

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

In the Town Hall of the Town of Corte Madera, on October 6, 2009 at 7:40 p.m.

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

Town Manager David Bracken
Director of Planning/Assistant Town Manager Robert Pendoley
Director of Administrative Services George Warman
Assistant Town Attorney John Abaci
Director of Public Works/Town Engineer Dan Ring
Town Clerk Christine Green
Police Chief Phil Green
Fire Chief/Director of Emergency Services Roger Sprehn
Superintendent of Public Works Kevin Kramer

COMMISSIONERS PRESENT

Planning Commissioner Sloan Bailey
Accessibility Advisory Commissioner Barbara Becker

CLOSED SESSION

Closed Session Pursuant to Government Code Section 54956.8

CONFERENCE WITH REAL PROPERTY NEGOTIATOR

Property: Park Madera Shopping Center
Agency Negotiators: Town Manager and Town Attorney
Negotiating parties: Town of Corte Madera and Potential Tenants
Under negotiation: Terms of Lease

Mayor Dupar reported that the Council met in Closed Session with town's property management firm and no reportable action was taken.

OPEN SESSION

Salute to the Flag

OPEN TIME FOR PUBLIC DISCUSSION

Melissa Gill, 128 Hill Path, thanked staff for filling the dip on Tamalpais Drive.

2. COUNCIL AND TOWN MANAGER REPORTS

- Town Manager Report

The Town Manager provided the following report:

- He introduced the Director of Public Works/Town Engineer has been filled by Dan Ring. Mr. Ring lives in Madera del Presidio, has previously worked for the Town as an Associate Engineer and has previously served on the Town's Flood Control Board;
- The Manager attended last night's Flood Control Board meeting. Discussion focused on FEMA map changes, flood ordinance updates, and project status updates;
- As a result of the date of the election, the Council's first November meeting is moved to Monday, November 2, 2009.

- Council Reports

Councilmember Condon provided the following report:

- The Citizens Advisory Committee for the Housing Element met last week. The committee is well appointed, making steady progress, and the first public hearing in November.

Councilmember Cock provided the following report:

- She attended the Flood Control Board meeting and a number of this year's projects will go out to bid soon, with the expectation that some will come in under budget;
- She attended a Twin Cities/Greenbrae/Hwy 101 workshop which experienced good public attendance and feedback;
- She attended a meeting of the Transportation Authority of Marin (TAM). Updates from that meeting include reports that the HOT Lane study will begin soon, paving work in San Rafael continues, and a lawsuit has been filed against the Narrows Widening Project.

CONSENT CALENDAR

Town Items

- 3a. Approved Warrant and Payroll for the Period September 10, 2009, through September 28, 2009, Warrant Check Numbers 124210 through 124357 and Payroll Check Numbers 3030 through 3049, Payroll Direct Deposit Numbers 14722 through 14800, and Payroll Wire Transfer Numbers 940 through 944 and Wire – Twin Cities Police Monthly Payment
- 3b. Approved Investment Transactions for the Month of August, 2009
- 3c. Authorized the Mayor to Sign a 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

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

To approve Consent Calendar items 3a through 3c.

BUSINESS ITEMS

4. Adoption of a Resolution Declaring Scope and Content Comments for the Development of an Environmental Impact Report (EIR) on the Hwy. 101/Greenbrae/Twin Cities Corridor Project, as Requested in a Notice of Preparation from Caltrans

The Town Manager, presented the staff report, reviewing the background of the project through present day proposals. He discussed the traffic study performed by CH2M Hill in 2002 which identified congestion on Sir Francis Drake Boulevard, specifically as it relates to the Greenbrae interchange, and identified 7 potential alternatives. The same study also identified an extension of the problem out onto Highway 101, specifically with merging issues at Lucky Drive. He said the Town Council reviewed the project several times, identified Alternative 4 as the preferred alternative, but requested further study to avoid closure of Madera Boulevard and its associated highway access. Mr. Bracken reviewed the updated north and southbound project proposals. The proposed southbound project would place a full interchange at Wornum Drive, redevelop Tamalpais Drive overcrossing, and remove the current Fifer Drive onramp as well as close Madera Boulevard. The two northbound options include a full interchange at either Wornum Drive or Industrial Way.

