

JOINT MEETING OF THE TOWN COUNCIL AND THE
ACCESSIBILITY ADVISORY COMMISSION

In the Town Hall of the Town of Corte Madera, on Tuesday, April 21, 2009 at 6:30 p.m.

PRESENT: Mayor Dupar
Councilmembers Cock, Lappert, Ravasio
Accessibility Advisory
Commission: Robert Czeck
Stuart Tanenberg
Barbara Becker
Nance Becker
Theodore Meyer

Town Manager David Bracken
Town Clerk Chris Green
Assistant Town Attorney Veronica Nebb
Public Works Manager Debra Sue Johnson

- 1a. Review, Discussion and Possible Action Concerning the Role and Responsibilities of the Accessibility Advisory Commission (AAC)
- 1b. Discussion and Possible Action Concerning Responsibilities of Accessibility Advisory Commission as They Relate to Public Development Projects
- 1c. Discussion and Possible Action Concerning Increased Awareness of the Accessibility Advisory Commission

The Public Works Manager shared the concerns of the AAC, stating the commission would like more clarity regarding its role within the town. The Town Manager noted that the Brown Act does apply to this meeting; explained that the Town Council holds joint meetings from time to time with various commissions; and referred to an email from AAC Chair Czeck who posed several suggestions.

Ms. Johnson stated the commission is very aware of the constraints imposed by the current budget situation and explained that the commission is seeking direction on where to focus its energy.

Chair Czeck thanked the Town Council for this opportunity; cited his experience in the healthcare forum and with various committees; and said that as a disabled citizen of Corte Madera, he has a vested interest in moving the town forward to meet, and eventually exceed, the needs of all of its citizens. Since its inception, the AAC has not been fully convinced of the town's commitment. He cited the AAC's contributions to town projects over the years and said that while the AAC has kept itself busy, the level of involvement and support of the Town Council remains unclear. He stressed that his goal is for the town to be recognized as a paradigm of a small town offering great opportunity for those with disabilities.

Mayor Dupar stated that the AAC has been an invaluable asset to the town from the very beginning and thanked both present and past commissioners. He explained that he feels the AAC is particularly valuable in its unique ability to identify potential programs and suggest barrier improvements that the Town Council can prioritize into the budget stream. He acknowledged that the wheels of government can be slow and frustrating and suggested that the AAC use its unique perspective to identify improvements that may seem minor, but equate to major results for the handicapped community.

Councilmember Lappert noted that the squeaky wheel seems to get the greatest results. The AAC represents a subset of the town and he envisioned this AAC as a venue by which those citizens could become activists. He encouraged the commission to speak out when faced with an egregious situation and cautioned that complacency does not produce action. He stated that his original intent was for the AAC to achieve a level of authority similar to the Planning Commission and had expected that it would be given the opportunity to hear items and share recommendations in a similar fashion. He noted that presently AAC has only one member in a wheelchair and asked what happened to the other wheelchair bound commissioners. He expressed regret they were no longer on the commission as he places a lot of value into their perspective.

Mayor Dupar asked the commissioners if they would like the opportunity to provide a full analysis of project drawings, plans, and reports or if a simple review and feedback would suffice. He cited the Macerich project at the Village Shopping Center as an example and asked if the AAC would have liked the opportunity to weigh in on the development. Commissioner Barbara Becker said yes.

Commissioner Tanenberg explained that while the AAC has held lengthy discussions on projects like the one by Macerich, the general consensus of the commission has been that its purview does not encompass private property. Mayor Dupar acknowledged that it is a fine line to walk but said that this input would have been greatly appreciated prior to construction.

Commissioner Tanenberg stressed that this is one of the main issues; the commission typically discusses projects like this at every meeting but has never been certain that feedback would be welcomed or appropriate. Mayor Lappert explained that public property is any place where the public gathers, regardless of ownership.

Commissioner Tanenberg said that they have attempted to deal with accessibility along San Clemente for the past 3 years. Property owners are responsible for maintenance and corrections to the property, but have not been willing to do so, and he asked what authority the AAC has in this situation.

Commissioner Meyer said that as a civil engineer, he routinely works on the design of accessible paths of travel. His role on the commission has afforded him the opportunity to hear different perspectives and that he looks forward to some of the projects discussed but reiterated the concern that the commission is not acting in accordance with the expectations of the Town Council.

