

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

In the Town Hall of the Town of Corte Madera, on December 1, 2009 at 7:30 p.m.

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

Town Manager David Bracken
Town Clerk Christine Green
Twin Cities Chief of Police Phil Green
Director of Planning/Assistant Town Manager Robert Pendoley
Associate Planner Larisa Roznowski
Town Attorney Jeff Walter

OPEN SESSION

Salute to the Flag

1. OPEN TIME FOR PUBLIC DISCUSSION

The Town Clerk requested that the meeting be adjourned in memory of former Town Attorney Al Bianchi. Ms. Green explained that Mr. Bianchi, who was Corte Madera's Town Attorney for 16 years and was her mentor when she joined the town's staff.

Alex McLean, 5784 Paradise Drive, said that Tamalpais Paint & Color store has requested that a handicapped elevator be installed before moving into is building on Paradise Drive. He said it was then discovered that there was no 2nd story building permit on record for the building. He explained that the original building application was for a 2-story design but the 2nd story was not built until the then-existing moratorium on multi-storied buildings expired. He said it has always been understood that the original application extended the permit to the later built 2nd story and requested confirmation. Mr. Bracken said he would have a report prepared by the planning department.

2. COUNCIL AND TOWN MANAGER REPORTS

- Town Manager Report

Town Manager Bracken provided the following report:

- The annual Breakfast with Santa is Saturday, December 5 from 8:30 to 10:30 a.m. at the Recreation Center;
- The next Council meeting will include hearings on Zoning Ordinance and General Plan amendments. He wanted to ensure a quorum would be present;
- Cynthia MacKenzie, FEMA, would like to present the town with an award for its participation in the Community Rating System Program. He asked that the Council allow time following Council Reports.

- Council Reports

Councilmember Lappert requested that Mr. Bracken extend his appreciation of Kevin Kramer's weekly report. He said Mr. Kramer missed his calling as a literary genius and likened him to Ed Norton from the Jackie Gleason Show. The Town Manager said he would share a copy of the minutes with Mr. Kramer so that the compliments would be properly expressed.

Councilmember Condon echoed Councilmember Lappert's comments and provided the following report:

- She attended a Chamber of Commerce meeting. The Chamber is looking forward to partnering with the town to improve and support economic development within the town. Marla Orth, CERT, attended the meeting and announced that CERT will begin fundraising efforts to help promote its cause. Tax-deductible donations can be made through the Corte Madera Foundation.

Councilmember Cock provided the following report:

- At its latest meeting, the TAM (Transportation Authority of Marin) Board voted to limit the scope of the Highway 101/Greenbrae/Twin Cities Interchange Project EIR to the northbound option E and southbound phases 1 and 2. No study of Madera Drive or Tamalpais Drive is planned at this time;
- She met with Councilmember Condon, the Town Manager, and the Chamber of Commerce's Executive Director to begin steps towards a business development project. The Council approved an ad hoc committee for this purpose several months ago.

Councilmember Ravasio echoed comments Councilmembers Lappert and Condon regarding Mr. Karamer; he said that Mr. Kramer's reports are one of the highlights of his Friday afternoons.

PRESENTATION

Cynthia Mackenzie, FEMA, presented the Town Manager with an award in recognition of the town's participation in the Community Rating System. The voluntary program is part of the National Flood Insurance Program (NFIP) and recognizes community efforts that go above and beyond minimum NFIP requirements. The town's efforts resulted in annual insurance premium savings of \$252 for homes in high-risk areas, totaling nearly \$100,000 town-wide. Ms. Mackenzie noted that Corte Madera is 1 of only 2 Marin communities to participate in the program.

The Town Manager commended Dale Hurst, Public Works Confidential Secretary, for her efforts.

CONSENT CALENDAR

Guy Benstead, 425 Corte Madera Avenue, requested removal of Item 3c for further discussion

- 3a. Approved Warrant and Payroll for the Period November 11, 2009, through November 23, 2009, Warrant Check Numbers 124709 through 124799 and Payroll Check Numbers 3100 Through 3118, Payroll Direct Deposit Numbers 15054 through 15134, and Payroll Wire Transfer Numbers 964 through 971 and Wire – Twin Cities Police Monthly Payments

- 3b. Adopted Resolution No. 3619 Authorizing Town Staff To Submit A Grant Application To The California Energy Commission For Funds For Cost\-Effective Energy Efficiency Projects In Municipal Buildings

- 3d. Authorized Mayor to Sign Letter to State Attorney General Requesting Investigation of the Actions of the Marin General Hospital Corporation and Sutter Health

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

To approve Consent Calendar items 3a, 3b, and 3d.

