

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

In the Corte Madera Recreation Center, 498 Tamalpais Drive, on Monday, October, 20, 2008.

PRESENT: Mayor Lappert  
Councilmembers Cock, Dupar, Ravasio

Director of Planning/Assistant Town Manager Robert Pendoley

OPEN SESSION

Salute to the Flag

1. Panel Discussion On Marin Clean Energy Plan

Moderator: Peter Collins

Panelists: Dawn Weisz, Marin County Community Development Agency  
Matt Adams, Sonnenschein, Nath & Rosenthal, LLP  
Peter Luchetti, Fundamental Capital, LLC  
Tom Delaney, California Independent Systems Operator  
Ron Manfredi, Chairman, San Joaquin Valley Power Authority

Peter Collins explained that this meeting is part of a series of meetings on the Marin Clean Energy (MCE) Plan. He introduced the panel, then the first speaker Matt Adams.

Matt Adams explained the law regarding the climate change and Community Choice Aggregation (CCA). He said that AB 32 will create fundamental changes in the way we live and work. He said that in 2005, the State passed legislation requiring the reduction of greenhouse gas emissions to 1990 levels by 2020, followed by a subsequent cut of another 80% more by 2050. These are serious changes, with no detail yet as to how they will be achieved. The California Global Warming Solutions Act AB 32 put the first emission cut into statute with no program in place to do this. The Air Resources Board (ARB) is the regulatory agency. They have a mandatory greenhouse gas reporting program and early action measures in place, and have released a draft scoping plan, which is the first glance at a conceptual drawing of how we accomplish emission cuts. The details will be spelled out in the subsequent rule making process. Without knowing all of the details yet, we do know this will affect every sector of the economy. Mr. Adams concluded that local governments will take an active role in the climate change regulation scheme, and that Community Choice Aggregation (CCA) is a tool in their box.

Dawn Weisz, Sustainability Planner managing the County's efforts to launch Community Choice Aggregation, said that as a result of AB 117, local governments could become power purchasers for their communities. The potential exists for Marin's local governments to form a Joint Powers Authority (JPA) to run their own energy affairs by the end of the year. The first meeting would be in January 2009, at which time the JPA could initiate a Request for Bid for technical

assistance and to buy power. Initially, energy would be purchased from outside producers, but eventually the JPA would commission and own its own locally based, renewable assets. Customers could then choose between PG&E or MCE. Several other communities are currently engaging in this process, including San Francisco, Emeryville, and Berkeley. She said MMWD is looking at the feasibility of launching a program, and it looks promising. She said Phase I has been completed, which included the feasibility study, peer review of the feasibility study, bond counsel and legal review, and risk analysis. Phase II's completed tasks include the formation of a Local Government Task Force, which led to the compilation of a Business Plan and further peer review.

She said customers could eventually choose between a "light green" (initially 25% renewable, and equivalent in cost to PG&E) energy product, and a "deep green" (100% renewable and initially more costly than PG&E) energy product as we begin to own more of our assets. Local renewable sources could include solar, small and large wind, offshore wind, and methane capture, biomass, and ocean power.

Ms. Weisz said that energy efficiency is a big part of the plan in terms of reducing impacts and saving money. There are large untapped increases in efficiency in the residential market. She said sample sustainability measures including encouraging car sharing and solar panels on community buildings, would only reduce CO2 emissions by 11,000 tons per year, where initiating MCE would take out 350,000 tons, which is compelling.

She said the JPA could either be administered by a new operation or fall under the umbrella of an existing entity, which the JPA would decide. Elected officials would include one representative from each government, plus potentially an official from the energy commission, which is also up to the JPA to decide. She said potential energy service providers consist of both big corporate enterprises and others more like a government in nature.

She explained that social equity impacts are a potential benefit in communities with CCAs. There is more public participation, as CCAs are required to hold public hearings. CCAs have the ability to do bulk purchasing to buy solar panels for multi-family housing and renters. CCAs also create a potential revenue stream to provide rebates for low-income residents and small businesses, encouraging economic development. CCAs can also offer rate options to match the local needs of low-income customers. CARE and FERA programs would continue, but MCE can offer additional benefits. She also reviewed the economic benefits from fostering renewable energy and energy efficiency businesses.

She said renewable energy will be coming from outside Marin initially, then from locally owned assets once they are up and running. She said the solar map of Marin shows malls, hospitals, and landfills for methane capture are real low hanging fruit.

She explained that MCE's "light green" rates can stay at or below those of PG&E because CCAs have low overhead, and the nature of the CCA's not-for-profit structure reduces costs. She said MCE will have lower regulatory costs and fewer staff, and low borrowing costs. As a result, local governments can provide power competitively as many have for years. Ms. Weisz said

there are 39 public utilities in California, and that on average their rates are 25% lower. The percent of energy content that is renewable is impressive

She said we are in Phase III of the JPA process and that in the next step each city and town votes on whether to participate. Study sessions will be held and an ordinance of participation will have a first reading, then a merit hearing. In December 2008, a JPA would be formed to commit to try this idea in the market. The first order of business would be to issue a request for bid. The JPA must then select a provider and develop a contract with a 90-day review. The Town Council would then vote on whether to participate in the contract. The JPA would then prepare to serve customers. The opt-out program would allow customers to decide whether to buy their power from MCE—a new choice that customers don't currently have.

