

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

In the Town Hall of the Town of Corte Madera, on August 19, 2008 at 7:30 p.m.

PRESENT: Mayor Lappert  
Councilmembers Cock, Condon, Dupar, Ravasio  
  
Town Manager David Bracken  
Town Clerk Christine Green  
Director of Planning/Assistant Town Manager Robert Pendoley  
Assistant Town Attorney Veronica Nebb

COMMISSIONERS PRESENT

Barbara Becker, Accessibility Advisory Commission  
Robert Czeck, Accessibility Advisory Commission  
Bruce Mace, Planning Commission  
Stuart Tanenburg, Accessibility Advisory Commission

CLOSED SESSION

Closed Session Pursuant to Government Code Section 54956.9(a)  
CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION  
Name of Case: Milne v. Mather, Town of Corte Madera

OPEN SESSION

Salute to the Flag

The Assistant Town Attorney stated that the Town Council met in Closed Session with regards to existing litigation of Milne v. Mather, Town of Corte Madera. The Town Council, by unanimous vote, authorized the Town Attorney's office to defend the town and to file a cross complaint for indemnity.

1. OPEN TIME FOR PUBLIC DISCUSSION

Stuart Tanenburg, Accessibility Advisory Commissioner, informed the Town Council that since June 30, 2008, there have been four open seats on the AAC and as of today, he is the only active member. The terms of three commissioners have expired and the fourth commissioner resigned when he moved out of the jurisdiction. Mr. Tanenburg read a statement into the record stating: his disappointment in the Council's not putting a higher priority on completing the interview appointment process; with regards to the two commissioners requesting reappointment there should have been no delay in the process; due to lack of a quorum, not meetings were held in July, August, and at this point September as well. There are items on the AAC agenda that require the continued monitoring; these are ongoing Americans with Disabilities Act (ADA ) related projects such as the

San Clemente Drive improvements, the bus stop improvements at the Town Hall, and Tamal Vista sidewalk access. Since the June meeting there has been no communication or updates on any of these ADA related projects; and the AAC has been diligent in its efforts and would expect the same from the Town Council.

Barbara Becker, explained that she has re-applied since her term expired. She stated that for the past three years, the AAC has worked hard at making Corte Madera a better place to live and the Council's actions or inaction make her feel that the betterment of Corte Madera, especially for the disabled community, is no longer of value and expressed her disappointment over the current situation.

Mayor Lappert asked the Town Manager to respond to Ms. Becker's statements.

The Town Manager stated there are no excuses; the Town has been working to fill two vacancies via advertisements on the Town's website, in the Marin IJ and in the Friday mailing. Staff had been hoping to place on the agenda those appointments at this meeting but thus far, we have only received only one new application. Staff will place on the next agenda this matter.

Mayor Lappert asked if there is anything the Town Council could do this evening to address the two commissioners who were termed out. The Town Clerk explained that in the past, when terms expire and no appointments are immediately made; staff and the Town Council have allowed commissioners or board members to continue to serve. She apologized that that information did not make its way to the commission so the expired members could continue to serve.

Mayor Lappert noted that at the June 17, 2008 meeting of the Town Council, he had commented on the lack of feedback and assistance that the AAC receives from Town staff and asked that tonight, the Council at least address the appointment concerns.

The Town Clerk informed those AAC members whose terms had expired that they could continue to serve and that regardless of the number of applications, they will bring any possible appointments before the Town Council at their next scheduled meeting for the Council's consideration.

Mayor Lappert asked if the AAC serves as a committee with voting rights or as an advisory committee and why they are concerned with having a quorum. The Assistant Town Attorney explained that because the AAC is a standing body rather than an ad hoc commission, it is subject to the Brown Act and cannot meet without a quorum. If it is the Council's desire, they may continue to meet so long as they have a quorum present.

Mayor Lappert asked the AAC members present if they were aware of this and they responded that there had been no communication with Town staff. He asked them to also realize that the Town holds little official business in July and August and that even the Town Council receives very little communication during that period.

The Town Manager suggested that he schedule a meeting with the three remaining members of the

AAC to address any concerns.

Mr. Tanenburg asked and confirmed that the commission would hold their regularly scheduled meeting for the second Monday in September.

Councilmember Condon voiced concern about the feelings of the AAC that the intentions of the Town Council were hollow. She assured them that this was unintentional and asked if the Town Council could perform an emergency re-appointment of the two expired members.

Mayor Lappert responded that the Council was on the proper track by allowing the two expired members to continue to serve and to hold the regularly scheduled September meeting. Councilmember Condon asked that the AAC Commissioners be aware that their role is vital to the Town and accept her apologies for the oversight.