Mayor Dupar asked that the AAC and the Town Council use their collective skills to the betterment of the town. He suggested that the AAC take greater initiative to identify the costs associated with completing a project to the standards the AAC would like and then work with the Town Council on funding strategies. He posed the idea of using some building fees in combination with grants and General Funds in order to perform specific improvements.

Commissioner Tanenberg noted that the commission did just that as part of last year's budget process but because of the economic situation those projects have been dropped.

Councilmember Ravasio asked if the AAC could be involved earlier in the plan approval process. Councilmember Lappert suggested the AAC act in conjunction with the Planning Commission.

Councilmember Ravasio said that would not be possible but noted that, as a developer, he would appreciate the opportunity to meet with the AAC during the development stage of a project. He explained that their advice on ADA related matters could potentially save a developer a significant amount of money by avoiding future liabilities.

Ms. Johnson asked who the Town Council feels the commission should reach out to. Mayor Dupar referenced the letter sent to Granada School by the AAC. He suggested that instead of a demanding approach, the commission act as advocates by offering establishments the opportunity for review by the AAC and then act as a liaison with the town to accomplish the needed improvements.

Commissioner Meyer said there was discussion regarding the Certified Access Specialist (CASp) Program at the last AAC meeting; he explained that it will require building departments to provide staff capable of identifying areas that do not meet accessibility standards, and suggested that the AAC may have a role in that program as it is developed.

Commissioner Becker shared her frustration with new construction that is not built to code; she thought the AAC could provide an opportunity for significant savings in this area, and suggested that the commission be allowed to review construction projects for compliance.

Councilmember Cock suggested that rather than being reactive, the commission consider developing an accessibility plan to identify needed improvements and the best way to address them. She acknowledged funding limitations, said she is unfamiliar with the town's resources for researching grants, and asked if it would be possible for the AAC to do so as a way of supporting staff. Councilmember Becker suggested that, as none of the current commissioners have grant capabilities, they reach out to UC Berkeley MBA students to come in and write grants. She said they have done so in the past with positive results and at little, if any, expense.

The Town Manager explained that the AAC was created out of a general sense of frustration with the Transition Plan of Accessibility Projects that was ill defined and did not provide guidance on how to eliminate identified barriers. He also shared frustration over previous accessibility related lawsuits and the concern that, despite the significant funds spent on making new projects ADA

compliant, future lawsuits are unavoidable. He said he would like to see a committee that could identify the most effective use of funds on future projects and improvements.

Councilmember Lappert said that every government agency has its own ADA standards and that what the Town Council wanted was a group of individuals who were disabled and/or well versed in those requirements and who could guide the town definitively.

The Town Manager recognized the commission's frustration and explained that the budget deficit has grown since the AAC was formed in 2006. The town has no plans for any public service projects that are not 100% grant funded. He appreciated the commission's focus on San Clemente Drive improvements but advised caution with respects to governance. To review building plans at the Planning Commission stage would be informative, but he suggested that the AAC would affect greater change if they have the opportunity to do so at the building permit stage.

Commissioner Tanenberg said that the AAC can be of the most value when there are working drawings to be reviewed.

Councilmember Lappert supported Mr. Bracken's suggestion and added that requiring AAC approval on building permits would solidify its identity within the town.

The Public Works Manager explained that since she joined the commission, one point of focus has been to allow commissioners a first-hand opportunity to visit the sites, review paths of travel, and provide suggestions on the town's capital improvement projects.

Chair Czeck said that it would greatly benefit the commission if the town would extend its communication network with regards to comments and complaints received from the general public. He also asked that the AAC be given the opportunity to review any projects coming before the Town Council and that the Council support their early and continued involvement.

Councilmember Lappert asked to have one commissioner present at every Planning Commission meeting.

Commissioner Becker said that increased involvement would assist the commission as a whole with developing a concise checklist of requirements.

Mr. Bracken supported this and agreed to utilize the checklist for all public works projects before Requests for Proposals. He said that the Transition Plan will require an update in the future and asked the commission to consider how to assist with that.

Mayor Dupar noted that some private projects encroach on the public right of way. Mr. Bracken agreed to add a similar AAC review to the encroachment permit.

