

FINAL MINUTES

**TOWN OF CORTE MADERA
ACCESSIBILITY ADVISORY COMMISSION
CORTE MADERA TOWN HALL COUNCIL CHAMBERS**

OCTOBER 18, 2010

Commissioners Chair Barbara Becker
Present: Robert Czeck
 Ted Meyer
 Tom Young

Staff Present: Public Works Director Dan Ring
 Assistant City Attorney John Abaci
 Architect and Access Consultant George Dedekian

1. Call Meeting to Order

Chair Becker called the meeting to order at 7:03 p.m.

2. Open Forum for Non Agenda Items

Mr. George Topor, President of the Mariners Cove Neighborhood Association, stated local residents would like a crosswalk placed at the intersection of the northwest corner of Golden Hind Passage and Paradise Drive. It would require a curb cut on the Paradise Drive side (towards the parkway) and some signage. The Association is willing to contribute towards the expense. They asked a contractor to look at the intersection and give them an idea of how much it might cost. Chair Becker stated the Commission had discussed this project at the last meeting. Public Works Director Ring agreed and stated it was an alternative project through the Safe Routes to Schools program that staff decided not to do. There is some concern about the sidewalk that exists from Paradise leading along Golden Hind Passage up to San Clemente School since it is a hodgepodge of concrete and asphalt. He stated the Golden Hind Passage Storm Drain and Pump Station project is located right in the vicinity and there would be a lot of curb and gutter work associated with this project. One of the options is to add a redo of that sidewalk. The other issues have to do with speeding along Paradise Drive and staff plans to try to address this problem with additional signage on either side. Staff could also look at a lighted, pedestrian push button device that would trigger a blinking, yellow light at that crosswalk. A traffic study was done several years ago that included the idea of installing a left turn at that location. The curb is laid out to allow for this. A good portion of the area was paved months ago to help people to get around better. The idea would be to finish the paving, install a left turn, and install the crosswalk and curb cuts. Commissioner Meyer asked if the plan was to put it in on the west side of the intersection. Public Works Director Ring stated "yes". Commissioner Meyer stated it might make more sense in terms of pedestrian safety while crossing Paradise Drive to be crossing at the easterly side of the street because people take a left turn into the subdivision and people come out of the subdivision and head west towards Paradise Foods. Placing it on the easterly side would reduce the potential for conflicts. Mr. Topor stated there was a bus stop on the east side. He noted the resident would also like some signage saying "Pedestrian crossing" and some of the bushes trimmed. They are talking to the school about landscaping that corner. Chair Becker asked who uses the crosswalks along Paradise Drive. Public Works Director Ring stated the kids going to school and the residents in that neighborhood. Chair Becker asked if the bus from Neal Cummins turns onto Golden Hind. Public Works Director Ring stated he was not sure but the kids use the Class I bike path and cut across at that location. Commissioner Young stated many people use the crosswalk to go to the small wilderness area to walk their dogs. Public Works Director Ring acknowledged that it would get a lot of use. Public Works Director Ring stated they would begin construction of the Pump Station project probably in December and it would be completed sometime in the spring. He asked Mr. Topor to call him in his office tomorrow.

3. Approval of Meeting Minutes of September 20, 2010

M/s, Young/Czeck, to approve the meeting minutes of September 20, 2010 as corrected.

Ayes: All

4. Election of Officers

M/s, Czeck/Young, to elect Commissioner Becker as Chair.

Ayes: All

M/s, Becker/Young, to elect Commissioner Czeck as Vice Chair.

