

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

In the Town Hall of the Town of Corte Madera, on June 1, 2010 at 7:39 p.m.

PRESENT: Mayor Condon  
Councilmembers Cock, Furst, Ravasio

Town Manager David Bracken  
Town Attorney Jeff Walter  
Director of Administrative Services George Warman

COMMISSIONERS PRESENT

Planning Commissioner Peter Schwartz

OPEN SESSION

Salute to the Flag

Mayor Condon reported that the Council met in Closed Session and voted 4-0 to authorize the Town Attorney to file litigation, if necessary, to obtain a court order preventing the two medical marijuana dispensaries currently operating in the town from continued operation.

The Town Council also directed staff to halt the processing of any proposed ordinance or proposed legislation that has as its purpose the licensing, permitting, or regulating of medical marijuana dispensaries within the town. The Council is committed to ensuring that the town's laws are enforced and obeyed.

PRESENTATION

Presentation by Bob Brown, Planning Director of the City of San Rafael Regarding Green Building Model Ordinance

Mr. Brown provided a PowerPoint presentation on San Rafael's Green Building Model Ordinance and how it can be adapted for other communities. The ordinance looks at ways to reduce building waste and energy consumption that is responsible for approximately one third of local greenhouse gas emissions and 25% of landfill debris.

He said a 20% gain in building energy efficiencies represents the equivalent of removing nearly half of today's cars from the road, and investments in energy efficiency are the most cost-effective effort in improving energy independence. Initial costs are typically 1%-6% higher than standard building practices but have a typical payback period of 3 to 7 years. In addition, studies show that green buildings have higher lease rates and sales prices and can increase worker productivity 6% or more.

Mr. Brown stated several cities have adopted green building ordinances that tackle only new construction but, given the relatively lean amount of new construction in Marin, San Rafael also chose to tackle remodel projects. He reviewed the role of BERST in developing the ordinance, and their focus on the Build It Green and LEED rating systems and standards. Green Point Rated is a California standard used by many throughout the state. It provides a great deal of flexibility in choice, substantial education material for the standard homeowner, architects, and contractors, and trains building inspectors and raters so cities can use third party certified individuals.

Mr. Brown noted that California Green, a new standard passed by the State, goes into effect January 1, 2011 and allows the adoption of local regulations that are as or more stringent. If a local alternative is not adopted by January 1, staff will be required to enforce the standards of California Green without the benefit of third party raters.

Mr. Brown reviewed the residential and commercial remodel and new construction requirements, which vary based upon the value of the project. He stated that as part of this proposal, PG&E would fund a required cost effectiveness analysis of the ordinance for each city that adopts it. The approval of both the California Energy Commission and California Building Standards Commission is necessary, and the findings for each are embedded into the supplied ordinance.

Mayor Condon invited public comment on the item.

George Topor said much of the LEED system is simply filling out a checklist. He said it was discovered lately that there is no tracking method to show that energy savings are actually accomplished and that LEED is contemplating revoking certificates if it is found that a project is not in continued compliance. Mr. Brown said that certification is dependent upon verified levels once the completed building is in operation. Those levels are measured against the standards of what a typical office building would require in terms of energy.

Mr. Topor asked if the builder can choose amongst the different rating agencies. Mr. Brown said residential projects are subject to Green Point Rated standards and commercial to LEED standards.

Peter Schwartz thanked Mr. Brown for the presentation; said it is important to remember that a reduction in energy demands creates a different energy market environment; and that real time pricing will apply to all customer bases in the near future.

Councilmember Cock asked what the average cost increase on a residential remodel project would be. Mr. Brown estimated about \$1500 for a Green Point rater and design team. He explained that a

substantial portion of checklist items is just good construction practice, and the additional cost may be as little as 0% to 5%. He also noted that a new federal tax credit program will subsidize funds to help with the cost.