Mayor Dupar said that the Town Council will also occasionally ask commissioners to attend various

meetings and that agendas will be forwarded to them. Commissioner Tanenberg suggested that only meetings with ADA pertinent items be forwarded. Mayor Dupar said all agendas will be sent. He thanked the AAC for their ideas, said they will hear more from the Town Council in the future, and asked that AAC reciprocate that communication.

Commissioner Tanenberg invited Councilmembers to sit in on their meetings.

REGULAR MEETING
OF THE
CORTE MADERA TOWN COUNCIL AND SANITARY DISTRICT #2 BOARD

In the Town Hall of the Town of Corte Madera, on April 21, 2009 at 7:30 p.m.

PRESENT: Mayor Dupar
Councilmembers Cock, Lappert, Ravasio

Town Manager David Bracken
Town Clerk Chris Green
Director of Planning/Assistant Town Manager Robert Pendoley
Assistant Town Attorney Veronica Nebb
Director of Emergency Services Roger Sprehn

COMMISSIONERS PRESENT

Kim Nobel Baez, Park & Recreation Commission

OPEN SESSION

Salute to the Flag

Mayor Dupar reported that the Town Council met previously in joint session with the Accessibility Advisory Commission.

OPEN TIME FOR PUBLIC DISCUSSION

No items were brought forth.

2. COUNCIL AND TOWN MANAGER REPORTS

The Town Manager provided the following report:

- After a vigorous recruitment process, apprentice firefighter Andrew Lappert will be promoted to Engineer Paramedic.

Councilmember Cock provided the following report:

- She attended a meeting of the Corte Madera Chamber of Commerce to discuss the Greenbrae-Twin Cities Interchange. There is a consensus regarding the northbound plans but opinions were divided on what to do, if anything, with the southbound Madera Drive exit. The project is entering the EIR phase during which there will be ample opportunity for the public to provide feedback.

Mayor Dupar asked if the town's letter regarding the temporary closure of Madera Drive had been issued. Mr. Bracken stated that a letter was issued via resolution several years ago and Mayor Dupar asked that it be resent. Mr. Bracken agreed and added that TAM is preparing to enter the EIR phase for the project, which will resurrect the issue.

Councilmember Ravasio provided the following report:

- He attended the MCCMC Legislative Committee meeting. The state is already predicting a \$6 billion shortfall on the current budget and another \$7 to \$8 billion deficit if May ballot measures do not pass. The committee voted in support of Huffman's bill to change local approval requirements on taxation; Larkspur and Corte Madera were the only two dissenting votes.

Mayor Dupar provided the following report:

- He attended the board meeting of the Sanitary District No. 2. They have decided to move forward with the "food waste to energy" project and will be touring a similar facility in May.

CONSENT CALENDAR

- 3a. Approved Warrant and Payroll for the Period April 1, 2009, through April 14, 2009, Warrant Check Numbers 122890 through 122997 and Payroll Check Numbers 2837 Through 2847, Payroll Direct Deposit Numbers 13516 through 13606, and Payroll Wire Transfer Numbers 872 through 875 and Wire – Twin Cities Police Monthly Payment
- 3b. Approved Recommendation for 2009 Citizen of the Year and 2009 Lifetime Achievement Award

MOTION: Moved by Lappert, seconded by Ravasio, and carried unanimously by those present, with Condon absent.

To approve Consent Calendar items 3a and 3b.

BUSINESS ITEMS

4. Discussion and Possible Action Concerning Adoption of a Resolution Adopting the Revised Town Emergency Operations Plan

The Director of Emergency Services stated that the town is required to have an emergency

operations plan which was last updated in 2001. He explained that this update is closely related to the changes made to Marin County's Emergency Plan. He introduced Captain Roger Benz.

Captain Benz reviewed the update process. He stated that the town's proposed plan follows the template set forth at a national level, and explained that the plan is required to address specific issues in order to qualify the town for federal disaster funding.

Mr. Sprehn also stated that per the Municipal Code, the Corte Madera Disaster Council has reviewed and recommended this plan.

Mayor Dupar asked what determines an emergency situation. Chief Benz referred to the portion of the plan that outlines this and explained that in any situation when two or more emergency services departments within the town are beyond their capabilities, the Emergency Operations Center is opened. He added that there is also a provision allowing certain management to determine that such a state exists.

