

**PINOLE CITY COUNCIL  
MINUTES  
JUNE 6, 2017**

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

Mayor Long called the meeting to order at 5:30 p.m. and led the Pledge of Allegiance.

**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 (arrived at 5:48 p.m.)  
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 June 1, 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 8A – Power Point presentation regarding Marin Clean Energy and the Community Choice Aggregation Program
- Item 8A – Letter of Support by County Supervisors John Gioia and Federal Glover
- Item 9A – Revised Balcony Inspection Ordinance

**3. CONVENE TO A CLOSED SESSION**

At 5:32 p.m., Mayor Long convened to a Noticed Closed Session to discuss the following items:

- A. 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

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

Property: Pinole Assisted Living Community  
Negotiator: City Manager Michelle Fitzer  
Negotiating Parties: Pinole Assisted Living Community  
Under Negotiation: Terms

C. PUBLIC EMPLOYMENT

Gov. Code § 54957  
Title: CITY ATTORNEY

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

At 7:13 p.m., Mayor Long reconvened the meeting in open session and announced there were NO REPORTABLE ACTIONS.

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

A. Proclamations

B. Presentations / Recognitions

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

Community Development Director/City Engineer Tamara Miller presented the report and stated that the new updated title of the project is: “San Pablo Avenue Bridge Replacement over BNSF – Complete Street”. Council asked questions and received responses. Director Miller will reach out to all stakeholders involved for support and input i.e., utility providers and service clubs. Mayor Long stated that the bridge may be closed in the future if there is a concern of pedestrian safety.

- b. Presentation on the Status of the Water Pollution Control Plant Upgrade Project

Community Development Director/City Engineer Tamara Miller provided an update on the Water Pollution Control Plant Upgrade project and noted that the new trail improvements have been completed. Council thanked staff for their diligence and management of the project.

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

None

**7. CONSENT CALENDAR**

A. Approved the Minutes of the Meeting of May 16, 2017

B. Received the May 13, 2017 – June 2, 2017 Lists of Warrants and the May 19, 2017 and June 2, 2017 Payrolls in the Amounts of \$327,324.75 and \$372,992.93, respectively

C. Approved an Adjustment to the Housing Fund FY 2016/17 Budget to Increase Professional Services by \$15,000 for the Evaluation of Possible Uses of Housing Funds and Attendance at a Council Workshop by RSG, Inc.  
**[Action: Adopt Resolution Per Staff Recommendation (H. De La Rosa)]**

- D. Approved a Professional Services Agreement with Michael Baker International to Conduct Three Fee Study Updates of City of Pinole Impact and User Fees in an Amount Not to Exceed \$60,000  
[Action: Adopt Resolution Per Staff Recommendation (T. Miller)]
- E. Reviewed and Approved Updated Fiscal Policies  
[Action: Adopt Resolutions Per Staff Recommendation (A. Miller)]
- F. Approved a Professional Services Agreement with Gray-Bowen-Scott for Project Management Services During the Design Phase for San Pablo Avenue Bridge Replacement Over BNSF Railroad - Complete Street In An Amount Not To Exceed \$45,000  
[Action: Adopt Resolution Per Staff Recommendation (T. Miller)]
- G. Approved an Amendment to the Professional Services Agreement with Avery & Associates to add the Battalion Chief Recruitment Fees and to Increase the Expenses for the New Fire Chief Recruitment – Total Additional Fees and Expenses Not to Exceed \$17,000  
[Action: Adopt Resolution Per Staff Recommendation (M. Fitzer)]

**ACTION: Motion by Council Members Swearingen/Banuelos Approving the Consent Calendar Items 7A- 7G.**

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

**8. PUBLIC HEARINGS**

- A. Join the Marin Clean Energy Joint Powers Authority and Implement a Community Choice Aggregation Program in the City of Pinole  
[Action: Adopt Resolution Per Staff Recommendation (B. Reyes)]

Eric Casher, City Attorney office, presented the report to Council. Dawn Weisz, CEO of Marin Clean Energy (MCE) answered questions.

Councilmember Swearingen asked questions pertaining to cost and agreement language. Ms. Weisz answered questions. Ms. Weisz reminded the Council that the option to join MCE is a long term commitment.