Councilmember Furst thanked Mr. Brown for the presentation. She asked if major remodels and new construction would be required to plumb for gray water. Mr. Brown said no. He explained that codes pertaining to gray water are changing too rapidly to allow for that at this time. He anticipated additional changes in the coming year and said once those standards mature it would be added to the ordinance.

Mayor Condon thanked Mr. Brown for being a great help to planning staff. She said it is a goal of the General Plan to obtain these green building standards and that, while she does not believe in the one-size fits all approach, San Rafael has presented some wonderful information from which to work.

1. OPEN TIME FOR PUBLIC DISCUSSION

Mayor Condon stated that at the request of a Councilmember, Open Time would be continued to the end of the meeting.

2. COUNCIL AND TOWN MANAGER REPORTS

- Town Manager Report

The Town Manager provided the following report:

- The budget meeting is scheduled for June 24<sup>th</sup> at 7 p.m., with an additional meeting June 29<sup>th</sup> if needed;
- Next Monday's Flood Control Board meeting is cancelled;
- He attended a Marin Managers meeting last Thursday. The Transportation Authority of Marin gave its presentation on the proposed \$10 vehicle license fee measure. The Marin Convention of Visitors Bureau also gave a presentation on its proposal to increase the self assessment from 1% to 2%, effective January 1, 2011. A roundtable discussion on labor negotiations was also held, with considerable concern expressed by all managers.

- Council Reports

Councilmember Ravasio provided the following report:

- He attended a meeting of the MCCMC Legislative Committee. There is still potential for a bill that undercuts local agencies' ability to fully collect transient occupancy tax revenues from online booking agents;
- He attended a MCCMC JPA Oversight Committee. The committee agreed on which of the 32 existing JPAs would be reviewed and the process for doing so. Some will be selected for review up front and others based on their informational responses.

Mayor Condon provided the following report:

- She met with EAH (Ecumenical Association of Housing) administrators to discuss the San Clemente Housing project. They are being very proactive in ensuring that all rules and regulations are enforced, and have offered the use of their ADA accessible meeting space for any town meetings;
- The Chamber of Commerce raised nearly \$5,000 at its annual auction;
- Today she attended a ribbon cutting ceremony for Brick and Bottle. The new restaurant is under the same ownership, with the addition of two new partners, although boasts an entirely different concept that should be a wonderful addition to the town.

George Topor noted there are only 17 parking spaces at San Clemente, 8 of which are always occupied, and there is no parking on San Clemente Drive. He requested that special parking arrangements be made if any town meetings are to be held there.

#### CONSENT CALENDAR

- 3a. Approved Warrant and Payroll for the Period 05/13/10, through 05/26/10, Warrant Check Numbers 126134 through 126221 and Payroll Check Numbers 3302 Through 3319, Payroll Direct Deposit Numbers 16055 through 16131, and Payroll Wire Transfer Numbers 1040 through 1044
- 3b. Parallel Force Main Project No. 06-202 Authorized Advertizing for Bids
- 3c. Golden Hind Passage Pump Station and Storm Drainage Improvements Near Cay Passage and Tradewind Passage Project No. 09-001 Authorized Advertising for Bids

Harry Shriebman requested an explanation of Item 3c. The Town Manager said the town has designed a pump station and interior drainage at the gate on Golden Hind Passage.

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

Lappert absent,

To adopt items 3a, 3b, and 3c on the Consent Calendar.

#### PUBLIC HEARING

##### Town Items

4. Discussion and Possible Action Concerning the Adoption of a Resolution Establishing the Appropriation Limit for FY 2010-2011 for the Town of Corte Madera

The Director of Administrative Services introduced the item and provided a brief background on the Gann Limit and requirements. The Gann Limit for FY 2010-2011 is \$26,610,035 while the actual revenue that would be available, including reductions mandated costs, is \$10,550,000.

MOTION: Moved by Ravasio, seconded by Cock, and carried unanimously by those present,  
  
To adopt Resolution No. 3640 setting the FY 2010-2011 Appropriation Limit in the amount of \$3,819,301..

