

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

In the Town Hall of the Town of Corte Madera, on May 5, 2009 at 7:30 p.m.

PRESENT: Mayor Dupar
Councilmembers Cock, Condon, Lappert, Ravasio

Town Manager David Bracken
Town Clerk Christine Green
Twin Cities Police Chief Phil Green
Town Attorney Jeff Walter
Senior Planner Dan Bell

COMMISSIONERS PRESENT

Sloan Bailey, Planning Commission

CLOSED SESSION

Closed Session Pursuant to Government Code Section 54956.9(a)
CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

Name of Case: Richard Skaff vs. City of Corte Madera

OPEN SESSION

Salute to the Flag

1. OPEN TIME FOR PUBLIC DISCUSSION

The Mayor reported that no action had been taken as a result of the closed session.

2.

COUNCIL AND TOWN MANAGER REPORTS

- Council Reports

Councilmember Condon provided the following report:

- A recently enacted Senate Bill may directly impact the town and residents. The bill provides tax credit incentives of \$3,000 for each new hiring position created by qualified small businesses of 20 or fewer employees. The same legislation establishes a motion picture production tax credit of up to \$100 million per year, for five years, for the production of qualified motion pictures in California;
- CDBG met and has requested submission of projects that might fall under local funding needs;

- She will be meeting with the Director of Administrative Services and representatives from the Corte Madera Chamber of Commerce to prepare a program for economic growth and discuss the national economy's impact on the town.

Councilmember Cock provided the following report:

- She attended a TAM meeting where the primary topic of discussion was High Occupancy Toll (HOT) Lanes. TAM forwarded an official letter to the State legislative delegation requesting that local HOT Lane implementation be contingent upon TAM's support. Preliminary response has indicated that local authority on the matter is limited, if not nonexistent and the State bill authorizing HOT lanes has passed the committee level.

Councilmember Ravasio provided the following report:

- It is looking increasingly likely that Larkspur School District will push for early renewal of the parcel tax in November and include a rate increase for local businesses. The bond measure for facilities expansion is on hold indefinitely.

Mayor Dupar questioned and confirmed with the Town Manager that the Bayside Trail is near completion and the existing area will be cleared of weeds.

CONSENT CALENDAR

- 3a. Approved Warrant and Payroll for the Period April 15, 2009, through April 27, 2009, Warrant Check Numbers 122998 through 123099 and Payroll Check Numbers 2850 Through 2869, Payroll Direct Deposit Numbers 13607 through 13691, and Payroll Wire Transfer Numbers 876 through 883
- 3b. Approved Investment Transactions for the Month of March, 2009

MOTION: Moved by Lappert, seconded by Condon, and carried unanimously,

To approve items 3a and 3b on the consent calendar.

PUBLIC HEARING

4. Discussion and Possible Action Concerning Adoption of a Resolution Adopting a Revised Tenant Design Criteria Manual for the Village at Corte Madera

The Senior Planner presented the staff report, stating that in 2002 the Town Council adopted a resolution implementing a Tenant Design Manual for The Village at Corte Madera. The manual established design criteria and a streamlined review process for remodeling projects to those storefronts facing the center courtyard.

Mr. Bell stated that in 2007 it was Macerich's desire to revise the manual to reflect a more

contemporary look for individual storefronts throughout the center. The revised manual provides slightly different design standards for four separate areas of the center and all are broad enough to encourage imagination while being prescriptive enough to ensure compatibility with the center as a whole. He outlined the streamlined approval process and added that major storefront remodels that are not oriented toward the center arcade will continue to require design review approval by the Planning Commission. He also noted that the Macy's and Nordstrom buildings are under separate ownership and are not subject to the design criteria set forth in this manual.

Councilmember Lappert questioned why this falls under the purview of the Town Council. Mr. Bell explained that the manual is a part of the development's Precise Plan and that any document contained within that plan requires the approval of the Town Council.

There was no public comment.

MOTION: It was moved by Lappert, seconded by Cock, and carried unanimously,

To adopt the Resolution No. 3596 Adopting a Revised Tenant Design Criteria Manual for the Village at Corte Madera.

BUSINESS ITEMS

5. Consideration of the Marin Energy Authority's (MEA) Joint Powers Agreement and the Implementation of a Community Choice Aggregation Program with the Authority

The Town Manager stated that Corte Madera is currently considering joining the Marin Energy Authority (MEA), a JPA currently comprised of 8 other cities and towns as well as Marin County. The primary objective of the MEA is the establishment of a business venture based on a Community Choice Aggregation (CCA) Program, with the goal of reducing Greenhouse Gas Emissions (GHG). MEA has established a CCA called Marin Clean Energy (MCE) which proposes to negotiate contracts with third party electricity suppliers to provide electrical and technical services to customers; offer two distinct renewable energy supply options to program customers; finance, develop, and own up to 200 MW of new renewable electric generation facilities by 2014; and ultimately administer all energy efficiency programs within its jurisdiction, as envisioned by AB 117.

