

From: [D. Muirhead](#)
To: [Angie Garcia](#); [Michelle Wilson](#)
Cc: mmoore@morganhilltimes.com
Subject: Council Meeting December 16, 2015 Item #29: Community Choice Energy Program
Date: Tuesday, December 15, 2015 2:00:21 PM

Dear Morgan Hill City Council,

Comments for the Public Record submitted by
Doug Muirhead, a resident of Morgan Hill, for:
Morgan Hill City Council
Meeting December 16, 2015
Item #29: Implementation of Community Choice Energy Program

Thank you for your consideration,
Doug Muirhead, Morgan Hill

Item #29: Implementation of Community Choice Energy Program

I urge you to choose the alternative to delay action until early 2016 which would still enable the City to become one of SVCCE's "Initial Participants". I think it is premature to assert in the Ordinance that CCE "would likely provide multiple benefits" [Section 1, Findings, 2] is "true and correct" [Section 2].

Why the rush to get City Council approval without vetted JPA by-laws (JPA Agreement Final Draft of 11/25/2015 being presented to you tonight) and a conversation on the Risks identified in the Technical Study? Staff did include a brief summary of the Study's Risks and Sensitivity Analysis, but you should do your own evaluation based on South County concerns.

You could even let the County and three City sponsors start the JPA, evaluate their operation and claims of benefits, and join later; given the pressures to be part of One Region, I do not expect you to make this choice. Interestingly, as of the November 19 meeting of HLUET, the City of San Jose had taken a position of "defer until further notice".

My reasons for urging delay are the following:

- 1) Inadequate community engagement
- 2a) Calling a JPA a non-profit public agency with local control over energy rates and other energy-related matters
- 2b) Vetting JPA by-laws
- 3a) Projections on electric rates
- 3b) Local and regional generation, capacity, and energy self-sufficiency
- 3c) Local economic benefits

- 1) Inadequate community engagement

Staff states that there have been three community workshops held in South Santa Clara County on the development of the SVCCE. I am aware of and attended only two:

Thursday October 29, 6:30PM-8PM @ San Martin [knowledgeable County staff]
first information session
report on web site: Initial Assessment Report, LEAN Energy US,

May 2015 www.svcleanenergy.org

This was a true information session with significant Q&A between residents and staff from County Office of Sustainability and City of Sunnyvale.

Monday December 07, 6PM-8PM @ Morgan Hill [public communications firm] second round

report on web site: Draft Technical Feasibility Study Report, PEA,

November 2015 www.svcleanenergy.org

not on web site: The JPA Agreement Final Draft of 11/25/2015

This was a one-sided sales pitch. A balanced presentation would have included an overview of the the Risk Analysis (Section 7) from the November 25 Technical Study, as was done in the presentation to HLUET on November 19 by Ms. McBride (who was also the lead presenter at San Martin).

2a) Calling a JPA a non-profit public agency with local control over energy rates and other energy-related matters

I find the FAQ answer disingenuous:

"Is a CCE a government agency or a separate organization?"

"CCEs are established and operated as public, non-profit organization, independent from your city or county government agency."

The proposed JPA Agreement says the JPA Board will be one elected official from each member.

4.2 Appointment and Removal of Directors.

4.2.1 The person appointed and designated as the Director shall be a member of the governing body of the Party.

Board Voting is of three types: majority, supermajority, or vote based on voting shares: JPA Exhibit D - Voting Shares

Assumption that all Initial Participants will become Parties.

Party kWh (2014*) Voting Share

Morgan Hill 232,521 5.9%

My other comment on local control is how you make one size fit all.

The May 2015 Assessment Report notes that CCE programs can be designed to achieve a variety of public policy and program objectives. Some aspects of CCE programs are unique to each community in terms of goals, policy-setting and approach. SVCCEP may want to design its own program according to local goals, program objectives, and community characteristics.

How do you reconcile differing priorities between North and South County?

Personally, I am less interested in renewable resources and greenhouse gas emissions than I am in promoting local energy development and energy efficiency.