Ron Manfredi, Board Chairman, San Joaquin Valley Power Authority, explained the origin and purpose of San Joaquin CCA. This JPA is an important consideration in that renewable energy is option you only have with a CCA. He said the San Joaquin CCA provides electrical energy only, and that Marin could borrow their model. San Joaquin Valley is both poor and the fastest growing region in the State. It is energy deficient in both generation and distribution. He said his organization is in direct competition with investor owned utilities. Each government agency involved in a JPA must understand that they give up certain individual authority. The San Joaquin CCA incorporated a two-tiered decision making process where all members get a vote, and they then weigh each vote based on energy load. He said there are political obstacles with great pressure at the local elected official's level, and that the JPA must establish ground rules. He concluded that the CCA gave them control and reliability, long range planning potential, better prices and the ability to develop renewable sources. He said their rates are 5% lower and rate increases of not more than 2% per year.

He said there is a phase-in of programs, with larger businesses, and then medium sized, then residential units over an 18-month period. The largest obstacle was that the investor owned utility marketed against the JPA, as detailed in an article in California Energy Circuit (10/3 issue). A political war directed at council members and supervisors ensued. He said CCAs have joint and several liability in California, meaning that if you are a municipal member of JPA, you cannot be held individually liable for actions of the group. He concluded that a goal is to have San Francisco and Marin join the group to bolster citizen involvement and research, and to look at solar together.

Peter Luchetti, investor in public and private infrastructure projects in US and worldwide, said he volunteered to help Dawn Weisz on the technical advisory board. He said he looks at many business plans each year and that the MCE plan is viable. He said the risk sharing aspect between public and private sector is resolvable, and that risk is mitigated by the opt-outs along the way. He said MCE meets global best practices on an economic basis, and that it has great environmental objectives.

Peter Collins noted that PGE was invited and declined to send a representative.

Tom Delaney, account manager with California Independent Systems Operator (ISO) and feasibility assessor for CCAs, said the California ISO is a non-discriminating independent entity

that runs the state energy distribution system. PG&E is one of biggest customers. He said that if MCE is chosen, the ISO will serve it. Not a theory, CCAs are a familiar entity coming from the state of Ohio and are quite successful in other states. The ISO was invented to insure that Investor Owned Utilities don't monopolize. The ISO is there to insure safety to buyers and sellers. Marin is fortunate in that it doesn't have congestion on poles and wires, and advantageous for the ISO in that the ISO's biggest demand comes in summer months, while Marin's biggest need is in winter. He concluded he thinks CCAs are good because the customer chooses, and they are low risk in that customers can vote for a business plan or against it.

Mayor Lappert said he is looking at it from the angle of what it will cost the citizens of town to have luxury of having green power? Green is good, but how much do we spend to do it? He said there are 39 public utilities. He asked how many are generating their own power. Mr. Delaney said 3/4. Mayor Lappert said we're setting up a middleman, and that legal headaches could occur if we suffer liabilities as members of a JPA. Mr. Manfredi agreed someone must pay to make good on contract. Mr. Luchetti pointed out that this would be true whether it was MCE or PG&E that went bankrupt. Mr. Luchetti said his favorite part of the business plan was that it creates alternative energy and delivers power for 25% less than the investor owned utilities. He noted that the objective is to go green and to deliver power.

Mayor Lappert asked Mr. Delaney if the ISO could manage all traffic, which was confirmed. Mayor Lappert said he is tapped out on bonds, and asked for clarification regarding the budget and risk.

Dawn Weisz said Marin Clean Energy wouldn't cost citizens anything, as they have the choice to participate or not. She said customers select options, and are not forced into the Deep Green option. Mayor Lappert asked who paid JPA salaries. Ms. Weisz said salaries are covered in the business plan. Mr. Luchetti added that costs are lower than those of investor owned utilities, adding that there is a staff of 300 at PG&E.

Mayor Lappert asked about the Town's share of financial obligation brought on by Marin Clean Energy. Ms. Weisz said the County has offered to pay start-up costs, so there is no cost to the towns, who must merely appoint an official to the JPA to participate in meetings. Mayor Lappert asked whether the CCA would act as broker. Ms. Weisz said the CCA is a bridge to owning our own assets. Mayor Lappert asked where the assets would be located.

Mr. Manfredi said there is up front financial obligation, but customers would ultimately pay for this and would be able to develop physical assets more cheaply. Mayor Lappert said this is a proposal to start a new business. Dawn Weisz countered that this is not new, and is ongoing in Massachusetts and Ohio.

