



STAFF REPORT

SAUSALITO CITY COUNCIL

AGENDA TITLE:

Approve Response to December 2, 2009 Marin County Civil Grand Jury Report:
Marin Clean Energy: Pull the Plug

RECOMMENDED MOTION:

Approve Response to December 2, 2009 Marin County Civil Grand Jury Report:
Marin Clean Energy: Pull the Plug

SUMMARY / BACKGROUND

On December 2, 2009, the Marin County Civil Grand Jury published a report entitled Marin Clean Energy: Pull the Plug. State Law requires that those agencies receiving the report must respond, in writing, to the Findings and Recommendations contained in the report within ninety days. Additionally, governing bodies are required to present their comments or responses during a noticed and agendized meeting pursuant to the Ralph M. Brown Act.

All responses are placed on the Marin County Civil Grand Jury website.

Attached for your consideration is a proposed response to the Findings and Recommendations, along with a copy of the Grand Jury Report.

FISCAL IMPACT

None

STAFF RECOMMENDATIONS

Approve the suggested responses to the Grand Jury Report as submitted.


Alternatively, Council may remove this item from Consent in order to discuss and amend any of the responses; then approve the responses as amended.

Item #: 4B5
Meeting Date: 3-2-10
Page #: 1

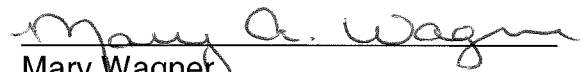
ATTACHMENTS

1. Recommended response to the Grand Jury Report: Marin Clean Energy: Pull the Plug
2. Grand Jury Report entitled Marin Clean Energy: Pull the Plug, dated December 2, 2009.

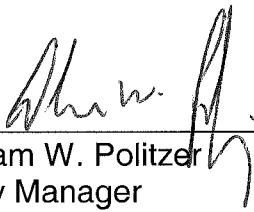
PREPARED BY:


Debbie Pagliaro
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REVIEWED BY:


Mary Wagner
City Attorney

SUBMITTED BY:


Adam W. Politzer
City Manager

RESPONSE TO GRAND JURY REPORT FORM

Report Title: Marin Clean Energy: Pull the Plug

Report Date: December 2, 2009

Response by: Sausalito City Council

By: Debbie Pagliaro, City Clerk

FINDINGS

- I (we) agree with the findings numbered: F3, F4, F12, F13
- I (we) disagree wholly or partially with the findings numbered: F1-F2, F5-F11, F14
(Attach a statement specifying any portions of the findings that are disputed; include an explanation of the reasons therefore.)

RECOMMENDATIONS

- Recommendations numbered R3 have been implemented.
(Attach a summary describing the implemented actions.)
- Recommendations numbered _____ have not yet been implemented, but will be implemented in the future.
(Attach a timeframe for the implementation.)
- Recommendations numbered _____ require further analysis.
(Attach an explanation and the scope and parameters of an analysis or study, and a timeframe for the matter to be prepared for discussion by the officer or director of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This timeframe shall not exceed six months from the date of publication of the grand jury report.)
- Recommendations numbered R1, R2 will not be implemented because they are not warranted or are not reasonable.
(Attach an explanation.)

Date: _____ Signed: _____

(Number of pages attached 4)

RESPONSE TO GRAND JURY REPORT

“MARIN CLEAN ENERGY: PULL THE PLUG”

Finding F1. The formation of the Marin Clean Energy Community Choice Aggregation creates a new level of government while the county and local communities are experiencing reductions in basic municipal services.

Response: Disagree.

As described in the Grand Jury Background, “MEA along with its business plan, the county and participating cities would form a partnership”. As is any new JPA, an agency is formed, not a new level of government; nor will this JPA be taking from the local governments or causing reductions in their basic services. On the contrary, formation of the MEA will reduce the costs to the City of Sausalito in meeting the Greenhouse Emission mandates.

Finding F2. The Marin Energy Authority is not required to submit the Marin Clean Energy program to a vote of the public; although legal, this process runs contrary to transparent governance and consumer protection standards.

Response: Disagree.

In response to “transparency”, the City of Sausalito placed all information on their website when MEA was to be discussed before the City Council. Additionally, the City of Sausalito advertised the public workshops that were held. This information was disseminated through our “In the Loop”, which reaches out to over 1,500 subscribers. Additionally, a majority of the members of the Sausalito City Council felt that the businesses and residents in Sausalito would still have the opportunity to make their own decisions with regard to Marin Clean Energy when they are provided the opportunity to “opt” out of the program.

Finding F3. Unless a participating city, town or the County of Marin votes to withdraw from the Marin Energy Authority, residential and business customers will be transferred to the Marin Clean Energy program.

Response: Agree

Finding F4. The opt-out option means that all consumers in the participating jurisdictions will automatically become subscribers to the new Marin Clean Energy program, unless they decide to take affirmative action not to participate.

Response: Agree

Finding F5. Neither the Board of Supervisors nor the Marin Energy Authority has fully explored or tried to negotiate partnerships offered by PG&E.

