

**MARIN ENERGY AUTHORITY
THURSDAY, AUGUST 20, 2009
7:00 P.M.**

**MARIN COUNTY EMPLOYEE RETIREMENT ASSOCIATION,
BOARD ROOM
1 McInnis Parkway, San Rafael, California**

Roll Call

Present: Charles McGlashan, County of Marin, Chair
Shawn Marshall, City of Mill Valley, Vice-Chair
Richard Collins, Town of Tiburon
Tom Cromwell, City of Belvedere
Barbara Heller, Alternate, City of San Rafael
Christopher Martin, Town of Ross
Lew Tremaine, Town of Fairfax
Barbara Thornton, Town of San Anselmo

Absent: Damon Connolly, City of San Rafael
Jonathan Leone, City of Sausalito

Staff: Dawn Weisz, MEA Interim Executive Director
Greg Stepanicich, General Counsel
Jamie Tuckey, MEA Project Coordinator
Jessica Woods, Recording Secretary
John Dalessi, Technical Consultation
Kirby Dusel, Technical Consultation

1. Public Open Time

Women's Energy Matters (WEM) representative discussed a meeting that occurred on the 28th of July. Two individuals from Novato discussed PG&E's energy efficient programs and projects being offered to Novato, and several complained to the California Public Utility Commission (CPUC) about PG&E's ongoing behavior towards communities pursuing CCA.

Marin Municipal Water District (MMWD) representative discussed PG&E's petition for the proposed ballot measure, "The Taxpayers Right to Vote Initiative", which could impact public energy programs.

Marin United Taxpayers representative opposed Marin Clean Energy (MCE) and did not support the creation of more bureaucratic controversy.

Director Tremaine discussed the petition being circulated by PG&E and the following resolution, approved by the Town of Fairfax *"a Resolution of the Town Council of the Town of Fairfax opposing the proposed California constitutional amendment ballot measure misleadingly referred to as the taxpayers right to vote."* He further encouraged all communities to do the same.

2. Interim Director's Report

Interim Director Weisz reported on the following items.

- The Taxpayer's Right to Vote Act – Under the proposed measure, local governments that plan to start selling electricity would first need a two-thirds vote of approval from their residents if the plans required public financing. Existing public-power utilities would need a two-thirds vote of approval before they could expand outside of their current borders. The measure is scheduled to appear on the June 2010 ballot.
- Town of Fairfax Resolution in opposition to “*Taxpayers Right to Vote Act.*” A similar letter will be brought to the Board next month.
- Major new solar bills opposed by PG&E:
 - AB 560 would increase the cap on net-metering and would quadruple that cap to 10%. A draft letter of support will be brought before the Board in October.
 - AB 920 would change the way customers with solar installations are paid for surplus power. The Board may want to consider a letter of support for this as well.
- Grants:
 - Stage 1 of the California Energy Commission (CEC) PIER Grant was submitted in June and passed the Stage 1 evaluation. Stage 2 documents will be submitted in September.
 - DOE (Department of Energy) 36 – Regional Demonstration Projects – Focus on smart grid and smart customer installation in Marin to achieve greater energy efficiency. (Submitted in August)
 - DOE (Department of Energy) 122 – Renewable Energy Project – Focus on renewable energy such as solar shade structure and Renewable Energy Financing Districts. (Submitted in August)

Director Martin asked staff if PG&E took a position on AB 560 or AB 920. Interim Director Weisz noted that PG&E opposed both bills.

Chair McGlashan asked staff whether CCA is allowed to pay credits beyond net-metering. Interim Director Weisz agreed to report back findings when available.

3. Consent Calendar: Approval of Minutes from Regular MEA Meeting on 7-23-09

M/s, Thornton/Marshall, (passed 8-0-2) to approve the minutes from the regular MEA meeting on July 23, 2009 subject to confirmation of the amendment. Connolly/Leone absent.

4. Response to RFP and process

Interim Director Weisz reported that twelve bids were submitted in response to MEA's Request for Proposals (RFP) for full requirements energy, renewable energy and resource adequacy capacity to serve Marin's retail customers that participate in MEA's MCE

program. A draft contract will be negotiated with selected providers between August and November. The Board and councils of the 9 member jurisdictions will then have 90 days to review the contract before it is submitted to the CPUC for approval in early 2010. Staff discussed the draft schedule for the energy procurement contract approval. All dates and schedules set forth are subject to change due to postponements, delays or deferrals, at which time the dates will be extended accordingly. The following is a comprehensive list of the bid respondents:

1. BP Energy Company
2. Cleantech America, Inc
3. Constellation Commodities Group
4. Energy-Able
5. Kamehameha Environmental, LLC
6. LightBeam Energy
7. Local Power Works
8. Macquarie-Cook Power
9. Next Era Energy Resources
10. Northern California Power Agency
11. Power Choice, LLC
12. Shell Energy North America

Alternate Director Heller asked staff if the towns that have not joined the authority will be included in the loop out to councils during the 90 day review period. Interim Director Weisz explained that due to the short time-frame staff will not proactively be doing so, but would be happy to if there is an interest from these jurisdictions. Alternate Director Heller suggested video taping the sessions in order to send the link out for all to view. The Board and staff agreed.