There was no public comment.

MOTION: Moved by Lappert, seconded by Cock, and carried unanimously by those present, with Condon absent,

To adopt Resolution No. 3592, adopting the Revised Town Emergency Operations Plan.

Councilmember Lappert acknowledged the level of work that went into the plan and thanked staff.

5. Discussion and Possible Action Concerning Adoption of Ordinance No. 910, Ordinance Amendments To Title 18, Zoning Ordinance, For Minor Corrections To Language And Diagrams - Amending Sections 18.04.075, 18.04.100, 18.04.265, 18.04.290, 18.04.335, 18.04.525, 18.04.525, 18.04.530(a)(4), 18.04.540, 18.04.553, 18.08.020, 18.08.030(3)(E), 18.08.040, 18.08.120(e), 18.08.120(i), 18.08.120(i)(1), 18.08.120(i), 18.08.220(b)(3), 18.08.220(d), 18.08.220(h)(1), 18.08.220(h)(3), 18.08.220(e)(2), 18.08.220(h), 18.08.320(d), 18.08.320(h), 18.08.410(f), 18.08.520(f), 18.18.215, 18.20.040, 18.22.030(11), 18.24.060, 18.24.070, 18.24.080, 18.26.060, 18.28.060, 18.30.090, AND 18.31.050, Of Title 18 (Zoning Ordinance)

The Town Clerk reported that this ordinance was introduced at the last Town Council meeting. Should the Council take action to adopt the ordinance, it will take effect in 30 days.

There was no public comment.

MOTION: Moved by Ravasio, seconded by Cock, and carried unanimously by those present, with Condon absent,

To adopt Ordinance No. 910, an Ordinance Amendments To Title 18, Zoning Ordinance, For Minor Corrections To Language And Diagrams - Amending Sections 18.04.075, 18.04.100, 18.04.265, 18.04.290, 18.04.335, 18.04.525, 18.04.525, 18.04.530(a)(4), 18.04.540, 18.04.553, 18.08.020, 18.08.030(3)(E), 18.08.040, 18.08.120(e), 18.08.120(i), 18.08.120(i)(1), 18.08.120(i), 18.08.220(b)(3), 18.08.220(d), 18.08.220(h)(1), 18.08.220(h)(3), 18.08.220(e)(2), 18.08.220(h), 18.08.320(d), 18.08.320(h), 18.08.410(f), 18.08.520(f), 18.18.215, 18.20.040, 18.22.030(11), 18.24.060, 18.24.070, 18.24.080, 18.26.060, 18.28.060, 18.30.090, AND 18.31.050, Of Title 18 (Zoning Ordinance), by title only, waiving further reading.

6. Discussion and Possible Action Concerning Adoption of Ordinance No 911, Ordinance 911 Amendments To Modify Regulatory Standards For Floor Area Ratio (FAR) In The R-1 And R-1-A Residential Districts.

The Town Clerk stated that this ordinance was introduced at the last Town Council meeting and unless the Council requests any substantial changes, staff is asking for adoption.

There was no public comment.

MOTION: Moved by Lappert, seconded by Cock, and carried unanimously by those present, with Condon absent,

To adopt Ordinance No. 911, an Ordinance 911 Amendments To Modify Regulatory Standards for Floor Area Ratio (FAR) In the R-1 and R-1-A Residential Districts., by title only, waiving further reading.

PUBLIC HEARING

7. Discussion and Possible Action Concerning Adoption of a Resolution Increasing Fees and Rates for Advanced Life Support (ALS) and Basic Life Support (BLS) Services and Supplies

The Director of Emergency Services stated that the ambulance billing rates were updated several months ago, after which Medicare has changed how it accepts requests for these billings. In response, the town has negotiated a bundled inclusive rate per occurrence which will simplify the billing process without creating a substantial change in revenue.

Mayor Dupar asked if the Medicare rejections have cost the town much. Mr. Sprehn said no, since it is a relatively new practice.

Councilmember Lappert asked and confirmed that all responses will be billed at that rate no matter the list of supplies used.

The public hearing was opened.

George Topor asked if there is an additional charge for emergency services. Mr. Sprehn said that this fee is in addition to the standard base rates normally charged for service and noted that the basic life support charge is \$796.