MCE's graduated renewable supply option with rates theoretically equivalent to those of PG&E would initially supply 25% renewable power, increasing this supply to more than 50% by the year 2014.

Mr. Bracken stated that given the town's fiscal position, it is recommended that no action be taken on this item due to potential risks. He expressed concern that the business plan is overly optimistic and underestimates staffing and initiation costs. Although withdrawal from the MEA any time prior to the execution of Program Agreement 1 is theoretically at no cost, this would not be the case once

the expenditures exceed \$500,000. In addition, general costs and other energy program costs will be shared by member agencies, presumably from their general funds, and will not be funded by revenues of the CCA program.

Mr. Bracken noted that PG&E has presented an alternative proposal which on face value has certain advantages over the MCE plan including:

- An “opt in” rather than “opt out” membership which gives customers choices in adding renewable supplies;
- No specific initial sign up requirements, deadlines, or penalties;
- It would provide staff assistance with required state programs and various incentive programs for GHG reduction;
- It can be tailored specifically for the needs and desires of Corte Madera customers;
- It proposes to reduce GHG between 40 and 65 percent by the year 2020.

Dawn Weiss, MEA, provided an overview of the history and current status of the MEA. She explained that the authority is in the final stages of considering an RFP, which could be released as early as May 8, 2009. Bidders will be given 60 days in which to respond, after which the MEA will identify 2-4 likely candidates for review by the board and member jurisdictions. It is expected that the final review of the awarded bid and actual contract will take place towards the ends of 2009.

Ms. Weiss outlined the energy efficiency and renewable energy programs planned by the MEA which includes a solar parking lot shade structure program, land based financing as outlined by AB811, a Solar Energy and Efficiency Support Program, and various low-income based support features. Some of these programs extend beyond the purview of the CCA and grant funding is being sought to support them. She clarified that the agenda item being discussed is whether or not to join the JPA. She cautioned the Council not to base its decision on whether or not the CCA is a viable option at this point, a decision the MEA has still not reached itself. She also noted that if any member agency is not interested in the CCA program, it is still possible to become solely involved in the other programs outlined.

Councilmember Ravasio questioned what portion of the start-up costs has already been spent. Ms. Weiss said that of the \$500,000, approximately \$150,000 in consultant contracts and 25%, or roughly \$80,000, of staffing costs has already been allocated.

Councilmember Ravasio questioned the current burn rate, and Ms. Weiss explained that they have been careful to structure contracts so that they are based on deliverable product rather than payable dates. She estimated that at the current rate, start-up funding should sufficiently carry the program through April 2010.

Councilmember Ravasio asked how the current economic changes have affected anticipated financing. Ms. Weiss stated that she has met with many financial institutions over the last few months to discuss this. She reported that lenders have expressed a strong interest in maintaining the financing approach outlined in the business plan. She also noted that the economic situation may

provide alternate opportunities via stranded assets that could allow the MEA to acquire something that meets its needs ahead of schedule.

Councilmember Condon questioned and confirmed that the startup funding (\$500,000) provided by the County Board of Supervisors is reimbursable by CCA customers should it come to fruition. Ms. Weiss added that there is no expectation of any member agencies contributing any funding as the cost of proposed programs far exceed what local cities and towns could provide.

Councilmember Condon reconfirmed that ratepayers would be responsible for reimbursement of start-up funds. Ms. Weiss noted that it would not be a lump sum payment but would be spread out over several years.

Councilmember Lappert stated that he has never been in favor of the town's involvement in the JPA but said he is heartened by the invitation to continue a dialogue on the matter. He added that the MEA's involvement is responsible for the current PG&E proposal.

Mayor Dupar asked if any other CCAs have been formed since MEA last spoke with the Council in October. Ms. Weiss said no, explaining that it has taken MEA the last 6 years to just to reach this stage; other jurisdictions are still in the early stages of what is a long and difficult process.

Mayor Dupar asked for more information on the proposed low-income projects. Ms. Weiss said that the residential solar program through AB811 is primarily for regular residential units. She clarified that, in addition to that standard program, the MEA is proposing to provide additional funding for any qualified low-income units in the county.