Mayor Pro Tem Banuelos stated his concern on the voting process of the board and requested clarification on the process. He inquired about outreach for residents to understand their options and obtain services. Ms. Weisz provided clarification on the voting process and stated that the MCE Board has been very cohesive and works well together. She stated that there is a large amount of public outreach to keep residents informed of the process and possible transition with three notices within a three month period prior to rollover to MCE. State law was structured for residents to have a choice to Opt-Out and not Opt-In due to critical implications with residents not Opting-In.

Councilmember Murray stated his concern with the possible expansion of MCE, financial stability and withdrawing from MCE. Ms. Weisz stated that at this time MCE is serving four counties and has no further plans of expansion. She stated that all Community Choice programs are required to post a bond, if insolvency occurs clients would revert back to PG&E seemingly. MCE has \$50 million dollar in reserves and is required to reserve 4% yearly. The inclusion period is from December 1<sup>st</sup> and ends on June 30<sup>th</sup>, waives local charges to government agencies.

Councilmember Toms stated her concern with the structure of the MCE Board. Ms. Weisz stated that all meetings are publicly noticed in accordance with the Brown Act. She informed Council that MCE meetings are held on the 3<sup>rd</sup> (third) Thursday of the month at 7:00 p.m. with different meeting locations. The meetings are streamed live. New members will be invited to the August meeting, prior to public outreach event and will be involved in the decision making process.

Mayor Long questioned rebates for energy efficient appliances and the process of collections for unpaid accounts. Ms. Weisz stated that MCE utilizes grant funds for rebate and incentive programs and accounts that are delinquent are returned to PG&E for collection and possible service shut off.

Mayor Long opened the Public Hearing at 8:57 pm.

The following speakers addressed the City Council:

**Cecilia Valdez**, Mayor of San Pablo, addressed Council to speak on behalf of the City of San Pablo and provided a letter to Council stating their support. She stated that the City of San Pablo has received a large rebate due to usage.

**Eric Meyers**, representative of CCAR and local realtor, addressed Council to share perspective of consumers receiving power in MCE areas. He stated that it is very difficult to enroll in services with MCE and his dissatisfaction with customer service for residents of Pinole. Councilmember Murray requested that MCE follow-up on Mr. Meyers' concerns and assist in providing a seamless process for future residents of Pinole.

**Robert Rogers**, representative of Supervisors John Gioia and Federal Glover of Contra Costa Council, addressed Council and stated their support of the City of Pinole joining the MCE programs and expressed the County's satisfaction with their current participation.

**Robert Kopp**, resident of Pinole, expressed his opposition to have the City join MCE and in specific entering into an agreement that will have a financial impact to residents who wish to Opt-Out of Clean Choice Energy program.

Mayor Long closed the Public Hearing at 9:10 pm.

**ACTION: Motion by Council Members Toms/Murray adopting a resolution requesting membership for the City of Pinole into the Marin Clean Energy (MCE) and introduce and waive the first reading of an ordinance approving the MCE Joint Powers Agreement and authorizing the implementation of a community Choice Aggregation Program for the City of Pinole.**

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

## **9. OLD BUSINESS**

- A. Continued 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)**]

Eric Casher from the City Attorney's office presented the report and provided an overview of the proposed ordinance. The ordinance has been modified to reflect comments and suggestions by Ms. Renee Bartel of CCARC.

Minor text amendment to remove the language “before the close of escrow” from Chapter 8.36.090 dealing with hardship referrals. Mayor Pro Tem Banuelos requested that Initial Inspection Chapter 8.30.070 include a clause stating “inspector shall be prohibited in performing repair services”.

The following speakers addressed the City Council:

**Eric Meyers**, representative of Contra Costa Association Realtors and president elect, thanked the City Council and staff for allowing their feedback and input to the ordinance. He stated his concern with rental property inspections due to current process and questioned if in the future city inspectors could conduct balcony inspections.

City Attorney Casher stated his concern with city staff performing balcony inspections due to cost and staff time. He stated that it’s in the public’s best interest to have a licensed professional perform the balcony inspection.

City Attorney Reyes stated that the Council may approve the ordinance as amended by City Attorney Casher and yearly review of effectiveness. He stated that the Rental Inspection Program will be reviewed in the near future.

**ACTION: Motion by Council Members Banuelos/Swearingen to conduct a second reading with revisions done as result of community input and adopt proposed ordinance amending Chapter 8.30 and adding Chapter 8.36, in addition adding the following clause to “inspector shall be prohibited to perform repair services” to section 8.30.070, to create a balcony inspection requirement for rental properties, and real property sales in the City of Pinole.**

<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>

## **10. NEW BUSINESS**

### **B. Discussion of Swim Center Operations [Action: Discuss and Provide Direction to Staff (M. Fitzer/H. De La Rosa)]**

Assistant City Manager De La Rosa presented the report to Council. He stated that he received the proposal and is unable to provide an analysis of the proposal to the Council. Council asked questions and received responses. City Attorney Reyes stated that the Council has the authority to direct staff.