The public hearing was closed.

MOTION: Moved by Cock, seconded by Ravasio, and carried unanimously by those present, with Condon absent,

To approve Resolution No. 3593, Resolution Increasing Fees and Rates for Advanced Life Support (ALS) and Basic Life Support (BLS) Services and Supplies

8. Public Hearing on Draft Final EIR and the Draft Updated General Plan and Discussion and Possible Action Concerning:

- a. Adopting a Resolution Adopting CEQA Findings, a Statement of Overriding Considerations, and a Mitigation Monitoring and Reporting Program for the Updated General Plan

The Director of Planning presented the staff report, stating that at the last public hearing the Town Council directed 8 changes to the draft General Plan. Most were very straightforward with the exception of a change to the Implementation Program regarding view definitions. He stated that after considerable debate, the Council gave direction to balance the value of short and long range view preservation.

Mr. Pendoley stated that the public provided considerable input on the remainder of the plan, most notably with regards to Chapter 3 and focused on wetland issues. In response to those comments, staff has made minor revisions to the final EIR that do not require recirculation of the EIR. Staff focused on clarifying the relationship between mitigation measures that were already contained in the EIR and policy changes in the revised General Plan. He called attention to the Land Use designation Wetlands Unique Habitat and Restoration Area which exists east of Highway 101 and in the triangle marsh owned and maintained by the Audubon Society.

He explained that the current General Plan establishes detailed implementation policies for wetlands preservation but provides broad definitions of wetlands which are then codified in the Zoning Ordinance. The updated General Plan attempts to correct this by immediately establishing a definition using that designated by the Corps of Engineers but also recognizes that there are other essential habitats, corridors, and sensitive natural communities within Corte Madera.

Mr. Pendoley reviewed the setback standards that would be amended in the Zoning Ordinance as well as the challenges it poses. The first concern in choosing a recommendation was the impact it would represent to the numerous homes situated against wetland areas. Staff has determined that the recommendation would not impose a hardship on the typical R1 zoning district; will retain a 100-foot buffer zone in large wetlands zones; has been adopted by the county; and should significantly address some of the concerns raised at earlier hearings. The updated General Plan also applies the same setbacks to drainage ways.

Mayor Dupar asked how a 100-foot setback might impact a 2-acre parcel that is surrounded by wetlands on 3 sides. Mr. Pendoley estimated that if the property were surrounded on 3 sides by wetlands as defined, a variance would likely be considered.

The public hearing was opened.

Jim Helfridge stated strong support for the updated General Plan. He reminded the Council of his earlier request for the Gateway property; acknowledged that the staff report indicates that assigning a new FAR to the site would be inconsistent with the standards of a light industrial district, and asked that the change be applied to the Gateway district only.

Glenda Corning, 811 Meadowsweet Drive, referred to the large parcel in the middle of the marsh and asked how the setback would affect the appraised value. She explained that the Audubon Society is hoping to purchase the land but that the current appraised value is very high. She stated that everything east of Highway 101 and the levee is important wetlands and asked the Council to establish a policy that states such. The Assistant Town Attorney stated that it would not be appropriate to make a zoning appraisal on the property in question but assumed that the current appraisal took into account the 100-foot setbacks already set forth in the current General Plan.

Barbara Salzman, Audubon Society, stated that 2 appraisals were obtained on the parcel; that provided by the property owner was significantly higher than that performed by the Audubon Society. She confirmed that Council had an opportunity to review the letter from the group's attorney and stated that she is pleased with the number of changes staff has made. She said policies RC 8.2.b and 6.3.a create a confusing dichotomy whereby the more restrictive mitigation provisions only apply to jurisdictional wetlands. She noted that the attorney has recommended some additional language changes that would provide the same mitigation measures for both types of wetlands.

She also voiced concern that policy CIR 2.1.a would establish support for TAM's preferred Bay Trail alternative, and recommended a change to the EIR that specifically states Black Kettle and Corte Madera Inn Lagoons rather than Corte Madera Lagoons.

Ann Thomas, Friends of Corte Madera Creek, thanked the Council and staff for their work and expressed support for the stated setbacks. She asked that RCS 8.2.a specifically state that mitigations occur within the watershed.