Ayes: All

5. Old Business

A. Old Business items will not be discussed at this meeting

6. New Business

A. Discussion of "Consent Decree and Order" resulting from Skaff vs. Corte Madera

Public Works Director Ring presented a staff report and noted this is meant to be "kick-off" meeting and that the upcoming work of the Commission will be focused on the Barrier Removal Implementation Plan (BRIP). Staff has circulated an RFQ (Request for Qualifications) for a civil engineering firm to do all of the design work. This work would cover everything from surveying the locations, designing the improvements, preparing the plans, helping with the bid, and construction staging and monitoring. Staff is looking for a "one-stop shopping" concept in the hopes of eliminating any problems down the road. The RFQ has been out for several weeks and is due at the end of the month. Chair Becker asked who would be in charge of defining the specifications that would be submitted to the design team. Public Works Director Ring stated the guidelines that would be used for the design of the facilities were outlined in the Consent Decree. These are standard ADA specifications. Access Consultant Dedekian would be responsible for moderating the BRIP, which identifies the sites, and then handing it off to the design team. Commissioner Young had questions about the RFQ and whether or not it was publicly noticed. Public Works Director Ring stated staff had a short list of consultants that included firms that the County had pre-qualified for similar types of projects, firms that have done similar types of work for other jurisdictions, and firms that staff has worked with before. There is a mix of local and regional firms.

Assistant City Attorney Abaci stated he presented a summary of some of the terms that were negotiated for the Consent Decree to the Commission last year. He stated the Commission has a copy of the final and enforceable Consent Decree and Order filed July 22nd. The terms are set out to be time sensitive and are in phases. The decree is essentially a settlement agreement that is enforceable by the courts and has a binding effect. The lawsuit was filed in December 2008 and settled 1 ½ years later. The violations of State and Federal Disabled Access laws were "all over the board" and included allegations regarding curbs, sidewalks, walkways, paths of travel, parking, related facilities, etc. in Town rights-of-way. State violations were identified for construction from November 1, 1968 on and from January 26, 1992 and on for Federal violations. Another claim that was made was that the Town failed to provide program access under ADA and that the Town failed to adopt a legally sufficient Transition Plan. There were other claims. Seventy-one barriers were identified in the lawsuit as examples of violations but these were not all of the violations claimed in the lawsuit. They added to that number at a later date. There were three mediation sessions and they negotiated the injunctive relief terms (specific terms of the lawsuit) which resulted in the concept of the BRIP and the phases of the plan. Staff feels they achieved some of their objectives going into mediation including limiting the Town's financial responsibility, giving the Town a workable and usable method for making alterations and changes that needed to be made, and above all, maintaining the Town's control over policy-making. There is terminology in the provisions that refer to "the Town's sole discretion". The first phase of the agreement is essentially Exhibit A, the agreed upon items that represent about half of the 71 barriers identified by the plaintiff's consultant. Specific changes are laid out in Exhibit A and the Town has agreed to make these improvements by the end of Fiscal Year 2010-2011.

Phase One ends at the end of this fiscal year. Phase Two begins Fiscal Year 2011-12 and includes the adoption of the BRIP. This should be completed by the end of FY 2011-12. If the Town is not able to meet this deadline then they can give notice to the plaintiff's counsel with the anticipated timeline for completion which should not be any later than June 30, 2013. Exhibit B includes the other half of the 71 items that the parties were not able to agree upon. Exhibit B will be incorporated into the BRIP. The BRIP will also include and address the locations within the right-of-way in the Transition Plan except for residential driveways serving four or fewer residential units. It will also include off-street parking for Tamalpais Drive, Corte Madera Avenue, and First Street. The priority for the changes will follow those in the Transition Plan to the extent that is reasonably practical. The Town Council and the Commission have the discretion to determine what is "reasonably practical". The Transition Plan shall include physical modifications, improvements, and alterations in conformance with standards. These standards are described in Exhibit C. They negotiated the language related to access standards (Federal and State) and how they would handle the technical and feasibility determination when putting together the BRIP, designing and constructing projects. There are procedures in Exhibit C that talk about what to do when a project is determined to be technically infeasible. The Town would give notice of the proposed determination and the plaintiff's counsel would have the opportunity to give comment. The standards in Exhibit C were heavily negotiated and all work must comply with those standards. He referred to the Menke Park to Town Hall path of travel issue and stated a feasibility study was a good method in resolving this complaint. Chair Becker stated she thought this issue had been "put to bed" since the Commission came up with the solution of putting in a bus stop. Assistant City Attorney Abaci stated a feasibility study is an option for any of the locations. Chair Becker stated the Commission has identified two to three areas where it would be infeasible to meet ADA requirements. Assistant City Attorney Abaci stated the Town could choose to do a feasibility study and include the findings in the BRIP. Notice of any technically infeasible determinations must be given to the plaintiff's counsel to give them an opportunity to comment. The preparation of the BRIP will be done by an access consultant and reviewed and approved by the Commission for recommendation to the Town Council for final approval. The plaintiff will receive a 60-day comment period prior to the Commission's actual recommendation. The funding for Phase Two and Three is equivalent to 50% of the Town's Gas Tax Revenue plus 10% of the unrestricted Capital Improvement projects expenditures for the prior two fiscal years. The Town will put a Revenue Measure on the ballot by December 31, 2015 which will be calculated to raise between \$3 million to \$4 million to do the work in the BRIP. If the measure does not pass then the plaintiff has the option of choosing another 15-year term with the same funding component or meeting and conferring in binding arbitration to determine the sources and levels of funding for the period of time it takes for all construction to be completed. The Town will submit a status report to the plaintiff's attorney once a year. Public Works Director Ring stated the RFQ asks for assistance in finding other funding.