Mr. Bracken stressed that the Council's recommendation of further study on Alternative 4 should, in no way, be construed as a recommendation for approval of that option. He said that TAM (Transportation Authority of Marin) has repeatedly heard from the public that the closure of Madera Boulevard ramps is not supported and that there are significant concerns surrounding Tamalpais Drive, increase in traffic to local streets, and highway access north of Wornum Drive. As preparation for the development of an EIR has begun, the Council has 30 days to submit its initial comments.

He briefly outlined the prepared resolution which states the town's position. It lists alternatives the town would like studied, and identifies impacts believed to be significant and worthy of further analysis. He noted that an email received from TAM today indicated that the 30-day deadline has been extended to November 30, 2009 and requested that the Council forego any action on the item until these recommendations can be discussed in detail.

Councilmember Condon asked if the resolution clearly states a request for consideration of pedestrian and bicycle paths in the improvements to Tamalpais Drive overcrossing. Mr. Bracken said it is implied and he agreed to provide more specific language.

Mayor Dupar opened the public hearing.

Stan Hoffman, Town Center General Manager, reiterated his comments from the last Council meeting. He asked the Council to seize this opportunity and tell TAM, who has consistently turned its back on the wishes of the Corte Madera community, that this plan will not fly. He asked them not to let the community be spoiled by southbound improvements, diversion of highway traffic onto local streets, the closure of Lucky Drive businesses, a decrease in sales tax revenue, and double decker highway overpasses. He

advised that traffic congestion is not relieved by closing 2 of 4 existing interchanges, but rather by widening freeways and decreasing the overall number of cars. He called the proposal a travesty rather than an improvement and requested that the Council not delay in taking action when there is clearly a strong consensus.

Melissa Gill, President of the Corte Madera Chamber of Commerce, stressed the negative effect these improvements would have on the local business community. She concurred with Councilmember Condon regarding bicycle and pedestrian pathways and requested that Alternative 6 of the proposed resolution include a clear statement that the Madera Boulevard ramps should remain open. Referring to the impact analysis of the resolution, she asked that it also request the following to be addressed: construction impacts, impacts resulting from changes in ingress and egress for each property along the corridor, traffic volumes, delay, and noise across the entire project.

Barbara Becker, 6 Council Crest, thanked Councilmember Condon for requesting the inclusion of bicycle and pedestrian pathways to the Tamalpais overcrossing project. She noted that her comments are not on behalf of the Accessibility Advisory Commission and reported complaints that the crosswalk at the southern end of the bridge is very dangerous for all pedestrians, cyclists, and disabled persons. She said she understood the overall objective of the project to be a design that improves local street traffic and doubted that any of the proposed alternatives would meet that goal. She cited particular concern with southbound improvements, notably with regard to Tamal Vista Boulevard, explained that it is a major route for kids travelling to and from school by foot and on bicycles, said that visibility is very poor in the area, and cautioned against any entrance or exit to Highway 101 on Wornum Drive.

Barry Trailer, 36 Tamal Vista Boulevard, said he attended nearly all of the public workshops and the subject of Madera Boulevard and Lucky Drive remaining open were discussed at each meeting. He said he is stunned to hear of the proposed closures and asked what happened to contact sensitive design. Wornum Drive is already congested whenever traffic on Highway 101 slows and he believed that closing any existing intersections would be a serious mistake.

Jana Hale, 499 Corte Madera Avenue, also reported attending all public meetings on the project as well as serving as the Marin Conservation League liaison at a meeting with TAM representatives and consultants. She shared frustration that the same concerns are repeatedly expressed and yet the same designs are put forth every time. She questioned how much money has been spent to develop and promote a plan that no one seems to want and urged the Council to make clear the town's consensus regarding northbound Alternative E and the need for significant revision of the southbound project.

Sherwood Cummins, 51 Lakeside Drive, said he could not let the potential closure of Madera Boulevard go without comment. He projected that the impacts of such a project would channel all parents leaving Neil Cummins School onto Tamalpais Drive or southbound on Highway 101. He requested that the Council continue to speak out against this closure.

Mayor Dupar closed the public hearing.

Councilmember Lappert acknowledged that Caltrans is obviously experts in traffic patterns and therefore

potentially better suited to make these projections. Despite this, he has not heard from one citizen in support of closing any of the off ramps located within the town. Consensus makes his job simple; he would not hesitate to pass the proposed resolution, urged the Council to make a definitive statement on the project and suggested the language could be more strongly crafted to allay any uncertainty on the town's position.

