

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 16, 2009 at 7:33 p.m.

PRESENT: Mayor Dupar  
Councilmembers Cock, Condon, Lappert, Ravasio  
  
Town Manager David Bracken  
Town Clerk Christine Green  
Twin Cities Police Chief Phil Green  
Director of Planning/Assistant Town Manager Robert Pendoley  
Town Attorney Jeff Walter  
Director of Emergency Services Roger Sprehn

CLOSED SESSION

Closed Session Pursuant to Government Code Section 54956.9(c)  
CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION  
Initiation of litigation pursuant to subdivision (c) of Section 54956.9: One Potential Case

Closed Session Pursuant to Government Code Section 54957  
PUBLIC EMPLOYEE PERFORMANCE EVALUATION  
Title: Town Manager

Mayor Dupar reported that the Town Council met in closed session and no action was taken.

Mayor Dupar requested that tonight's meeting be adjourned in memory of Steve Odetto who passed away Saturday morning after a hard-fought battle with cancer. Mr. Odetto, an officer with the Twin Cities Police Authority for over 29 years, was recognized by the Corte Madera Town Council in 2002 for his life saving efforts and attempt to save trapped residents in a structure fire. Mr. Odetto will be missed by many, especially his Twin Cities Police family.

OPEN SESSION

Salute to the Flag

1. OPEN TIME FOR PUBLIC DISCUSSION

No items were brought forth.

2. COUNCIL AND TOWN MANAGER REPORTS

- Town Manager Report

Town Manager Bracken provided the following report:

- The Chamber of Commerce has asked to promote its “Shop, Play, Eat, and Stay” campaign as a joint venture with the town and they have assured him that the town’s involvement will not impact the General Fund;
- The Chamber will host an Economic Forum on June 24 from 8-9:30 a.m. in the Town Center Community Room. Director of Administrative Services Warman and Sean Randolph of the Bay Area Economic Council Institute will discuss the impact of the economy and stimulus package on Corte Madera;
- Free chipper week will run from June 22-26. The event typically runs a full week but it has been shortened due to overtime hours and expense involved with continuing it through the weekend.
- The town budget hearing is scheduled for June 25, 2009;
- A “Tip-a-Cop” Lunch and Dinner hosted by the Special Olympics and Marin County Law enforcement agencies will be held at Sam’s Café in Tiburon on Friday, June 19. Police Chief Green reported that uniformed officers will assist with the bussing and serving of tables to collect tips separate from those given to regular staff. All proceeds will be donated to Marin Special Olympics.

- Council Reports

Councilmember Condon provided the following report:

- She received email correspondence from a bayside resident complaining about the recent noise associated with events at the Harley Davidson dealership. She thanked the Town Manager and Twin Cities Police for addressing the issue;
- She encouraged everyone to attend the Chamber of Commerce’s Economic Forum on June 24.

Councilmember Ravasio provided the following report:

- The Corte Madera Larkspur Schools Foundation is preparing to renew its parcel tax. Part of that effort will include increased demands on local businesses and they are working closely with the Chamber of Commerce on the best method of approach. Budget cuts continue and programs are being rearranged but so far classroom sizes have remained intact;
- A Comcast community consultant attended the Marin Telecommunications Agency meeting and reported that cable transmission in Marin is now 100% digital. This upgrade will include 47 new HD channels and 20,000 OnDemand titles;
- The Community Media Center of Marin’s government channel went live last Tuesday on channel 27. Programming is not yet secured. There was discussion of televising local government meetings. For example, current estimates suggest a cost of \$100,000 to wire Corte Madera’s council chambers for broadcast, which is being applied for as part of the federal stimulus package.

Mayor Dupar provided the following report:

- Central Marin Sanitation Agency met last week, passed its budget, and reports no rate

increase, although some projects may not have sufficient funding for completion at this time.

Councilmember Cock reported that she received the same email as Councilmember Condon and questioned how the issue was resolved.

Mr. Bracken said he spoke with the General Manager of Golden Gate Harley-Davidson (GGHD). He was assured that GGHD shares these concerns and that these events and their business operations, begin before 10 a.m. Mr. Bracken said that he recommended that GGHD use their website to direct patrons to use Paradise Drive for dealership access which would provide a buffer for residents on San Clemente Drive.

Councilmember Cock asked if anything could be done about the number of events taking place. She noted that there are occasionally back-to-back weekend events and that some complaints have been about the frequency as well as the hour of the events. Mayor Dupar noted that the previous owner used either the gravel parking lot at the Village or the Larkspur Ferry Terminal to stage the starting point of rallies. He asked if the current owner could do the same.