Mayor Dupar asked how that impacts the goals the MEA has throughout the county. Ms. Weiss explained that the residential programs in question essentially reduce the energy load. She noted that would not normally be in the utility company's best interests and would not contribute to renewable energy numbers but stated that MEA's mission is really to reduce energy load. She added that RFP bidders have already been told that MEA intends to reduce its overall load over time.

The Town Attorney asked and confirmed that the \$500,000 commitment is for the CCA program only. Ms. Weiss stated that other programs will be grant funded.

Mr. Walter asked and confirmed that Corte Madera could join the JPA and later choose not to involve itself in the CCA program. He asked if, in the event that start-up costs are prematurely exhausted, it is likely that any additional obligations would be imposed on its member constituents. He asked if Corte Madera would be immunized against those costs if it declines involvement in the CCA. Ms. Weiss explained that the operating rules and regulations clearly state that if there is ever a program that requests financial contribution from members, each member would then have the option of exiting that program. She noted that the business plan also anticipates that cities and towns have no funding to speak of and thus contracts have been structured so as to avoid payables until the product is delivered.

Joe Nation, PG&E, stated that PG&E has offered Corte Madera a partnership that he considers to be leaner, greener, cleaner, and faster than anything currently proposed by the MEA. He said PG&E's history and resources afford it a position well ahead of everyone else in the race for renewable energy. He reviewed PG&E's renewable goals and cautioned that MEA's programs could actually increase GHGs. He read from the MEA's Enabling Ordinance and stated that both he and PG&E legal staff believe it does not allow a jurisdiction to join MEA without also joining the CCA. Mr. Nation also doubted MEA's ability to responsibly offer rates at or below those of PG&E and stated that other interested agencies have all ceased work on CCAs in the last few months due the associated risks. He reminded the Council that the PG&E partnership proposal carries no risk to the town's general fund, asks for nothing in the way of contributions, and projects emissions reductions greater than that offered by MEA.

Councilmember Lappert acknowledged the additional costs associated with green energy, recognized that PG&E is operating a business, and asked if those residents who do not opt in to PG&E's program would bear any of the costs associated with renewable energy facilities. Mr. Nation said no.

Mayor Dupar confirmed that PG&E is subject to the conditions of AB32 and predicted that PG&E's expertise and opportunities will give it the upper hand in the production of green power.

The public hearing was opened.

Jim Finley, a PG&E employee headquartered in San Rafael, likened the concept of a CCA to deregulation and the Enron experience of the early 2000s. He cautioned that the splitting off of municipalities into various CCAs leaves them defenseless, said that PG&E is the source for creating and funding of environmentally conscious energy production, and suggested that constituents redirect their pressure to the Public Utilities Commission.

Jack Leibster, 17 Blue Rock Court, stated that most of the county is currently on board with the JPA. He said that after listening to Ms. Weiss, he feels confident there is no financial risk to the town at this time and that Corte Madera owes its residents the opportunity to explore the full extent of the proposal.

Hunter Stern stated that he has spent considerable time examining this issue as well as others that will help to drive a green economy. He asked the Council to step back from the MEA versus PG&E debate and first consider the inadequacies of CCA law. He noted that a UC Berkeley conference on implementation of a green economy in the current financial crisis did not even mention CCAs primarily because they have no responsibility to green energy. He stressed that while parts of MEA's proposal offer green energy advancements, the fact remains that a CCA was never structured as a green energy proposal and will not deliver in that sense.

Rich McAmich, San Rafael, said that he has very mixed emotions on the current proposal. He cited

his former employment with PG&E as well as conservation work with other organizations, recognized the pressure to go green, and suggested that it would be more suitable to allow customers the choice of opting in, rather than opting out, of a program that is so complex.

Leslie Alden, 377 Chapman Drive, read the comments of Paul Helliker, General Manager of MMWD. Mr. Helliker's statement voiced strong support for MEA and the desire to have the option of joining its CCA and also noted that as the largest employer in the county, MMWD would also be MEA's largest customer.

Ms. Alden acknowledged PG&E's history in California as well as its past and current efforts at creating green energy but expressed serious doubt that it could meet the numbers proposed in the current agreement. She said that MEA's business plan very specifically states that it will deliver as much green energy as possible at a price that meets or beats those of PG&E which is a valuable option that residents do not currently have. She said that she understands how difficult a change of this magnitude is but asked the Council to remember the intent of this county and to afford its residents the opportunity to explore this program and make the choice for themselves. She noted that PG&E has failed to come forward with any significant proposals until faced with competition from the MEA and questioned its true motives. She thanked Council members and staff for protecting the Town's general fund, stated the JPA business plan provides a firewall between those funds and the JPA, and asked the Council to give the MEA further consideration before declining membership.