- 3c. Adopt a Resolution Denying The Appellants' Appeal Of The Planning Commission's Decision And Approving Design Review No. 08-008, Thereby Allowing Conditional Approval To Construct A 3,985 Gross Floor Area (GFA) Single-Family Residence, Including A 4.0% Lot Coverage Where 25% Lot Coverage Is Required, A 6.9% Floor Area Ratio (Far) Where 40%Far Is Required A 25 Ft. Front Yard Setback Where 25 Ft. Is Required, A 10ft. Southern Side Yard Setback Where 10Ft. Is Required, A 42 Ft. Northern Side Yard Setback Where 10 Ft. Is Required, And A 158 Ft. Rear Yard Setback Where 35 Ft. Is Required, At 501 Corte Madera Avenue.

Mr. Benstead countered comments made at the previous meeting, stating that he and his family were given no special consideration concerning this appeal process. He said he distrusts the applicant and has direct personal experience with his lack of follow through. He urged the Council, as stewards of the town, to be diligent in its requirements and monitoring of the improvements made to the property's existing drainage system. He said there was a clear consensus that the matter is a significant public safety concern and that town law clearly obligates staff and the Council to ensure and protect public safety.

Mr. Benstead said he reviewed all pertinent materials and asked to clarify several points. He noted that page 5 of the draft minutes of November 17, 2009 states that there are 2 siphons located at the top of each reservoir; he said there is only 1 siphon. He said that while staff has indicated that the reservoirs would be most stable if drained, the recommendation is in direct opposition to that of the engineering report he submitted. He referred again to the draft minutes as well as the staff report, which state that the applicant has agreed to replace the existing clogged pipe. He said the clogged pipe is situated below the reservoir and that its replacement will do nothing to alleviate existing drainage issues or comply with the town's intent for the reservoirs to remain drained.

Mayor Dupar said that while it is the intent to ensure that reservoirs are repaired, it cannot be tied to the building permit.

Mr. Benstead noted that the motion states that a building permit will not be issued until the applicant completes this work. He said he would like the scope of that work clarified in writing and to include provisions for the installation of drainage from the upper to lower reservoir. He cited reports which indicate that a 6" pipe would be insufficient to handle a two-year storm. He doubted that any improvements short of putting a hole in the bottom would drain the reservoirs. He cautioned that if a repair is authorized and the reservoirs fail, the town will open itself up to some significant lawsuits. He said the resolution lacks clarity and requested language which clearly states that the applicant cannot obtain a building permit until this work is completed in compliance with the town's goals.

Mr. Bracken said he stands behind his belief that the reservoirs should be empty rather than filled. Mr. Benstead's points were well taken and staff will ensure the work is done appropriately, but he believed there is no need to change the resolution.

Councilmember Cock directed Mr. Benstead to the 3rd condition of approval, which dictates the installation of improvements to facilitate drainage.

Mr. Benstead said that Condition No. 23 simply requires the proposed drain pipe replacement, which he believed would not drain the reservoirs, and said there is too much ambiguity for the applicant.

The Director of Planning stated that the Design Review application considered for this project included a drainage plan. He said the plan showed that a 6" drain would be installed at the base of both the lower and upper retention basins, with a 6" connecting pipe running between the two. The new drain at the lower basin would connect to a 6" pipe located in the dedicated easement that leads to the town's storm drain system. He said the plan is described in detail in the application and is referred to in Conditions No. 3, 4, 23a and 23b.

He noted that it also states that the final sizing of the drainpipe has yet to be determined, must be approved by the Town Engineer, and should be capable of handling a two-year storm. He explained that this capacity would handle most rainstorms and that anything heavier would mean that the basins retain water until the rain stops and they are able to drain again. He also noted that the Council added a condition of approval which requires annual monitoring of the system's condition and efficacy.

Councilmember Condon suggested adding Mr. Pendoley's comments to Condition No. 23a as a back-up. Mr. Pendoley said it is drawn up in great detail in the accompanying plans.

The Town Attorney advised the Council that this matter cannot be reheard and that any changes must be based on evidence brought forth at the hearing, not on Mr. Benstead's comments.