Councilmember Condon concurred; each proposal presented since 2002 has failed to reflect the input provided by the town. She voiced resentment at being forced into a Caltrans engineering standard, requested that the resolution state that after nearly 7 years of review there is overwhelming consensus from the Town Council and residents of Corte Madera in opposition to closing Madera Boulevard. Further discussion would not likely make any difference and she supported immediate action.

The Assistant Town Attorney advised the Council that if it would like to pursue this course of action, the item should be revised and then brought back as a consent calendar item.

Councilmember Cock stated that, as the town's representative on TAM, she too has attended these workshops for several years. She reiterated Mr. Bracken's comments that this action would simply state a desire to study specific options without approving anything specific. She advised that any alternatives which the Council has no interest in considering should be eliminated from the resolution. She explained that TAM has requested that the Council forego action on the resolution this evening because some of the alternatives listed may not be covered under the toll funding used for the project. She cited the Tamalpais Drive overcrossing project as a stand alone item as an example, and advised that removing some of these items may shorten the overall process.

Councilmember Condon said that TAM and Caltrans seem to consider addressing the overcrossing only if the town agrees to the Madera closure. She considered the idea similar to extortion and doubted that anything will be done there, regardless of funding. The improvements were part of the plan from the very beginning and that as a matter of principle she has no desire to back down on the matter.

Councilmember Ravasio requested that any revision of the resolution include language specifically pertaining to the traffic impacts at school drop off and pick up times and that the areas studied include town streets, as well as Doherty Drive and Magnolia Avenue in Larkspur.

Mr. Bracken reviewed the recommended changes to the resolution, including those recommended by Councilmembers Condon and Ravasio and the comments of Ms. Gill.

MOTION: Moved by Condon, seconded by Lappert, and carried unanimously by those present,
To continue the item with direction to staff to modify the resolution per Council discussion.

5. Discussion of Algae Growth in Lagoon 1

The Town Manager presented the "white paper" reviewing the background of Lagoon 1 and noting that issues including algae and plant growth, siltation, and maintenance costs have been present since its creation. He also noted that the letter included with the staff report from A.H. Brandow, Town Engineer

and Manager in 1963 indicates that the town's policy was only to maintain or improve the lagoon's flood control function, with the exception of a summer flushing program.

Mr. Bracken said notwithstanding, it has been the town's practice to maintain water quality in the lagoons to some degree beyond that of summer flushing. He explained that while various herbicides have proven adequate at controlling algae growth in the past, their use has since been banned by the San Francisco Regional Water Quality Control Board (RWQCB) due to possible toxicity. He reviewed other various methods of algae control including control of nutrient runoff, barley hay, hand removal, mechanical removal, and ultrasonic waves and dredging. He noted that proven methods such as water turbulence, harvesting, dredging, and barley hay are so controlled by the RWQCB and obtaining permits can be very difficult.

Mr. Bracken shared an email from UC Berkeley professor Alex Horn, which stated that Lagoon 1 is essentially an algae incubator. While there are no real solutions, the best approach would seem to be some sort of mechanical removal on an annual basis. He reported that staff has met with a local dredging contractor who determined that, while feasible, limitations associated with lagoon access could force initial costs to be in excess of \$250,000.

Councilmember Lappert said that an assessment district was established for Marquart Lagoon. He believed the residents around Lagoon 1 are willing to discuss something similar and he believed it was important for the Council to support them in whatever way possible. The White Paper was thorough in identifying what the town cannot do and he asked that it put forth the effort to discuss the logistics with citizens.

Mr. Bracken said staff would consider it their responsibility to facilitate any sort of assessment district.

Councilmember Ravasio asked if the dredging of Lagoon 2 increased the lagoon's depth. Mr. Bracken confirmed that it did by several feet. He could not recall the algae conditions pre-dredging but said that Mr. Marquart has reported significant improvement.

Councilmember Ravasio requested description of the town's current practice of flushing the lagoons.

Mr. Kevin Kramer, Superintendent of Public Works, stated that staff methodically cleans the high canal and lagoons as a summer months' weekly practice, flushes the high canal, drains the lagoons, and then allows them to refill at high tide. The same winter process occurs, but at a lesser frequency. He explained that staff also performs a number of tasks required through the RWQCB that include measuring the water's salinity, clarity, and temperature multiple times each week.