Steve Cappel, Christmas Tree Hill resident, stated that due to the location, slope, and shading of his property, it is unfeasible to power his property with solar panels. He asked that the Council consider this offer as an opportunity for residents in his situation to purchase 100% renewable energy. Mr. Cappel noted that he has no preference for where that energy would come from, only that he would like the option.

David Hyams, 9 Enterprise Drive, said he had issues with the concept of MCE since its inception. He questioned whether the reward will justify the effort. He urged the Council to accept PG&E's proposal and make Corte Madera the leader in this type of partnership.

The public hearing was closed.

Councilmember Lappert said he does not believe government should delve into this sort of activity and government being what it is, he fears this will cost ten times more than projected by the time all is said and done. He stated that the ability to opt out of certain programs is a breeding ground for political infighting and reiterated previous concerns that the complexity and political nature of this will ultimately result in an "energy czar." He cautioned against letting price be the benchmark by which decisions are made and stated that sometimes the right product carries a higher cost. He thanked MEA for the invitation as well as being an impetus for PG&E's proposal but said that he cannot support the JPA and would like staff to consider PG&E's proposal.

Councilmember Condon thanked MEA and PG&E representatives. She said she has wanted to give

residents the opportunity to make their own choice from the very beginning but given the current economy, unpredictable costs, and opt out factor, it may be a disservice to citizens. She reiterated Councilmember Lappert's appreciation of the pressure and efforts that spurred PG&E into action and said she would like to see the town partner into a pilot program with PG&E, who she hopes will take such a commitment very seriously.

Councilmember Cock stated that constituents have clearly expressed a desire for the choice of renewable and green energy. She doubted the fiscal risk mentioned by others and noted that if any proposal does not make sense, the town can back out at that point in time. She believed it makes sense to join MCE at this point in time. She lacks confidence in PG&E's proposal and cited the fact that they continue to request extensions on renewable energy requirement deadlines.

Councilmember Ravasio echoed previous comments and thanked the public for their thought-provoking viewpoints. He reiterated his concerns over the feasibility of the business plan and said that as his responsibilities lie with the town and its finances he cannot support membership at this time. San Francisco polled its residents on the opt-out feature and it was voted down; he predicted it would be a contentious concept in Corte Madera, as well. He acknowledged the reasons to distrust PG&E but said that they have put forth a good program that he would like to see explored further.

Mayor Dupar said he carefully scrutinized the financial side of MEA's proposal and is concerned over what he believes to be unaccounted for costs, especially administrative. He confirmed that goal of MCE is to finance, develop, and own up to 200 MW of new renewable energy or electric generation system by 2014. Ms. Weiss noted that administrative costs are factored into that financing at about 1% of the overall budget.

Mayor Dupar noted that the additional goal of distributing 13MW of distributed photo-voltaic systems carries a cost of \$130 million, \$9 million of which would be Corte Madera's 7% share. He asked who would be responsible for that cost in the event that the systems produce less than predicted. Ms. Weiss stated that the supplier would be responsible for that as outlined in their contract.

Mayor Dupar asked how the MCE would finance either program in the first place and Ms. Weiss responded the program would be financed through bonds. Mayor Dupar asked if ratepayers would be responsible for that, as well and Ms. Weiss said yes, the same as they are with bonds issued to PG&E. The difference here is that as a government entity, MEA is eligible for tax-exempt bonds and the entity operates with significantly lower overhead. She added that PG&E currently draws nearly \$150 million from Marin County each year and that MEA is proposing to redirect that revenue to a supply that is chosen locally.

Mayor Dupar said this is not a question of Corte Madera's commitment to green living. He cited difficulties with serving on current JPAs and questioned the efficacy of assigning a new councilmember to something like this every 4 years. He reviewed the options outlined in the staff report and the Town Manager added that the option recommended by staff over those is to take no

action and instead direct staff to pursue alternatives to GHG reduction.

Councilmember Lappert said he is against any sort of JPA and suggested that staff be given the opportunity to explore the PG&E proposal.

MOTION: Moved by Condon, seconded by Lappert,

To direct staff to pursue alternatives for greenhouse gas reduction and procurement of renewable energy and to take no action concerning MEA at this time.

Vote: Ayes: Condon, Dupar, Lappert, Ravasio
Noes: Cock

6. Approve Minutes of April 21, 2009

Town Clerk Green stated that the Accessibility Advisory Commission had not yet reviewed the minutes and requested continuance of Item 6 to the May 19, 2009 meeting.

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

To continue Item 6 to the next regularly scheduled meeting on May 19, 2009

ADJOURNMENT

The meeting was adjourned at 9:16 p.m. to the next regularly scheduled meeting on May 19, 2009.