B. Discussion of BRIP (Barrier Removal Implementation Plan), and implementation strategy

Access Consultant Dedekian stated he has been involved in a lot of litigation and these negotiations were difficult and protracted. The plaintiff was not willing to accept anything that "was not perfect" and felt that everything was technically feasible. The concept of the BRIP came about from some work he did at a community college. They had a Transition Plan and a very robust construction program. There were funding constraints and maintenance issues that came up that trigger the use of resources that might otherwise go to access improvements. Resources get juggled around and the community finds themselves out of compliance. The BRIP is a way of putting all the key components on the table and prioritizing them by "connecting the dots in an orderly fashion". The other component to this is the Pavement Management Plan that identifies all the streets that need resurfacing, etc. thereby requiring new curb ramps. He sees the BRIP as a merging of those two efforts. They have two documents that describe the barriers and his role would be to guide the AAC in prioritizing the work based on the Pavement Management Plan and what he understands to be the most points that people need to get to.

Chair Becker gave a brief history about the AAC and their work on the recent EAH project on Paradise Drive. Public Works Director Ring stated the AAC had already decided to take the quite voluminous Transition Plan and reduce it down to a simplified list while identifying some priorities. He noted they are not quite ready to say "here is what we are going to do and how we are going to do it".

Chair Becker stated there were two hotpoint issues: 1) they want the job done correctly the first time; 2) they want a mechanism that would allow the AAC to review designs, etc. prior to construction. Public Works Director Ring stated having one consultant who does the design work was the intent of the RFQ. Commissioner Meyer stated it would be understood that there would be some negotiation between the contractor and the engineer and the Town should no longer split the cost to redo a project. Chair Becker stated she would like to see more consistency. There will be other projects going on in Town that are not part of the BRIP and the AAC will decide whether or not there is an ADA issue. Public Works Director Ring stated Access Consultant Dedekian could review those projects and bring them to the AAC as needed. The AAC needs to focus on the BRIP. Access Consultant Dedekian stated some concern came up in the course of negotiating some of the specific locations having to do with impact on traffic and safety. The element of traffic safety and engineering adds another layer. He asked if provisions for that have been made. Public Works Director Ring stated the Town has used a particular consultant for these types of issues. Access Consultant Dedekian stated this would be appropriate at the level of the BRIP. Chair Becker stated there were items in Exhibit A that would fall into this area. Commissioner Meyer stated Public Works Director Ring has brought up a good point that they need to stay focused on the deadline. He asked about the role of the AAC in terms of the BRIP while also helping the process. Access Consultant Dedekian stated that was a very good point and he stated they need to figure out what would be the most appropriate way for the AAC to contribute to the effort. They have a scope of work that needs to be prioritized. He needs the initial input from the AAC about what they feel are the key areas. Commissioner Meyer stated they have concerns about all the areas but it does not matter because they have to deal with 71 of them. Assistant City Attorney Abaci stated they are the policy making body and they should come up with the priorities. Exhibit A is supposed to be incorporated into the pending project and is not supposed to be a part of the BRIP. There are many items in the Transition Plan that the Commission can look at and give some policy guidance. Public Works Director Ring stated the Commission could break up the Town into zones and talk about each at a meeting. This would be a good way of “connecting the dots”. Commissioner Czeck stated they should take some field trips. Chair Becker stated they should start to individually prioritize these items at the next meeting in order to begin to build policies.