2b) Vetting JPA by-laws

The proposed JPA Agreement says

2.5 Powers.

2.5.2 employ agents and employees, including but not limited to an Executive Director;

2.5.4 acquire property by eminent domain, or otherwise,

At the County Housing, Land Use, Environment, and Transportation Committee meeting on November 19, Supervisor Cortese expressed numerous concerns about the draft JPA Agreement. The version under discussion had only been made available that morning. One issue he was wrestling with was having the County join with the cities from a leverage standpoint but also preserving the County Board of Supervisors discretion. And when do we

see the budget? Based on Supervisor Cortese's closing comments:
we're moving [recommendations] for full board discussion/action but with the stipulation that we're asking that the items that we've requested in terms of questions and modeling come back and our sunshine is part of that discussion.

I expected that we would hear how his concerns were resolved at the December 17 HLUET meeting, but that meeting was canceled and the next meeting, scheduled for January 21, 2016, will occur after the JPA Agreement is considered by the full Board on January 12.

3a) Projections on electric rates

[Ordinance 2b: Increasing local control over energy rates and other energy-related matters]

[Ordinance 2c: Providing electric rates that are competitive with those provided by the incumbent utility]

While the sponsors are careful to not promise to always have rates lower than PG&E, repeated mentions are made that existing programs are currently providing lower rates for baseline, greener electricity.

The May 2015 Assessment Report addresses this more than once:

Assuming continued favorable prices for electricity in California markets, and continued increases in PG&E electricity rates, SVCCEP can expect to offer a greener energy supply to its customers at competitive, potentially lower, rates than currently available through PG&E. Rates would depend on the management costs and customer retention rates ...

The staff report also focuses on this:

Based on current market prices and various operating assumptions, the Study indicates that SVCCE demonstrates the potential for customer cost savings, significant GHG reductions and economic benefits ...

At the community meetings, a few residents did raise the issue of rate stability as a function of competition for limited green energy production.

The Technical Study does acknowledge additional risks that include:

Financial risks that may exist in the event that procured energy volumes fall short of or exceed actual customer energy use

Availability of renewable and carbon-free energy supplies required to meet compliance mandates, SVCCE program goals, and customer commitments

General market volatility and price risk

Legislative and regulatory changes, which may limit a CCE's ability to remain competitive with the incumbent utility

In addition to electric rates, customers are subject to various known and future fees. Many community members expressed concern about the Utility's ability to impose fees, such as the Utility Exit Fee (aka Power Charge Indifference Adjustment).

A higher opt-out rate would reduce sales volumes relative to base case assumptions, and increase the share of fixed costs paid by each customer

Regulatory risks include the potential for utility generation costs to be shifted to non-bypassable and delivery charges - deemed necessary for grid reliability or to support other state policy

3b) Local and regional generation, capacity, and energy self-sufficiency

[Ordinance 2e: Increasing local and regional renewable generation capacity]

[Ordinance 2g: Increasing regional energy self-sufficiency]

At the community meeting, I expressed concern that CCE might be a

dis-incentive for local generation and local resiliency. Some of this is discussed in the Assessment Report under Cost Implications of Local Build Out:

CCEs will need to consider the relative costs and benefits of local, small-scale solar projects balanced against power from larger centralized solar projects and power plants. Small installations on rooftops and parking lots are much more expensive per kWh than utility-scale facilities.

At the November HLUET meeting, staff noted that they are doing everything they can to mitigate risk but this is an arena where the ground rules can be changed by regulatory actions or legislative actions.

Staff cites the Technical Study for positive Economic Benefits new generating capacity, all of which is assumed to be located within California and some of which may be located within communities of the Parties

But on Page 14 of the same Study we find developing generation in California is a difficult and time-consuming process, challenges include siting, permitting, generator interconnection with the transmission system

If your power comes in by wire, environmental impact from new transmission lines (PGE South County Power Connect) and loss of lines due to wildfire, flood, and earthquake are risks. I want a focus on local self-sufficiency and resiliency.

3c) Local economic benefits

[Ordinance 2f: Increasing energy conservation and efficiency projects and programs]

[Ordinance 2h: Improving the local economy by implementing new local renewable and energy conservation and efficiency projects]

If you look at some of the concerns in 3b,

Small installations on rooftops and parking lots are much more expensive per kWh than utility-scale facilities

Challenges to developing generation in California you are likely not to get economic benefits from generation.

Things may have changed, but the Utility used to cap the local generation feed-in amount at what you consumed, as a way to pay for some of their transmission system costs.