

## SPECIAL MEETING of the ROSS TOWN COUNCIL TUESDAY, MARCH 2, 2010

**1. 8:00 A.M. Commencement.**

Present: Mayor Strauss; Mayor Pro Tempore Hunter; Council Member Cahill, Council Member Martin; and Town Attorney Hadden Roth

**2. Posting of Agenda.**

Town Manager Gary Broad reported that the agenda was posted according to government code.

**3. Town Council consideration and response to the Grand Jury report dated December 2, 2009 entitled "Marin Clean Energy: Pull the Plug."**

Project Planner Christine O'Rourke summarized the staff report, noting that staff's approach to formulating responses was to break down each finding to its independent parts and then to apply a true/false test to each part. If all parts were true, staff agreed with the finding, and if all parts were false, staff disagreed with the finding and in the written response identified the reason for disputing the finding. If some parts of the finding were true and others false, or if staff felt there was not enough objective information to make a definitive true/false statement, staff responded "partially disagree." This approach was different than the approach Council member Martin took.

Council member Martin said the problem with the Grand Jury's findings is that they often imply something that is not true.

Mayor Strauss asked if they could consider each response to the Grand Jury report one at a time. He said that all four Council members agreed with Findings 3, 4, 5, 7, 9, 10, 12 and 13 and Recommendations 1-3, so there was no need to discuss those items. The Council agreed to only discuss and vote on Findings 1, 2, 6, 8, 11 and 14.

In regard to Finding 1, the Council voted 3:1 to agree with the finding. Council member Martin opposed.

In regard to Finding 2, Council member Cahill said he supported staff's recommendation to partially disagree with the finding, but thought it was a good idea to add Council member Martin's second paragraph to the response. Council member Martin indicated he would support that change. The Council voted 4:0 to partially disagree with the finding and add Council member's second paragraph to the response.

In regard to Finding 6, the Council voted 4:0 to partially disagree with the finding and to use staff's draft language for the response.

In regard to Finding 8, the Council voted 3:1 to agree with the finding. Council member Martin opposed.

In regard to Finding 11, Council member Cahill said he thought that the contract was complete in that it legally fulfilled the requirements for a contract. Whether or not it contained

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provisions that we would like to see in the contract was irrelevant. Project Planner O'Rourke confirmed she had reviewed the EEI master power purchase agreement and that it did not contain a pricing methodology or refer to Phase II. The Council voted 2:2 to agree with the finding, with Council members Cahill and Martin opposing, preferring to disagree with the finding and use Council member Martin's proposed response.

In regard to Finding 14, Council member Cahill said he did not think there was an unacceptable risk, and he agreed with Council member Martin's proposed response. Town Manager Broad said the term "unacceptable" was subjective. Mayor Pro Tempore Hunter said he disagreed with Council member Martin's proposed response because in addition to the \$540,000 loan, the County had just guaranteed a \$950,000 loan and had also spent an unknown amount of money to launch MEA. He felt this was an unacceptable risk. The Council voted 2:2 to partially disagree with the finding and use staff's draft language for the response. Council members Martin and Cahill opposed, preferring to disagree with the finding and to use Council member Martin's proposed response.

Town Manager Broad said the Council could submit a response to the Grand Jury indicating the split decision for Findings 11 and 14 and providing both responses for those findings.

Mayor Strauss asked for a motion.

Mayor Pro Tempore Hunter moved and Council Member Cahill seconded, to approve staff's recommended response to the Marin Civil Grand Jury's report entitled "Marin Clean Energy: Pull the Plug," with the following changes: add Council member Martin's second paragraph to the response to Finding 2; and, indicate the split decisions for Findings 11 and 14 and provide both staff and Council member Martin's responses for those two findings. Motion carried 4-0.

### 4. Adjournment.

By order of Mayor Strauss, the meeting adjourned at 8:30 a.m.

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Richard Strauss, Mayor

ATTEST:

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Gary Broad, Town Manager