Mayor Dupar opened public discussion.

Jane Levinson, 32 Tamal Vista Boulevard, said that last spring's algae bloom was the worst she has ever seen. She also noted a distinct decrease in wildlife presence over the years and attributed it to declining water quality.

Richard Sweeney, 28 Council Crest Drive, asked what would cause the algae bloom to disappear as

suddenly as it appears. He said he is glad to hear this data on water quality is regularly gathered but thought that additional scientific data would be beneficial. He would not mind an assessment district but was hesitant to dredge the lagoon because of the waste produced.

Mr. Kramer stated that algae blooms tend to disappear as quickly as they develop. He attributed the occurrence to cloudy days, during which the algae switches from releasing oxygen to releasing carbon dioxide and essentially disintegrates. He detailed the control methods employed by the town in the past and said that the loss of acceptable chemical treatments over the last 10 to 12 years has inevitably led to the current situation, and obtaining approval to dredge is a very time-consuming and difficult process.

Barry Trailer introduced himself as the informally elected representative of homeowners around Lagoon 1. He shared photos of last spring's algae bloom, stating that the odor was untenable and the overgrowth dangerous for boating and swimming. He confirmed that the bloom disappeared almost overnight, and voiced disappointment that staff's offer to assist with algae harvesting has been withdrawn. He acknowledged that fertilizer and chemical run off may contribute to the overall effect and requested that any chemical management plan also be imposed on all upstream properties. While there is no question that lagoon residents enjoy the immediate benefit of the lagoon, the flood control aspects would seem to benefit all property owners in the tributary area. He shared the results of a survey he distributed to residents which asked if residents 1) favored dredging; 2) favored algae harvesting; and 3) would be willing to annually contribute to a maintenance fund for either. He said 45% of households responded, with the majority in favor of algae harvesting and an annual average contribution. He noted that several survey respondents indicated that homeowners should contribute nothing and maintenance services should be the exclusive responsibility of the town.

Mr. Trailer said that at an informal gathering of homeowners, a "Name Our Lagoon Contest" was held and residents voted on the name "Hidden Lagoon." He requested that the Council reinstate the offer for Public Works staff to assist with algae harvesting, direct staff to pursue discussions with residents regarding owner involvement in the matter, and effect the recommended name change.

Sherwood Cummins cited lagoon depth as a critical issue, said he did not believe the siltation problem to be the result of runoff but rather a cumulative effect of increased particulate raised by dredging of the Larkspur ferry channel. He suggested that the town request some sort of filtering system to address the particulate matter. He concurred that fertilizer runoff may be in part responsible for increased growth and noted that the canals behind Neil Cummins School experience the first bloom, which then flows into the lagoon. He believed the Town Park to be the largest area of fertilization and recommended studying run off from that area, as well as some mechanism to filter the canals. Mr. Cummins cited an instance this summer in which the water level of the lagoon was dropped for a period of 7 days without notification to residents and he requested that this not be permitted to occur again in the warmer months.

Barbara Becker recalled that the town used to damn the low canal between Hickory and Lakeside from the early spring through late summer. She suggested that the practice could negate the requirement of the screen at Lakeside Drive and also eliminate a good deal of the debris that staff cleans up on a weekly basis. She said it seemed to be the most environmentally sensitive solution.

Eric Svenson, 40 Madera Boulevard, voiced concern with the issue of siltation and said it was not well addressed by the white paper.

Mary Beth Marin, 30 Chickasaw Court, shared her son's recommendation that if algae growth is dependent upon light fluctuations floodlights might improve the situation.

Mayor Dupar closed the public comment period.

Mayor Dupar said there are several parts of town with water issues in terms of siltation, depth, and algae bloom. He was very upset by the Council's lack of effort in addressing the matter 12 years ago, and said that if the Council approves action on this matter, it should do the same along Bayside, Meadowcreek, and all of the town's lagoons.

Mr. Bracken requested the opportunity to look into a possible deed before granting the request for a name change for the lagoon.

Mr. Trailer confirmed with Mr. Bracken that Council direction is for staff to work with residents on a solution.

The Council called a 10-minute recess and, thereafter, reconvened the regular meeting.