Frederick Finklestein, 132 Sandpiper Circle, voiced concern with the proposed density at the Wincup property, stating that the recommendation does not take into account the traffic impacts of Tamal Vista or the corridor improvements currently taking place. He did note that his comments do not necessarily reflect the sentiments of the homeowners association, although they are concerned about future development of the Wincup property.

The public hearing was closed.

Mr. Pendoley stated that there are no plans for the Wincup property at this time; however, if an application is received at the density allowed for in the General Plan, the project would require an EIR, public hearing, and more substantial traffic studies than those already performed. He clarified that adoption of the updated General Plan in its current state would allow for the capacity but not necessarily approve a project of that size.

Mr. Pendoley referred to the recommendations of the Audubon Society's attorney and stated that staff would recommend against such blanket measures.

Councilmember Lappert asked staff's opinion on Mr. Helfridge's request. Mr. Pendoley recommended against it. He explained that it is generally bad practice to single out one non-conforming property for special treatment and that to amend the language in favor of that request would require the creation of a new zoning district for that one property.

Councilmember Cock asked if approving the General Plan as presented would allow the Council to decide on the General Plan maintenance fee at a later date. Mr. Pendoley confirmed and suggested that it may be appropriate to consider that matter during budget review. He advised that it would only be appropriate to request its removal if the Council has decided against ever implementing the fee.

Mayor Dupar voiced concern over the generalized term "resources" with respect to funding, said that it hampers the efforts of future Council to budget funds, and asked if the maintenance fee could be removed now. Mr. Pendoley confirmed that Council has the discretion to do so and noted a policy in Chapter 2 that explicitly states that deciding against implementation of any one program does not invalidate any other programs set forth in the General Plan. He said that staff was careful to limit the recommendation for use of General Funds to projects very near completion.

Mayor Dupar cited other policies contained within the General Plan, noted that they have been given a time frame, and asked if that codification opens the town to lawsuits in the event that it fails to implement them in the time set forth. Mr. Pendoley suggested that the specific language could be changed to state "at a time to be determined."

Councilmember Ravasio noted that time frames are established throughout the plan. Ms. Nebb explained that it is typical practice for General Plans to set forth time guidelines to establish intent

and that it is also typical for jurisdictions to meet some, but not all, of those. She advised that it would not invalidate the plan as a whole but also cautioned against retaining a goal or plan that the Council never intends to implement. In absence of an established time frame, it would typically default to the General Plan horizon and she suggested that the Council change it to state “within the time frame of the General Plan.”

Mayor Dupar asked if the same concept applies to funding. Ms. Nebb reiterated that if the Council does not ever intend to adopt a General Plan maintenance fee, it should be removed. She noted that General Funds back up any as yet unidentified funding source and that while it may state use of General Funds, there is nothing to preclude the town from using an alternate source that is identified at a later date.

Mayor Dupar said that he would like to eliminate all of the “to be determined” funding sources.

Councilmember Lappert said that staff did a thorough job in its presentation and that what he learned this evening has eased any concerns.

MOTION: Moved by Lappert, seconded by Cock, and carried unanimously by those present, with Condon absent,

To adopt a Resolution No. 3594, adopting CEQA Findings, a Statement of Overriding Considerations, and a Mitigation Monitoring And Reporting Program For The Updated General Plan

- b. A Resolution of the Town Council of the Town Of Corte Madera Adopting the Town Of Corte Madera General Plan

MOTION: Moved by Cock, seconded by Ravasio, and carried unanimously by those present, with Condon absent

To approve Resolution No. 3595 of The Town Council of The Town of Corte Madera Adopting The Town Of Corte Madera General Plan

BUSINESS ITEM

8. Approve Minutes of April 7, 2009

Councilmember Cock provided the following correction to the minutes:

- Page 2, line 24 – “..., which she has ~~been~~ asked **that it be shared** ~~to share~~ directly with the town.”

MOTION: Moved by Condon, seconded by Cock, and carried unanimously by those present, with Condon absent

To approve the Minutes of April 7, 2009, as amended.

ADJOURNMENT

The meeting was adjourned at 8:49 p.m. to the next regular meeting on April 21, 2009.

John Dupar, Mayor

ATTEST

Christine Green, Town Clerk