Sitting as members of the Sanitary District Board, the members took action on the following item.

#### Sanitary District Items

5. Discussion and Possible Action Concerning the Adoption of a Resolution Establishing the Appropriation Limit for FY 2010-2011 for Sanitary District No. 2 of Marin County

The Director of Administrative Services presented the staff report. He explained that the district is subject to an appropriation limit because it receives unrestricted tax revenue from Proposition 13 property taxes. The limit of \$7,725,147 for FY 2010-2011 is well above estimated unrestricted property tax revenues of \$2.3 million.

MOTION: Moved by Ravasio, seconded by Cock, and carried unanimously by those present, with Lappert absent,  
  
To adopt Resolution No. 2010-2 setting the FY 2010-2011 Appropriation Limit in the amount \$1,175,670.

The members heard the next agenda item as members of the Town Council.

#### BUSINESS ITEMS

##### Town Items

6. Adoption of a Resolution Providing for the Borrowing of Funds for Fiscal Year 2010-2011 and the Issuance and Sale of 2010-2011 Tax and Revenue Anticipation Notes in an Amount Not to Exceed \$5,000,000

The Director of Administrative Services presented the staff report stating this is the fifth year in which the town has issued a Tax Revenue Anticipation Note (TRANs). He referred to the staff report for greater detail on the necessity of the note; said the initiating factor was the implementation of the voter-approved triple flip and VLF swap. This statewide fiscal rescue plan deferred receipt of 25% of sales tax and nearly all of VLF revenues. The combined effect aggravates an already tight cash

flow from late September through the middle of December and this, combined with low cash balances in other funds in more recent years, necessitates a temporary borrowing. He explained that TRANs is a short-term borrowing, which does not require voter approval.

Mr. Warman acknowledged financial consultant, Craig Hill and his associate, Mr. Lynch. He said Mr. Hill recommended that putting this out to the market early would result in a better interest rate and thereby reduce the net cost, although the actual sizing of the TRANs will not be done until July after adoption of the budget. He noted that the \$5 million stated within the resolution simply indicates a ceiling and said the actual amount would be similar to this year's \$3.435 million note.

Mayor Condon opened the hearing to public comment.

Harry Shriebman inquired as to the interest rate, and Mr. Warman said he anticipated something near 0.5%.

Peter Schwartz asked if the town's budget is adjusted to reflect the interest paid out. Mr. Warman confirmed, stating it is listed under "Debt Service" for "Other Budgets." He stated it is not an integral part of the main financial statement, but is reflected as a liability on the Statement of Net Assets in the audited financial statement.

George Topor anticipated that other towns in the same situation will see what Corte Madera has done and will apply early next year, as well. He asked if the early application results in a longer borrowing period than if the town waited until September and, if so, does that cancel out any potential interest savings. Mr. Warman explained that the note would run for the same amount of time.

Mayor Condon closed the hearing to public comment. She noted the upcoming June and November elections and implored the public not to repeat the Triple Flip. She strongly urged citizens to read each ballot measure carefully and consider what it means in local terms.

Mr. Warman said he, Mr. Hill, and Mr. Lynch discussed the debt issues put out by the State, which state things such as, "paid for by the General Fund." He said to the extent that it is paid for; it takes away from other funds. He said it is unfortunate that voters are not made aware of what it will cost them when the State requests a vote on general obligations.

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

To adopt Resolution No. 3641, providing for the borrowing of funds for Fiscal Year 2010-2011 and the issuance and sale of 2010-2011 Tax and Revenue Anticipation Notes in an amount not to exceed \$5,000,000.

The members of heard the following item as members of the Sanitary District Board.

7. Sanitary District – Sewer User Fee for FY 10/11 (and Continuation of Fee) – Ordinance Adoption

The Director of Administrative Services stated this is the second reading of an ordinance setting the sewer service charge in the same amount. He provided background on the fee and stated that the current forecast model indicates that the current fee, as well as a good reserve in the sewer fund, will be sufficient to fulfill all currently required projects. This could change if the State chooses to exercise Proposition 13 and take property tax revenues. He said another factor that could alter the current model would be a significant change in construction costs, which seems unlikely.