The following speakers addressed the City Council:

**Phil Malgren**, Vice President of the Pinole Seals Swim Club addressed the Council and thanked the Council for their willingness to review their proposal.

Mayor Long requested clarification on revenue and expenses in the proposal. Mr. Malgren provided clarification and responded questions.

Councilmember Murray thanked Mr. Malgren for their willingness to operate the program and expressed his concern on liabilities and indemnification. He suggested that an operational plan be submitted in the future for transparency and efficiency of the swim center.

Councilmember Swearingen inquired if the subcommittee received and reviewed report prior to the meeting. Mayor Long stated that the subcommittee had not reviewed the document prior to the Council meeting.

**Ivette Ricco**, resident of Pinole, addressed Council and stated her support for the program.

Recreation **ACTION: Motion by Council Members Murray/Swearingen to continue discussion in a special city council meeting on Tuesday, June 13, 2017.**

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

- A.     Adopt a Resolution to Initiate Proceedings, Approve the Annual Engineer's Report, Announce Intention to Levy and Collect Assessments for The Pinole Valley Road Landscape and Lighting Assessment District for 2017/2018, and Setting The Public Hearing for June 20, 2017  
      **[Action: Accept Draft Engineers Report and Adopt Resolution Setting Public Hearing (T. Miller)]**

Community Development Director/City Engineer Tamara Miller presented the report. Council asked questions and received a response from Director Miller.

**ACTION: Motion by Council Members Murray/Banuelos to adopt a resolution initiating district proceedings, approving the annual Engineer's Report, announcing intention to levy and collect assessments for the Pinole Valley Road Landscape and Lighting Assessment District and setting the Public Hearing for June 20, 2017.**

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

## 11. REPORTS & COMMUNICATIONS

- A.     Mayor Report
  - 1.     Announcements

Mayor Long participated in the Pinole Historical Society and toured local schools. She encouraged school board officials to visit schools and improve facilities for their students. Mayor Long attended the Mayors Conference and the Waste Water Subcommittee and provided an update to Council.

- B.     Mayoral & Council Appointments
  - 1.     Appoint a Voting Delegate to the League of California Cities Annual Conference September 13 – 15 in Sacramento

City Manager Fitzer presented the report and solicited Council action to designate a Voting delegate and alternate to the League of California Cities Annual Conference.

Council members appointed Mayor Long as voting delegate and Councilmember Toms as alternate representatives to the League of California Cities.

**Vote:**           **Passed:**    **3-1-1**  
**Ayes:**           **Long, Swearingen, Toms**  
**Noes:**           **Murray**  
**Abstain:**       **Banuelos**  
**Absent:**         **None**

C.      City Council Committee Reports & Communications

Councilmember Swearingen stated that he has been reappointed to the ABAG/MTC Board as an alternate by the Mayors Conference.

Councilmember Toms attended the ABAG General Assembly and provided an update to Council.

D.      Council Requests For Future Agenda Items

Councilmember Murray requested future discussion of Code Enforcement efforts throughout the City. (5-0)

**At 10:55 p.m. Mayor Long requested a motion to extend the public hearing and meeting past 11:00 p.m.; so moved by Banuelos/Murray and approved by Council (5-0).**

E.      City Manager Report / Department Staff

City Manager Fitzer stated that the City received information about grant opportunity workshops for the museum. Assistant City Manager De La Rosa will forward to Jeff Rubin. She suggested that Council consider future involvement with League of California Cities to adopt policy on Council's direction of future measures.

F.      City Attorney Report

City Attorney Reyes informed Council and the members of the community that he has been appointed to the Superior Court by Governor Jerry Brown and will begin to serve his term as judge. He will submit his resignation at an upcoming meeting when Council appoints his successor. Council thanked him for his years of service.

**12.    **ADJOURNMENT** to the Special Meeting of the City Council on June 13, 2017 In Remembrance of Amber Swartz and Joe Montana Sr. and active participant in the Boys and Girls Club.**

At 11:02 p.m., Mayor Long adjourned the Regular Meeting of June 6, 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:**