Vice-mayor Dupar asked whether, since Marin is small, we would have the clout to get lower rates from providers.

Councilmember Ravasio said MCE is presented as though there is no risk or negative aspect. He asked what the risk to the Town would be.

Mr. Luchetti said an important detail of the business plan is that we don't pull the trigger until satisfied on all details.

Mayor Lappert asked who pays the attorney to review the contract, and added that government is not intended to be in business.

Mr. Manfredi said the Town will have costs, and can share costs with the County up front. Dawn Weisz said the County is covering the start up costs. Mayor Lappert added said this is still public money.

Councilmember Cock asked how long it would be before we build our own assets. Councilmember Ravasio asked how long the contracts are good for. Dawn Weisz said the JPA decides these details after they get bids from market. Mayor Lappert asked if PUC regulated price and amount. Ms. Weisz said CCAs are not regulated in price and amount by PUC as Investor Owned Utilities are.

Mike Erickson, resident, questioned the advantage of cost savings coming from tax-exempt CCA bonds while PG&E pays interest on bonds to fund government. He supposed that eventually we would have to make up for this revenue that PG&E loses. Mr. Erickson also said that CCA is not price driven and can't be as price competitive as PG&E. He said he was not sure it was appropriate to ask the Town Council to act on behalf of MCE.

Mr. Luchetti said there is not a straight forward answer regarding the loss of revenue due to loss of PG&E bond interest and federal reserves. He said CCAs have a lower cost of financing but private providers also pay taxes. Mr. Manfredi added that there are other parts of savings in terms of efficiency that could make a difference.

Lak Sacar, solar industry service provider, said that 20% of customers meet energy goals already, adding that he has a solar system at his home, which pays for itself in 7 years. He asked why there was an energy cost escalation slope on the green curves as the cost of solar has come down. He asked if he added more solar to his residence, would Marin Clean Energy buy energy from him, which Ms. Weisz affirmed.

Enrique Bolanger, from San Rafael asked why we should buy energy from a CCA when we can buy from PG&E without have to go through all of this. In a tremendous storm, it is possible that the system would collapse.

Mr. Delaney said that if a resource goes off line, the ISO requires backup resources, and the ISO would balance the system for the downtime. Ms. Weisz said PG&E can buy from same providers but we would look for smaller size energy bundles.

There was a question from the audience regarding whether the philosophy of the CCA would encourage private entities to go off grid and be rewarded for doing so. Some municipal districts do not allow this, and there is some unpredictability. He said that the absence of profit motive does not evoke his confidence, as some CCAs are victims of their own circumstance.

Another question from the audience regarded when a private investor fails to provide energy, would the town be held responsible. Mr. Luchetti said that the contract would define liquidated damages.

A comment from the audience summarized that the arguments heard at tonight's meeting against CCAs are centered on the notion that government should not be in business. He asked how transparent would the CCA process be. Ms. Weisz said there is a requirement for a public participation process and that this information would be available to the public. Mr. Manfredi said CCA transparency is seen in the process of required noticing of meetings, minutes, and announcements.

Mayor Lappert asked if the CCA would have an official to make snap decisions, and how the CCA would handle meeting noticing requirements in the face of a need to make instant decisions regarding the delivery of power. Ms. Weisz said an Executive Director would be appointed to make such decisions. Mr. Manfredi said that the authority for executive director is provided for in the contract with service provider.

Mr. Luchetti said this is based upon the formation of a public/private sector partnership, and since the CCA would be soliciting from private sector, anyone can respond. Typical lifecycle profits are 15-30% over the life of assets, and the CCA would be held accountable for this. He concluded that he thought it was a way to achieve a global best standard. Mayor Lappert asked Mr. Luchetti if he had any financial involvement in the CCA, to which Mr. Luchetti answered that he was purely volunteering.

Another member from the audience asked, once Marin became involved in the JPA, how would additional assets be developed. Ms. Weisz said that these details are in the business plan, but that in general, during the first 3 to 4 years initial capital would be spent. Once more revenue comes in that goes out, then the CCA would issue tax-free bonds to be paid by the ratepayer.

Jack Leibster from the audience said this was one of the most lucid and well-informed panels he has seen. He said there was a minimum level within the County in terms of elected officials voting in favor of MCE. He asked if the council doesn't join the CCA now, but wishes to at a later time, perhaps when the council changes, could they then join. Ms. Weisz said that the plan assumes that only half of Marin's jurisdictions will join now, such as the County, San Rafael and Novato. The program would be scaled back if too few joined, but could also be combined with Sonoma cities. Ms. Weisz said jurisdictions could join later, but there could be a cost, as the County is covering start up costs now, but this may not hold true in the future. Mr. Manfredi said that the JPA could set that standard.

Mayor Lappert concluded that the Council would assess the legal aspect.

#### ADJOURNMENT

Meeting adjourned at 10pm