Mr. Bracken said he did mention the town's handshake agreement on this with the previous owner. The current manager claimed no knowledge of the agreement but did not seem adverse to the idea. Mr. Bracken said he would review past meeting minutes to see exactly what was agreed upon and speak with the manager again.

Councilmember Condon asked if these open events could pose public assembly issues. Mr. Bracken could not confirm because the dealership is private property, but he agreed to review the standard regulations.

#### CONSENT CALENDAR

- 3a. Approved Warrant and Payroll for the Period May 29, 2009, through June 9, 2009, Warrant Check Numbers 123357 through 123486 and Payroll Check Numbers 2903 Through 2913, Payroll Direct Deposit Numbers 13862 through 13940, and Payroll Wire Transfer Numbers 896 through 899; Wire-Twin Cities Police Monthly Payment; and Wire-CalPERS Annual "CERBT" Payment
- 3b. Adopted Resolution No. 3601 Endorsing the Get Ready Program and Allowing Signs on Public Property Advertising the Get Ready Program
- 3c. Adopted Resolution No. 3602 Endorsing the Street Smarts Program and Allowing Signs on Public Property Advertising the Street Smarts Program
- 3d. Authorized Town Manager to Enter into an Agreement Between the County of Marin Sheriff's of Emergency Services and the Town of Corte Madera for the Continuation of the

Marin Operational Area Memorandum of Understanding for the Purpose of Providing Emergency Management Services

- 3e. Authorized Town Manager to Enter into an Agreement Between the County of Marin Sheriff's Office and the Town of Corte Madera for Providing Emergency Dispatch and Communication Services.

Councilmember Lappert questioned if the cost for the services pertaining to Item 3e had significantly increased. The Director of Emergency Services confirmed, explaining that this is the first of two annual increases which will ultimately increase that cost a total of 82%.

Mr. Bracken acknowledged that 82% is a significant increase but he said the total cost remains less than that of employing just one dispatcher.

MOTION: Moved by Lappert, seconded by Condon, and carried unanimously by those present,  
To approve Consent Calendar items 3a through 3e.

BUSINESS ITEMS

4. Discussion and Possible Action Concerning Termination of Joint Powers Agreement (JPA) and Sublease with County of Marin Pertaining to the Corte Madera Library; Adoption of a Resolution Approved Agreements Amending the Second Amended and Restated Joint Exercise of Powers Agreement and Terminating Said Second Amended and Restated Joint Exercise of Powers Agreement Pertinent to the Corte Madera Library

The Town Attorney, provided the staff report, stating that since 1968, the town and County of Marin have been part of a JPA formed to issue bonds for the purchase of land and construction of the building that comprises the Corte Madera Library. As part of that agreement, the county leased the land and library from the JPA in exchange for payments in an amount sufficient to cover the JPA's bond debt obligation. The county in turn subleased the land to the town (1) for an amount equal to that which the county library tax rate would yield if imposed upon the town's residents; and (2) with the agreement that the town would maintain the grounds free of charge.

At the time of this agreement, the town elected to withdraw from the County Free Library System. Mr. Walter said sublease rental payments made by the town were not required to be used by the county solely at the Corte Madera Library and have been used to defray the cost of all county libraries. In January 1995, the county suffered a budget crisis and convinced the town to place a parcel tax on the ballot for the purpose of maintaining services at the Corte Madera Library.

Mr. Walter said discussions have been going on for several years by the Board of the JPA, as well as county and town officials, to determine if this agreement makes any sense. It has been determined that it would be beneficial to terminate this relationship, provided that: (1) the assets of the JPA be

conveyed to the county; (2) all tax revenues earned under the Parcel Tax Agreement continue to be utilized solely for the maintenance of service at the Corte Madera Library; and (3) the town would be relieved of its obligation to maintain the grounds, which runs roughly \$50,000 per year, at that library.

Mr. Walter also stated that the JPA would be amended to provide that on its termination, the land will be turned over to the county with the understanding that the county ultimately intends to demolish and replace the existing facility. Following this amendment, staff would then recommend that the JPA and the town's sublease with the county be terminated. The town would elect to join the County Free Library System, the Parcel Tax agreement would remain in effect, and the town would no longer be responsible for maintaining the library's property.

Mr. Walter noted that the resolution recommended by staff conditions the approval of these documents on the approval of identical agreements by the County Board of Supervisors, and would go into effect July 1, 2009.