Mayor Dupar acknowledged those guidelines but said that a literal reading of Condition No. 23 only

references the lower basin. Councilmember Condon concurred, stating that “upper” should be added for the sake of clarity.

Mr. Benstead also requested that Condition No. 7, which requires replacement of the existing clogged pipe, be amended because the pipe will not drain the reservoirs.

Councilmember Lappert said that including Mr. Pendoley’s comments should eliminate any ambiguity.

Mr. Benstead reiterated his request regarding Condition No. 7.

Mr. Pendoley stated that the plans which were before the Council included a detailed description of the pipe that would be installed of the bottom of the reservoir and would connect with the clogged pipe described by Mr. Benstead. He said it is in the plans that the Council reviewed and approved but conceded that there would be no harm in adding the recommended language.

Mr. Walter recommended that, if the Council plans to adopt the resolution at this time, it do so subject to Mr. Pendoley adding the language already discussed and perhaps even referencing the plans by title, date of preparation, and number of pages prepared.

Mr. Benstead requested that the resolution state that the drains are intended to drain the reservoirs and that the work must be completed under the supervision of staff before a building permit is issued.

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

To adopt Resolution No. 3620 Denying The Appellants' Appeal Of The Planning Commission's Decision And Approving Design Review No. 08-008, Thereby Allowing Conditional Approval To Construct A 3,985 Gross Floor Area (GFA) Single-Family Residence, Including A 4.0% Lot Coverage Where 25% Lot Coverage Is Required, A 6.9% Floor Area Ratio (Far) Where 40% Far Is Required A 25 Ft. Front Yard Setback Where 25 Ft. Is Required, A 10ft. Southern Side Yard Setback Where 10Ft. Is Required, A 42 Ft. Northern Side Yard Setback Where 10 Ft. Is Required, And A 158 Ft. Rear Yard Setback Where 35 Ft. Is Required, At 501 Corte Madera Avenue, subject to additional language to be provided by Mr. Pendoley referencing the drainage improvements by title, date, and number of pages.

BUSINESS ITEMS

4. Approval of Minutes of November 17, 2009

Councilmember Cock provided the following correction:

- Page 16, line 37 – “...with the additional ~~conditionals~~ **conditions of approval...**”

MOTION: Moved by Lappert, seconded by Cock, and carried unanimously,
To approve Minutes of November 17, 2009, as amended.

5. Adopt Resolution Certifying the November 3, 2009 Election

Ms. Green said the Council is being asked to accept the election results calculated by the County Registrar of Voters.

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

To adopt Resolution 3621 Reciting the Facts of the General Municipal Election Held on November 3, 2009, Declaring the Results and Such Other Matters as Provided by Law.

6. Administer Oath of Office to Newly Elected Councilmember

Newly elected Councilmember Diane Furst introduced members of her family and the Town Clerk administered the oath of office.

Mayor Dupar passed the gavel to Councilmember Condon and left the dais.

7. Recognition and Presentation of Gifts to Outgoing Mayor

Councilmember Condon said there are no adequate words to commend Mayor Dupar for 12 years of outstanding service to the Council and the town; thanked his wife for sharing him; said his work with the police force, CMSA, and Marin Telecommunications Agency has been tremendous, and presented him with flowers.

Mayor Dupar said the 12 years passed quickly and with considerable fun. He thanked staff for their unwavering support. The Town Manager said he would be greatly missed.

8. Reorganization of the Council

Election of Mayor

MOTION: Moved by Lappert, seconded by Ravasio, and carried unanimously by those present,
To elect Councilmember Condon to the position of Mayor.

Election Vice Mayor

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

To elect Councilmember Cock to the position of Vice-Mayor.

Mayor Condon thanked her fellow Councilmembers and members of the public for their support and the honor of being able to serve such a wonderful community. She said that while these are not the easiest of times, this community is very gifted in the ability and commitment of its staff. She welcomed Councilmember Furst and said that she looks forward to them working as a group to represent individual voices. She thanked staff for their continued support and thanked former Mayor Dupar again for his service.

The regular meeting was adjourned at 8:17 p.m. to closed session.

CLOSED SESSION

Closed Session Pursuant to Government Code Section 54956.9(c)

CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

Initiation of litigation pursuant to Cal. Government Code section 54956.9(c): two potential cases.

At the end of the closed session the Mayor noted there was nothing to report at this time.

ADJOURNMENT

The meeting was adjourned at 9:15 pm in memory of Al Bianchi.