The Town Clerk clarified that at the Town Council's first September meeting, they will be asked to re-appoint the two sitting members of the AAC as well as consider the application for the new appointee and any new ones received.

Larry Chin, 49 Birch Avenue, spoke on the proposed improvements for the Higgins Landing Dock. Mr. Chin heard that recent estimates for the improvements suggested a cost near \$420,000. His conversations with a representative from a reputable construction firm suggested the actual cost could be significantly lower than that amount. He also spoke with a representative of the Coastal Conservancy who felt that they could possibly issue grant monies for the project. Mr. Chin said he feels the project to be within the immediate reach of the Town and asked that they proceed by getting a formal design bid. He noted that a significant amount of money has been raised and that in his opinion, those funds could cover the majority of the cost.

Mayor Lappert said cost is not the immediate issue; what is currently under consideration is how much of the dock and its access will need to be demolished to make it ADA compliant. Mr. Chin said he is confident with Kevin Jensen's design, considering Mr. Jensen's role as the former ADA specialist for the Port of San Francisco. He has spoken at length with Town staff and understands there is some concern as to whether or not the ADA requirements will be changing, but said that conversations with representatives from the State and Washington, D.C. indicate that none of the changes will have any relevance on the project.

The Town Manager stated staff does plan to present the project to the Town Council at its first September meeting. He expressed his appreciation of Mayor Lappert's response and reminded the Council that he advises against committing money it does not have to this project. Mr. Bracken also noted that projects always cost more than the original estimate and asked both the Council and Mr. Chin to be cautious when considering terms like "almost" and "close enough" in terms of funding. He said that the ADA guidelines and regulations are ambiguous at best and that ultimately, the Town is responsible for ensuring that the project is fully ADA-compliant.

Councilmember Cock asked if a legal opinion regarding the design's compliance would protect the Town. The Town Manager said that the Town has considered that and that the Planning Director

would address it in his report at the Council's September meeting.

Mr. Chin restated his opinion that this is a real opportunity; he listed monies already raised as well as his personal offer of contributing \$10,000. He said the added consideration of funds from the Coastal Conservancy would make any amount contributed from the Town well worth it. Mr. Chin expressed concern that the ADA issue had already eaten up two months of time and his fears that it would prolong the issue further.

Mayor Lappert reminded Mr. Chin that the Town has capital improvements eight or nine years old that would take precedence over this and asked that he leave the meeting tonight with the understanding that the Town cannot and will not contribute any money to this project. Mr. Chin asked about using funds that have already been raised and suggested putting out a design bid now. Mayor Lappert asked to hold any further discussion until the September meeting.

Jane Levinson, 32 Tamal Vista, informed the Town that she lives at the north end of Lagoon 1. Due to the direction of the current and wind, the north end of the lagoon is collecting a substantial amount of household debris. Ms. Levinson thought that at one time the Town maintained a large screen to filter debris washed down from the park at the south end of the lagoon and asked that its effectiveness be looked into. The Town Manager said he is only aware of a screen on the low canal, is unsure of its current condition and that it should not have any effect on Lagoon 1. He agreed to look into the matter.

## 2. COUNCIL AND TOWN MANAGER REPORTS

The Town Manager gave the following report:

- Due to the Town's solar panel project, the Red Oak tree on the corner outside Town Hall will have to be removed. Installation experts calculated that installing panels without removal of the tree would decrease solar efficiency up to 30% and pruning would be ineffective. The ten day notice period begins tomorrow;
- A claim has been filed against the Town of Corte Madera by Mr. Skaff. The claim states that he was denied access to public curbsides, walkways, paths of travel and parking in the town. Among other things, the claim states that he was denied of his Federal and State civil rights. Mr. Skaff is requesting that the Town remove all barriers to access and make *all* curbsides, walkways, paths of travel, street parking, and pedestrian signals in the town accessible to disabled persons. He is also requesting that the Town make payment of a reasonable amount for his damages and attorney's fees, litigation expenses and costs.

Councilmember Condon gave the following report:

- She spoke with Larry Chin today regarding the concerns expressed to the Town Council this evening;
- She thanked Councilmember Cock for attending the North Bay division of the Leagues of California Cities dinner. The election of the Board of Directors for the North Bay Division

was held at the meeting and it was critical to ensure that a representative from Marin County was elected. Alice Fredericks of Tiburon will be representing the North Bay region;

- In 1992, the State of California initiated the ERAF to address its budget deficit. ERAF diverted local property tax revenue to support the State's obligation to education and the most recent statistics indicate that it has cost the Town of Corte Madera \$5,993,994 and Sanitary District No. 1 nearly \$1,000,000. Despite the approval of Proposition 1A where it was voted to keep local revenues local, the State legislature is constantly looking to make emergency shifts and vigilance is recommended.