Public Works Director Ring stated much of the document refers to residential streets, cross slopes of sidewalks, an off-set in a sidewalk due to tree roots, etc. and asked if those types of things would fall under the BRIP. Assistant City Attorney Abaci stated “yes”. Chair Becker asked how these things could be included when it was the responsibility of the property owner. She stated they need to get some direction from the Town Council regarding residential driveways, sidewalks, etc. Public Works Director Ring stated some jurisdictions do the work and the property owner pays for it on their tax bill. Assistant City Attorney Abaci stated there was a specific procedure in the Streets and Highways that addresses this issue which gives the Town the right to do the repairs and then place an assessment on the property. The BRIP would have to include each location in the Transition Plan but how this would be handled would be a policy question. Chair Becker stated she would feel uncomfortable making this type of decision. Assistant City Attorney Abaci stated they would make a recommendation to the Town Council. He thought Public Works Director Ring’s idea of looking at particular zones was a good one. They might want to handle the special areas of concern differently but there will also be a lot of curb ramps, intersections, and areas that are well traveled that are of significance to the community that they will want to handle as a policy matter rather than the way the plaintiff’s counsel said it should be done.

Commissioner Meyer stated it was similar to getting a “punch list” from an architect and trying to get them all completed. He wondered how they would sort the criteria and figure out how to account for everything while at the same time attacking the most important items. Access Consultant Dedekian stated they should just throw some things out there and see what gets support. They are not going to just do curb ramps but rather look at things in a more comprehensive way while connecting point A to point B. Access Consultant Dedekian stated the challenge would be doing it in a way that allows them to be good stewards of the financial resources. The BRIP will identify what needs to be done but the project manager would then figure out a way to group projects together. They want to get “more bang for the buck”. Commissioner Meyer stated they want to get a few projects done to get some momentum going. Chair Becker stated she would like to remain “user-friendly” to the residents. Access Consultant Dedekian suggested that someone cross off the completed items in the Transition Plan. He noted it should be updated regularly. The BRIP is

similar to an update of the Transition Plan. Commissioner Meyer asked if there was an electronic copy of the Transition Plan. Public Works Director Ring stated he would find out.

Chair Becker asked the Commission to think about general priorities and find them in the Transition Plan. Commissioner Meyer asked if they should focus on the public rights-of-way. Public Works Director Ring stated "yes". Access Consultant Dedekian noted the 71 items were all in the public right-of-way. Assistant City Attorney Abaci added that residential properties with more than four units should be included in the BRIP.

Commissioner Czeck asked if they should go out individually or as a group. Assistant City Attorney Abaci stated they should go out individually (or no more than two members) and he reminded them about the Brown Act and the prohibition on serial communications. They could report back on their findings at the next meeting.

Commissioner Young asked if there was a stakeholder committee during the formation of the original Transition Plan. Assistant City Attorney Abaci stated the plan was formulated prior to the creation of the AAC but the Town held Public Hearings, distributed surveys, etc. It was approved by the Town Council.

