitted by the property owner. Inspection will be required to be done prior to the close of escrow with repairs to be done after the close of escrow. Undue hardships, as defined in the ordinance, will grant an extension of up to six months for balcony repairs.

Mayor Long questioned the cost of inspection; fees will be brought back under the Master Fee Schedule for review and approval by Council.

**ACTION: Motion by Council Members Swearingen/Murray to continue Item 7G Second Reading and Adoption of Ordinance amending Chapter 8.30 and adding Chapter 8.36 to Pinole Municipal Code to Require Balcony Inspections in the City to June 6, 2017 as Old Business item.**

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

**Staff requested to pull Item 7J for further discussion prior to consideration by Council:**

- J.       Approve a Three Year Contract with Rosenow, Spevacek Group Inc. (RSG) in the amount of \$27,500 Each Year for Affordable Housing Monitoring and Housing Successor Agency Annual Reports for Fiscal Year 2016-17 Through 2018-19  
**[Action: Approve Resolution Per Staff Recommendation (H. De La Rosa)]**

Assistant City Manager De La Rosa stated that staff received change of contract amount from \$27,000 to \$69,500 for Affordable Housing Monitoring and Housing Successor Agency, listed as Attachment B. He stated changes to the resolution in the amount of \$69,500 in the resolution and \$21,000 in FY 2017-18 and \$21,000 in FY 2018-19.

**ACTION: Motion by Council Members Toms /Banuelos Approving Consent Calendar Item 7J with identified changes to the resolution.**

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

**8. PUBLIC HEARINGS – None**

**9. OLD BUSINESS – None**

**10. NEW BUSINESS**

- A.       Review of Community Choice Energy Options  
**[Action: Receive Information & Provide Direction (A. Timbers)]**

Jason Crapo, Deputy Director of Conservation and Development with Contra Costa County and Mark Fulmer, Principal with MRW & Association gave a presentation to Council on the Community Choice Energy (CCE) technical study results and discussed the CCE options.

Senior Project Manager Timbers presented the Community Choice Energy review for the City of Pinole.

Councilmember Swearingen asked questions pertaining to cost and acquisition. Dawn Weisz, CEO of Marin Clean Energy (MCE) answered questions. Ms. Weisz stated that there is not an option to join MCE temporarily and stated that the decision to join MCE must be made with the understanding that membership is indefinite with costly options to withdraw from agreement.

Mayor Pro Tem Banuelos stated that if the City and the community joined MCE it would be a cost saving to the community. Ms. Weisz stated that current City users are seeing a significant savings of over \$1 million dollars.

Councilmember Murray questioned MCE financial stability and possible fall back of such outcome. Ms. Weisz stated that all Community Choice programs are required to post a bond, if MCE fails clients would revert back to PG&E seemingly. PG&E will continue to provide gas services to all MCE customers; transmission rates will remain the same with regulations by CPUC.

Councilmember Toms asked about the PG&E exit fee and if each individual customer would receive the bill. Ms. Weisz stated that customers will pay a fee depending on usage; she stated that fees range between for \$7-10 on an ongoing basis. If the City was to Opt In before June 30<sup>th</sup>, MCE would proceed to issue an economic analysis to the Board in early July or August 2017. Based on the outcome of the report the Board will consider approval of enrollment and the City would have an opportunity to appoint a representative to the Board. At the time of enrollment, MCE will begin outreach efforts to the members of the community. She stated that all meetings are publicly noticed in accordance with Brown Act.

Mayor Long questioned the Opt-out fee of \$7.00 that will be assessed to consumers for several years if they decide to join MCE and if residents opt back in to PG&E there is a hidden charge of \$10.52 per month. Ms. Weisz stated that MCE has no minimum fee and residents will continue to pay \$12.00 to PG&E for infrastructure funding. Residents can opt-out immediately after the Board accepts the City's participation. The opt-out fee of \$5.00 for homeowners and \$25.00 for commercial properties will only be assessed after the 60 day period of enrollment. Discounts offered for medical base line rate and the CARE rate will continue unchanged as is required by the State and PG&E is required to pass on the savings. All public power providers have their own governing board without the need of oversight by the California Public Utilities Commission however; the CPUC reviews data for certification.

Ms. Weisz stated that the MCE budget and audited financial can be found on their website [www.mcecleanenergy.org](http://www.mcecleanenergy.org) for public view. Clients can find a cost calculator on the website to calculate user fee. She provided copies to Council and members of the public on local projects nearby projects, and state projects.

Mayor Long questioned the cost of attorney fees to review potential MCE contracts. City Attorney Reyes stated that attorney time to review the documents can range from 1-2 hours and 5 hours to draft ordinance. City attorney Reyes was involved in the East Bay formation and has extensive knowledge in preparing the contract.

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

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

The following speakers addressed the City Council:

**Charles Davidson**, Hercules citizen and member of the Sustainability Commission addressed Council in favor of Community Choice Energy options, encouraging the City of Pinole to join.

Councilmember Swearingen stated his uncertainty of joining the MCE option. City Manager Fitzer stated that there are challenges in meeting the June 30<sup>th</sup> deadline. Participation in the

program requires a first and second reading prior to the June 30<sup>th</sup> deadline date. Public Hearing notice requirement is not required by the JPA.

Councilmember Toms stated that moving forward gives community members a choice of energy and implements Climate Action Plan.

**ACTION: Motion by Council Members Toms/Banuelos to direct staff to take steps to initiate the process in joining Marin Clean Energy.**

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

## 11. REPORTS & COMMUNICATIONS

### A. Mayor Report

1. Announcements

### B. Mayoral & Council Appointments

1. Confirm Reinstating the WCCUSD/Council Subcommittee and re-appointing Mayor Long and Council member Murray as the delegates, by minute order.

**ACTION: Motion by Council Members Toms/Banuelos to reinstitute the WCCUSD Council subcommittee and reappointing Mayor Long and Councilmember Murray as delegates.**

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

### C. City Council Committee Reports & Communications

Councilmember Toms invited the public to join officers of the Pinole Police Department in the Special Olympics Northern California Bike the Bridges event on Saturday, June 10<sup>th</sup>.

Councilmember Banuelos attended the West County Solid Waste committee and provided an update to Council.

Councilmember Swearingen invited the public to attend Pinole Youth Foundation 2<sup>nd</sup> Annual Wine Tasting Fundraiser at the Pinole Senior Center on June 10<sup>th</sup>.

### D. Council Requests For Future Agenda Items

Councilmember Murray requested a report on Bay Trail (5-0)

Mayor Long requested a report and future agenda discussion of the City's Pavement Management Plan. (3-2)

### E. City Manager Report / Department Staff



City Manager Fitzer stated that Chief Gang has attended the phone conference and meetings of state allocation funding for camera installation on Highway I-80 and I-4; good progress has been made. The City of Pinole will have cameras to cover the traffic thru Pinole.

Assistant City Manager De La Rosa stated that seven proposals for website redesign have been received and will be reviewed.

F. City Attorney Report - **None**

**12. ADJOURNMENT** to the Regular City Council Meeting of June 6, 2017 In Remembrance of Amber Swartz.

At 11:25 p.m., Mayor Long adjourned the Regular Meeting of May 16, 2017, in Remembrance of Amber Swartz and our Military personnel all around the world.

**Submitted by:**

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**Rosa G. Acosta**  
City Clerk

**Approved by City Council:**