6. Discussion and Possible Action Concerning the Introduction of an Ordinance Adding Chapter 15.21 to the Municipal Code Imposing a Damage Deposit on the Issuance of Certain Construction Permits as Security for Damage to Town Property on connection with Private Construction Projects

John Abaci, Assistant Town Attorney, stated that the ordinances presented in items 6, 7, and 8 are to conform the Municipal Code to the town's current practice of retaining damage deposits for associated construction projects. He explained that item 6 pertains to building permits and item 7 to encroachment permits; both request that the Council approve a range of amounts to be placed with the town for deposit against damage to town infrastructure during private construction projects. He noted that the town has rarely had to use these refundable deposits and that typically, with the case of such damage, the applicant covers any necessary repair work after receiving notice.

Mr. Abaci noted that item 8 introduces an ordinance that simply replaces references to the town Engineer with the Director of Public Works. Adoption of these ordinances will also include a resolution which determines specific deposit amounts, to be determined at the second reading.

Mayor Dupar said he thought there was an existing \$10,000 deposit attached to these permits. Mr. George Warman, Director of Administrative Services, explained that the \$10,000 deposit is no longer in effect and a range associated with the scale of the project is what is currently used.

There was no public comment.

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

To Introduce Ordinance No. 914, an Ordinance Adding Chapter 15.21 to the Corte Madera Municipal Code Imposing a Damage Deposit on the Issuance of Certain Construction Permits as Security for Damage to Town Property in Connection with Private Construction Projects, by title only and waiving further reading.

7. Discussion and Possible Action Concerning the Introduction of an Ordinance Repealing and Replacing Adding Chapter 12.12 to Establish Encroachment Permit Deposits as Security for Damage After Completed Work and Incorporating Blanket Encroachment Permit Procedures Into Municipal Code

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

To Introduce Ordinance No. 915, an Ordinance Repealing and Replacing Chapter 12.12 of the Corte Madera Municipal Code to Establish Encroachment Permit Deposits as Security for Restoration of Rights-of-Way and Watercourses After Completion of Permitted Work and Amending Section 12.04.040 and 12.08.110 to Incorporate Blanket Encroachment Permits into Encroachment Permit Procedures, by title only and waiving further reading.

8. Discussion and Possible Action of an Ordinance Amending Chapter 15.20 of the Municipal Code to Replace References to Town Engineer with Director of Public Works Throughout the Chapter and Update Appeal Provisions

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

To Introduce Ordinance No. 916, an Ordinance Amending Chapter 15.20 of the Municipal Code to Replace References to Town Engineer with References to Director of Public Works Throughout Chapter and Update Appeal Provisions, by title only and waiving further reading.

9. Discussion and Possible Action Concerning the Adoption of a Resolution Approving the Form of and Authorizing the Execution and Delivery of a Purchase and Sale Agreement and Related Documents with Respect to the Sale of the Seller's Proposition 1A Receivable From the State; and Directing and Authorizing Certain Other Actions in Connection Therewith

The Director of Administrative Services stated that this year's State budget adoption implemented Proposition 1A borrowing of property tax revenues from local entities. He detailed the "California Statewide Communities Development Agency" Proposition 1A Securitization Program which allows the town to replace the \$500,000 to be borrowed by the State during FY 2009-2010, at no cost to the town. He reviewed the specific financial impacts, stating that the lost opportunity cost of acting on this would be about \$10,000 and the opportunity expense of not participating would be the possibility of not having these funds on hand if needed. He stated that the documents are drafted by a team of bond counsels and finance consultants and cannot be altered in any way.

Councilmember Condon asked if the town would be eligible for this dispensation if the State decides to borrow funds again next year. Mr. Warman explained that the State is limited to suspending Proposition 1A funds twice in a 10-year period and that the first must be paid off before issuing the second. He anticipated that the State would do so and would issue additional debt to pay this off before borrowing again.

There was no public comment on the item.

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

To adopt Resolution No. 3616, a Resolution Approving the Form of and Authorizing the Execution and Delivery of a Purchase and Sale Agreement And Related Documents with Respect to the sale of the Seller's Proposition 1A Receivable from the State; and Directing and Authorizing Certain Other Actions in Connection Therewith

10. Approve Minutes of September 15, 2009

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

To approve the Minutes of September 15, 2009 as drafted.

ADJOURNMENT

The meeting was adjourned at 9:44 p.m. to the next regular meeting on October 20, 2009.