Councilmember Lappert explained that the agreement came about because the county wanted to initiate a bond measure to upgrade the entire library system. The fact that Corte Madera Library is not currently part of the County Free Library System and yet is one of the most heavily used libraries in the county presented some impossible issues.

Mayor Dupar questioned whether or not the property owner, Mr. Dunn, approves of the agreement. Mr. Bracken explained that Mr. Dunn conveyed the parcel to the library with no restrictions.

Mayor Dupar noted that there is an easement for the road leading to a corner parcel. Mr. Bracken explained that the easement remains with the property and does not affect this agreement.

Councilmember Condon and Mayor Dupar said that the land was conveyed to the library with the agreement that it is only used for the library. Mr. Bracken said that while this was previously understood to be the case, the deed does not stipulate the property's use. He stressed that no transfer of title is taking place; the JPA was formed simply for the purpose of creating the library and that, as he understands the current agreements, there is no benefit to the town or the County Free Library System to continue the JPA. Maintaining the JPA does cost the town roughly \$50,000 per year in property maintenance, the parking lot improvements required several years ago cost more than double that amount and this responsibility exposes the town to accident liability. He also noted that the resolution guarantees that parcel tax funds collected under the agreement will go directly to the Corte Madera Library.

Mayor Dupar opened the public hearing.

Harry Schriebman said that the budget indicates that the town collects approximately \$126,000 per year in parcel tax revenues and asked if this was being sacrificed to save \$50,000 in maintenance costs. Mr. Bracken explained that parcel tax revenues go directly to the county and are only

represented on the budget because those funds come through the town first.

Mr. Schriebman said that county administration told him those funds are collected by the town, transferred to the county, and then transferred back to the town. He reiterated that the budget shows that amount as revenue. Mr. Bracken deferred the question to Mr. Warman and reassured Mr. Schriebman that all parcel tax revenues go to the county.

Mr. Schriebman concurred with Councilmember Lappert that the agreement is really a move for voting privileges and that with the JPA in effect, the county would be unable to pass the bond measure. Mr. Bracken confirmed and said that it not only presents a cost savings to the town but also means residents will enjoy a bigger and better library much sooner than it would have with the JPA.

David Hyams said he has only seen maintenance crews caring for the library greens 3-4 times per year and questioned what the annual cost of \$50,000 per year provides. Mr. Bracken explained this was actually a low estimate; maintenance crews service the property much more often than that and other expenses include services such as tree removal and parking lot resurfacing.

Mr. Hyams questioned if the county indicated a desire to maintain the landscaping. Mr. Bracken confirmed, stating the county often asked the town to improve landscaping efforts, and believed that residents will see better care of the property.

Mr. Hyams questioned whether the town will join the County Free Library System and if this represents a fiscal impact to the town. Mr. Bracken said the only fiscal impact will be the savings already discussed.

Mr. Walters explained that as part of the free library system, part of the real property taxes collected by the town would be portioned out for use throughout the county library system. The town entered into a sublease agreement that took that same amount as rent and is now looking to eliminate that artifice, join the library system, and pay the same amount as membership.

Mayor Dupar closed the public hearing.

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

To adopt the Resolution No.3603 Approving Agreements Amending the Second Amended and Restated Joint Exercise of Powers Agreement and Terminating Said Second Amended and Restated Joint Exercise of Powers Agreement Pertinent to the Corte Madera Library.

5. Discussion and Possible Action Concerning Appointment to the Green Building, Energy Retrofit, and Solar Transformation Collaborative (BERST)

The Director of Planning, presented the staff report, stating that the City of San Rafael has invited Corte Madera to participate in a collaborative effort among Marin's cities, towns, and the county to develop a common set of policies and sample ordinances for green building and energy efficiency retrofitting. Each of the Marin municipalities have been developing "green" initiatives of various types and there is an increasing demand from the construction community for a set of common green building standards.

Mr. Pendoley stated that BERST would involve a task force consisting of one councilmember or Planning Commissioner from each jurisdiction. The Task Force will meet monthly for nine to twelve months to develop sample policies, program options, and guiding principles for developing local green building and energy retrofit regulations. There is no financial obligation and no requirement to adopt or implement the sample policies that may be developed for consideration.

Mr. Pendoley said within the next two years the California Air Resources Board will impose regulations requiring local agencies to implement AB 32. The mandate will focus at least in part on green building codes for public and private construction and energy retrofit projects. Participation in BERST could give Corte Madera a cost-free head start on meeting this requirement.

Councilmember Cock suggested that it would be more appropriate to appoint a member of the Planning Commission to the task force. Mr. Pendoley confirmed that the Council has this option.