The public hearing was opened.

Mr. Topor said \$498 represents a 225% increase over a 5 year period, and that the fee remained unchanged for 13 years prior to that. He said he would appreciate better planning and asked that the fee be reviewed at least every 2 years. He acknowledged the need for the fee but said it is a disgrace in relation to the remainder of the property tax bill.

Mr. Warman explained that prior to the completion of the Sewer Master Plan in 2003, staff had no justification for proposing these increases. Now that Mr. Hogue is on staff and this is complete, a very aggressive program of inspection, evaluation, and updating is in place. He explained that the sewer service forecasting model is updated yearly in the budget and is based upon the implementation of the updated plan, construction costs, and ongoing evaluation of the system. He assured Mr. Topor that there are now things in place to avoid what has happened in the past. He explained that the proposed ordinance provides for continuing at the existing rate until such time that there is information indicating the need for change.

Mr. Topor said he was looking for the Board to direct staff to carefully review the rate every 2 years or so. Mayor Condon reiterated that it is reviewed each year through the budget process, and that it will be adjusted when the need requires it. She said the current rate is sufficient to support the service for some time and, in light of the economy, it was decided not to overburden ratepayers with another increase.

The public hearing was closed.

MOTION: Moved by Cock, seconded by Ravasio, and carried ,

To adopt Ordinance No. 43 of Sanitary District No. 2, Establishing the Annual Sewer User Service Charge for Buildings Connected to the District Sewer System at the Same Rates as Currently Being Charged, Beginning on July 1, 2010 and Continuing Thereafter Until Revised by the Board, waiving further reading.

Councilmember Cock left the meeting and was noted absent.

OPEN TIME

Laurie Dubin, Larkspur, thanked the Council for its Closed Session ruling; said it is a difficult situation; she would like those who are suffering from serious illness to get relief, but it was the right and compassionate decision. She hoped that the community education and dialogue resulting from these issues would continue with an eye towards the message sent to children.

Phyllis Galanis thanked the Council for taking the stance they have and asked what she, as a member of the community, can do to support the Council in continuing in the same direction.

Mayor Condon advised the public to forward any comments to the Town Manager, who will see the Council receives them.

Tim Dorazio, Wildflower Court, said the primary topic of discussion at last weekend's block party was medical marijuana dispensaries. He said the opposition to them is broad and deep and there is strong support for the Council's decision this evening. He noted that medical marijuana has yet to undergo standard drug approval testing and said that anecdotal evidence is not sufficient to declare something a medicine.

Karen Gerbosi, Parkview Circle, thanked the Council for bravely standing up for the community and for listening and responding to the concerns of residents. She said she and others would like to support the Council in whatever way possible, and to be as participatory as possible in any future actions regarding the matter.

Sierra Knolle, Redwood Avenue, thanked the Council for its strong position, which sends a positive message for the medical cannabis movement. She does not tolerate illegal operations, and does not support those who would mock the medical cannabis community. She offered her support and hoped that the process would be positive.

Dan Reedy, Manzanita Avenue, thanked the Council for acting rapidly and in accordance with the wishes of the community. He said he is opposed to the operation of any medical marijuana dispensary in town, and that they are prepared to stand behind the Council however they can.

Mayor Condon said when this community gets together, whatever the issue, it makes for a stronger and closer community.

8. Approve Minutes of May 18, 2010

Mayor Condon requested the following correction to the Minutes:

- Page 5, Line 12: Sally ~~McDunnan~~ **McDonough**

MOTION: Moved by Ravasio, seconded by Furst, and carried unanimously by those present,  
To approve the Minutes of May 18, 2010, as amended.

ADJOURNMENT

The meeting was adjourned at 9:07 p.m. to the next regular meeting on June 15, 2010.