Councilmember Cock gave the following report:

- At the July meeting of the Transportation Authority of Marin they voted to endorse the SMART train.

Councilmember Dupar gave the following report:

- He attended the Central Marin Sanitary Agency's monthly meeting. The Wet Weather Project to double plant capacities for handling storm run-off and sanitary needs is ahead of schedule;
- In response to Mayor Lappert's question on the sanitary district merger, he explained that the regional consolidation was opposed by Corte Madera while Ross Valley and San Rafael were initially in support of the change. When Ross Valley later backed out, San Rafael decided to stop all regionalization on the matter;
- He extended thanks to the Corte Madera Fire Department and its paramedics for the two recent life saving responses, including that of Police Sergeant Fogle.

Councilmember Ravasio gave the following report:

- The Larkspur School District is still hammering through the same issues with the Neil Cummins expansion that were presented at the July 1, 2008 Town Council meeting.

Mayor Lappert gave the following report:

- The Ross Valley Paramedic Authority has finalized a contract with the City of Larkspur on boundary drops, which will result in an increase in revenue and better training;
- The Police Council's Bond Measure E has been launched. One argument and rebuttal has been filed and the responding rebuttal is being written. He asked that everyone help to spread the word on the benefits of the bond and help those who have not been informed or are misinformed. Campaign efforts include a new website and extensive mailings.

Councilmember Cock said she recently toured the police station and suggested that citizens be encouraged to do the same. She felt that viewing its limitations first-hand would be invaluable in promoting the project. Mayor Lappert agreed and noted that the website will contain a youtube.com link to an officer-prepared inside look at their headquarters.

In agreement, Councilmember Dupar's voiced appreciation of the Corte Madera Fire Department paramedic team. Mayor Lappert said the Town is the proud owner of possibly the best paramedic department in Northern California in terms of equipment, level of training, and ability to respond.

CONSENT CALENDAR  
Town Items

- 3a. Approved Warrant and Payroll for the Period June 27, 2008, through August 7, 2008, Warrant Check Numbers 120397 through 120828 and Payroll Check Numbers 2504 Through 2550, Payroll Direct Deposit Numbers 11700 through 12060, and Payroll Wire Transfer Numbers 576 through 771, Wire –Twin Cities Police Monthly Payment and Wire – Semi-Annual Debt Payment for Park Madera Center
- 3b. Approved Investment Report for the Month of June 2008
- 3c. Adopted Resolution No. 3556 Authorizing the Town Manager to Sign an Amendment to the Contract to Prepare an Updated General Plan and EIR
- 3d. Adopted Resolution No. 3567 Authorizing the Town Manager to Sign an Affordability Agreement with San Clemente Housing Partners
- 3e. Safe Pathways to Schools, Project No. 07-002 – Bid Process Update – Informational Item
- 3f. Safe Routes to Schools, Project 06-002 – Rejected All Bids Submitted and Authorized Staff to Re-Bid
- 3g. Adopted Resolution No 3568 Accepting Storm Drain Easement and Maintenance Agreement from EAH, Inc. (San Clemente Family Housing and Village Self-Storage)
- 3h. Authorized Mayor To Sign Letter Of Agreement With the Ross Valley Paramedic Authority to Continue to Provide Ambulance Response to Certain Areas Adjacent to the Town of Corte Madera
- 3i. Reappointed Skip Zeller and Appoint Barry Trailer to the Flood Control Board for Town-Year Terms to Expire in June 2010

MOTION: Moved by Condon, seconded by Cock, and carried unanimously by those present,  
To approve Consent Calendar Items 3a, 3b, 3c, 3d, 3e, 3f, 3g, 3h, and 3i.

## BUSINESS ITEMS

4. Approve Minutes of July 1 and July 10, 2008

July 1, 2008:

Councilmember Condon requested the following changes:

- Page 5, line 7 – replace “opposed to” with “**as well as**”
- Page 5, line 15 – replace “transportation funding and” to “**regional housing allocation numbers**”

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

To approve the minutes of July 1, 2008, as amended.

July 10, 2008:

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

To approve the minutes of July 10, 2008.

## ADJOURNMENT

The meeting was adjourned at 8:09 p.m. to the next regular meeting to be held on September 2, 2008.