Mayor Dupar confirmed that this opportunity would provide the town with much needed guidelines at no cost to the town.

Mayor Dupar opened the public hearing.

Mr. Hyams questioned what assurances there are that the guidelines created by BERST will meet the requirements of AB32. Mr. Pendoley explained that the requirements have not yet been published and therefore it is impossible to know.

Mayor Dupar closed the public hearing.

Council members concurred that this is a planning issue and that the Planning Commission should be approached to appoint a member.

6. Discussion and Direction to Staff Concerning Marin Telecommunication Agency Proposal to Create and Fund a Low Income Discount for Qualified Marin County Residents on Basic Cable Televisions Rates

Councilmember Ravasio presented the staff report. He explained that the existing franchise agreement between Marin Telecommunications Agency (MTA) and Comcast calls for the latter to pay a franchise fee of 5% of their annual gross revenues derived from the operation of the cable system to provide cable services. Under the current agreement, the franchise fee is paid to the MTA,

the member's annual share is withheld, and the net is paid to the members. The share is a direct proportion to the number of subscribers in each jurisdiction and for the fiscal year ending June 30, 2009, equaled about \$25,000 for Corte Madera.

Councilmember Ravasio said the prior agreement with Comcast provided a service discount to low income individuals, a benefit that Comcast refused to extend when the current agreement was negotiated in 2006. He noted that several thousand low-income accounts were grandfathered in under the new agreement. He reported at the MTA meeting this week, Fairfax representative Larry Bragman delivered a proposal to subsidize services for low-income individuals not currently grandfathered in by that agreement.

While the proposal was well received by most of the Board, Councilmember Ravasio said he and two other members asked to continue the matter pending direction from their respective Councils. Quick calculations at the meeting showed that the program's budget could easily swell to upwards of \$150,000 per year. Further discussion suggested imposing an annual cap in the range of \$15,000 to \$20,000, which would cost the town roughly \$1,000 per year. He noted that the beneficiaries of this agreement reside disproportionately outside of Corte Madera and that many already subscribe to premium cable service, bringing the issue of fairness into question.

Mayor Dupar voiced concerns over fairness, explaining that Corte Madera will always be responsible for 5% of the cost of these programs through the MTA regardless of the number of residents it provides for. He noted that Comcast used to offer block discount rates to low-income apartments but is now charging one flat fee that will create an additional cost for the town when the current housing contracts expire. He said he has always disagreed with Mr. Bragman's efforts to provide discounted service to the disabled community, stating he felt it should target only low-income individuals. He noted that the discount applies only to the base tier of service and that Mr. Bragman would like to expand the program to discount the entire bill. He believed those funds would be better spent by Parks and Recreation than to be used to subsidize the rest of the county.

Councilmember Ravasio concurred with Mayor Dupar, noting that in 2006, 107 out of 280 low-income subscribers received above standard cable service. He argued; however, that it may be worth the \$1,000 investment to secure the goodwill of other MTA members.

Councilmember Condon said when she worked as the TCI/Viacom liaison for the City and County of San Francisco, only individuals on SSI and SSDI were eligible for service subsidy. She said if an individual chose to upgrade their service, they were automatically disqualified from the program which proved very effective at limiting the number of subscribers.

Councilmember Lappert believed that determining who is entitled to discounted cable service is an egregious use of government power.

Mayor Dupar explained that Comcast was very successful at running this program but is now getting out of the business. He said that his issue with MTA is that the agency is financing its program

expansion by increasing its budget and siphoning off the town's revenues. San Rafael is similarly upset because these franchise fees are essentially right-of-way rents for the cable company's use of streets but the MTA is attempting to divert those funds into programs that individual councils have no authority over.

Mayor Dupar opened the public hearing.

David Warren concurred with Mayor Dupar, questioned what value the program would provide, and asked why anyone subscribing to HBO should receive a discount.

Mayor Dupar closed the public hearing.

Council members agreed that the proposal was one they did not wish to support.

Mayor Dupar requested Councilmember Ravasio indicate to Mr. Bragman that Fairfax should use its own revenue to cover the cost.

Councilmember Condon questioned what will happen if Corte Madera is in the minority, and Councilmember Ravasio said the majority favor was very clear and this will most likely pass.

7. Approve Minutes of June 2, 2009

MOTION: Moved by Cock, seconded by Condon, and carried unanimously by those present (Councilmember Lappert abstained),

To approve the minutes of the June 2, 2009 meeting, as drafted.

ADJOURNMENT

The meeting was adjourned at 8:26 p.m. to the next scheduled meeting on June 25, 2009.