Chair Becker referred to the Transition Plan and stated Volume One pertains to the Madera Gardens, Volume Two pertains to Christmas Tree Hill (including Menke Park), Volume Three pertains to the hill that includes the Tiburon School District (south of Paradise Drive), and Volume Four pertains to Harbor and the west part of Golden Hind. Each Commissioner took responsibility for reviewing one of the volumes. Chair Becker asked each Commissioner to come up with some policies and priorities (high, medium, low). Commissioner Meyer stated the Pavement Management Plan would have a huge impact on what they will be able to accomplish. Public Works Director Ring stated he would give them the current status of the plan but it would be going through some revisions in December or January.

Chair Becker thanked Assistant City Attorney Abaci and Access Consultant Dedekian and stated they were off to a good start. Commissioner Czeck asked Chair Becker to summarize the goals and objectives of the Commission's "homework". Chair Becker asked them to start a prioritized list of things that were important that would then be translated to policies. Then they should look through their assigned volume. Public Works Director Ring stated the volumes would probably get subdivided. Assistant City Attorney Abaci reminded the Commission that Exhibit A could be put aside and would not have to be included in the BRIP. Chair Becker stated she would like to know each Commissioner's priorities. Access Consultant Dedekian stated it was good to start off with the priorities but ultimately they will need to rank things in a way that would be supportable. Chair Becker stated she was most concerned about what was important from a policy standpoint and what the priority is. Public Works Director Ring pointed out that the items in Exhibit B have to be in the BRIP but do not necessarily have to be the first ones done. He suggested they start with the prioritization of Exhibit B. He noted the end of Exhibit B listed some driveways on San Clemente Drive that are already funded. Commissioner Meyer asked about the difference between Exhibit A vs. Exhibit B. Public Works Director Ring stated Exhibit A is a list of the items the Town has agreed to do by the end of June, 2011. They should assume that these would be done. The Commission does not need to deal with these items. Commissioner Czeck asked if the Commission would be giving input on the construction of those items. Public Works Director Ring stated "yes". Commissioner Czeck asked about the timeline for Exhibit B. Public Works Director Ring stated Exhibit B has to be a part of the BRIP but there is no particular timeline. He noted Exhibits A and B comprise the 71 items in the lawsuit.

7. Commissioner Reports

Commissioner Young asked for a status report about the shrubbery blocking the sidewalk at Prince Royal Passage and Spindrift. Public Works Director Ring stated a letter was sent to the property owners.

Public Works Director Ring stated the blue curb was removed at 128 Willow Avenue but the Public Works Department needs to paint over the street. The resident was discussing the situation with her caregivers. He has not heard back from the resident about whether or not she wants to reapply.

Public Works Director Ring discussed the problem with the lack of standards related to parallel parking. Commissioner Meyer stated he has come across a couple standards and he would submit them to staff. He thought the requirement was 8 feet on the passenger side.

Commissioner Young referred to the mini-park at the corner of Willow Avenue and stated there used to be a blue zone. Public Works Director Ring stated he would find out what happened. Chair Becker stated it probably had something to do with the mail trucks.

Commissioner Czeck asked what other groups would be involved with the BRIP. Public Works Director Ring stated the Town Council, the Public Works Department, the Building and Planning Departments, and perhaps the Fire and Police Departments. Chair Becker stated she would like to have a joint meeting with the Traffic Advisory Committee (TAC). Commissioner Meyer stated it was important for the AAC to figure out their role with respect to the Building and Planning Departments when projects come on line. Commissioner Young asked who was doing the monitoring on behalf of the plaintiff. Public Works Director Ring stated he has an attorney and an ADA consultant.

Chair Becker referred to the ramps near Macy's and stated the glue was not holding the ramps down and someone could trip and fall. She would like to Town to do periodic inspections. Public Works Director Ring stated that could be included as a priority in the BRIP.

8. Future Agenda Items

Chair Becker stated the following would be on a future agenda: 1) Discussion about the BRIP; 2) Proposal to meet with the Town Manager, Mayor Condon, and a representative of the Building Department.

9. Adjournment

The meeting was adjourned at 9:30 p.m.