Response: Disagree

According to the Marin Energy Authority Response to the Grand Jury Report (item F5), the Board of Supervisors, as well as the staff and Chair of MEA, held numerous meetings with PG&E over the last four years. Discussions with MEA were terminated by PG&E in April, 2009.

Finding F6. The 2008 Community Choice Aggregation Business Plan is outdated and lacks sufficient detail, including current pro-forma data, updated market analysis, load projections, customer exit fees and the specified quantitative risk analysis.

Response: Disagree.

In the Marin Energy Authority Response to the Grand Jury (item F6), they clearly noted that the November 18, 2009 Implementation Plan provides an even higher level of specificity and detail, as it is more current. The Business Plan approved by the Sausalito City Council clearly states "the financial plan and customer rate impacts presented in Chapter 4 should be considered illustrative pending incorporation of prices that will be provided by the market in a Request for Bid"

Finding F7. The construction of owned facilities is a requirement for the success of the Marin Clean Energy program. Due to community resistance and planning constraints, it is highly unlikely that the Marin Energy Authority will succeed with local construction of sufficient large-scale renewable energy sources within Marin County.

Response: Disagree.

The Business Plan did not state that the construction of owned assets is a requirement of the success of the Marin Clean Energy program. As noted in the Marin Energy Authority Response to the Grand Jury (item F7), "The MCE Business Plan does not state that the construction of owned assets is a requirement for the success of the Marin Clean Energy program. While potentially advantageous, it is neither necessary for 'owned' facilities to be used for program success, nor is it 'highly unlikely' that MEA will be able to successfully locate and support projects within Marin County to meet its local generation goals."

Finding F8. Neighboring communities have successfully implemented a wide variety of efforts to target energy efficiency and greenhouse gas reduction within their communities through partnerships with local agencies, foundations and PG&E.

Response: Partially Disagree.

While it may be true that neighboring communities have had success implementing efforts to target energy efficiency and greenhouse gas reduction, they require additional staff time to study and implement; where MEA is offering non-General Fund revenues to support efficiency and renewable energy programs – and achieving these results much sooner than the local communities can.

Finding F9. The degree of commitment to Marin Clean Energy has distracted local agencies from the pursuit of the wide range of other options available to reduce greenhouse gas emissions.

Response: Disagree

The City of Sausalito continues to strive to adopt policies such as green building guidelines, eliminating plastic water bottle usage and promoting solar energy. Additionally, the City has purchased hybrid vehicles for use in the City's vehicle pool. MEA has not deterred the City in their attempts to move forward.

Finding F10. The risks of this venture are far too great to ignore in spite of repeated assurances from the Marin Energy Authority. Multiple reviews have identified significant ratepayer risks.

Response: Partially Disagree

The City of Sausalito agrees with the response of MEA, "there are risks associated with any new venture". This is an opportunity for our residents to choose an alternative to their current energy needs. During our public hearings on MCE, the public never addressed concerns about the risks that may be involved.

Finding F11. The service contract recently approved by the Marin Energy Authority Board is incomplete and only covers Phase I and excludes pricing.

Response: Disagree.

On February 4, 2010 the Marin Energy Authority Board approved a power purchase agreement with Shell Energy of North America for Phase I, which includes pricing, and notice to customers has commenced.

Finding F12. The actual rates Marin Clean Energy will charge the majority of its customers, most of whom are residential, may not be known until late 2011 or early 2012.

Response: Agree.

Finding F13. The Grand Jury finds that most monies spent to date have been for professional services of attorneys, consultants and outside peer reviews. The Grand Jury believes that these expenses are indicative of the highly complex nature of this undertaking.

Response: Agree.

Finding F14. Placing this complex, expensive and volatile business venture in the hands of rotating city/county elected officials charged with other obligations, presents the Marin taxpayers with an unacceptable risk.

Response: Disagree.

MEA is not unlike any other Joint Powers Authority; decisions will be made during public hearings – a time when taxpayers may express their opinions. Additionally, the MEA is just like a city where elected officials are ever changing; however, there is continuity in staff who will participate in research and forwarding recommendations.

Recommendation R1. That the Marin Clean Energy program be abandoned.

Response: Disagree

The City of Sausalito cannot recommend abandoning this program as the business owners and residents supported the City Council decision to remain in the Marin Energy Authority. (Official action taken on January 12, 2010)

Recommendation R2. That the county and all participating municipalities of Marin Energy Authority should step away from their adversarial public posturing and seriously work with foundations, federal, state and local agencies and PG&E to foster cooperation. Moreover, rather than create a costly and very risky new county bureaucracy, efforts and resources should go forward to form public/private partnerships that will enable the county and all of the cities to achieve their present and future environmental goals.

Response: Disagree.

see responses to F5, F8 and F9

Recommendation R3. That in the event the Marin Clean Energy program is not abandoned, the Board of Supervisors and all participating municipalities review all available documentations and demonstrate their confidence, understanding and commitment to this project by voting at a publicly noticed meeting prior to committing their respective jurisdictions to final membership.

Response: This recommendation has been met.