Director Cromwell clarified with staff that the member jurisdiction opt-out option would occur during the 90 day review process. Interim Director Weisz responded in the affirmative. Staff also explained that it would take several months to launch the program after contract approval and during and after that period customers would be notified of the opt-out opportunity.

Interim Director Weisz indicated that the Ad Hoc Contract Committee will review the list of bid respondents and provide its recommendation for a short-list to the Board in September. Chair McGlashan clarified that the short-list could contain project-based or full requirement bidders, based on discretion of the Board at the September 3rd meeting. Interim Director Weisz responded in the affirmative.

Navigant Consultant Dalessi summarized the results of the RFP with a PowerPoint presentation that included the following:

- Background & Overview;
- RFP Response & Administrative Screening;
- Administrative Screening Results;
- Full Requirements Responses;
- Energy Suppliers;

- Indicative Price Comparison;
- Light Green Power Cost Bids;
- Comparative Cost Bids;
- Conclusions; and,
- Upcoming Schedule

Director Cromwell asked if the top three respondents are capable of reliably providing full requirements electric power supply and operational services of a CCA program unaccompanied by other respondents. Dalessi responded that they are capable of doing so, but that implementing local projects like solar rooftops may not be their normal course of business. Chair McGlashan clarified that if they did a full requirements contract with only the top three respondents that over time they could use the substitution clause concept to bring in other suppliers. Dalessi responded in the affirmative.

Director Tremaine asked if the numbers represented in the Price Comparisons were for Tier 1 costs. Navigant Consultant Dalessi responded that it is an overall average cost.

Vice-Chair Marshall clarified that in this chart there is a direct comparison to PG&E. Navigant Consultant Dalessi pointed out that estimated average costs included in the upper and lower tiers. Vice-Chair Marshall recommended that the consultant explain the calculations of the average and/or the tier breakdown. Navigant Consultant agreed to do it in hypothetical scenarios.

Chair McGlashan declared the hearing open to receive public testimony.

Marin resident believed the proposed CCA program represents an opportunity for political influence and inappropriate behavior. He further objected to decisions which could be made without adequate time and consideration.

There being no further public testimony on this item, the Chair closed the hearing and brought the matter back to the Board for action.

M/s, Tremaine/Thornton, (passed 7-0-2) to approve the MEA Draft Schedule for the Energy Procurement Contract Approval. Connolly/Leone absent.

5. Discussion of Bid Review Criteria

Interim Director Weisz summarized the staff report and provided the Board with MEA's Bid Review Criteria which included proposal requirements and evaluation criteria for their review. Staff noted that MEA reserves the right to consider other factors than those specified within the document and also reserves the right to request additional information from respondents, as needed, to assist in selecting proposals for further consideration. Through the issuance of this RFP, MEA makes no commitment to any bidder that it will be awarded a contract to provide solicited services. MEA also reserves the right to discontinue this RFP process at any time for any reason.

Director Tremaine believed the report from Navigant was a conservative overview of the applicants and bidders. He hopes the Ad Hoc Technical Committee will have an open mind in terms of evaluating more “out of the box” thinking. The full-requirements energy bidders seem like the safe way to go and while he may not personally be interested in the safe route, he understands the political realities. He agreed with the speaker that, “shotgun marriages” are not happy arrangements. He feels the Board must not force the people doing the local or energy efficiency work to partner closely with energy providers. He desired more direct input to those folks instead of communicating through the full requirements energy provider in order to have more control over what is happening.

Chair McGlashan declared the hearing open to receive public testimony.

Marin resident asked the Board to vacate the proposal requirements.

WEM representative discussed “Confessions of a Power Trust,” which is a compilation of over 47 volumes of the energy trade commissions.

Sausalito resident identified a potential conflict of interest when energy providers are asked to conduct energy efficiency activities. In addition, he suggested looking at real incentives to provide alternative energy. As a homeowner, he is the only one that benefits from energy efficiency, not PG&E.

Marin resident believed the Board must be very careful that PG&E doesn’t knock MEA down. Chair McGlashan pointed out that the Board is not criticizing PG&E.

There being no further public testimony on this item, the Chair closed the hearing and brought the matter back to the Board for discussion.

Interim Director Weisz responded to comments and clarified that Agenda Item #5 is an informal item only to discuss the evaluation criteria. The Ad Hoc Committee will explore this further and the Board will be able to take action at the September meeting on the short list.

Vice-Chair Marshall noted that there was discussion at the Executive Committee meeting about ranking criteria and asked staff if the ranking criteria will be discussed at the September meeting. Interim Director Weisz indicated that staff has not determined whether or not they will rank the evaluation criteria. It is currently being reviewed, and if they decide to do so, it would be brought to the Board on September 3rd.

Director Tremaine discussed the term “*operational experience*” and asked what is being considered. Navigant Consultant Dusel explained that direct experience, serving load in the State of California, scheduling, and coordination of services is what is considered “operational experience”. Navigant Consultant Dalessi added that operational experience requires energy suppliers to procure energy and to make sure it gets to their customers.

An entity that has experience with California's unique rules and protocols and engaging in functions and activities required to provide service to MEA is desired. Director Collins asked how that type of experience is quantified. Navigant Consultant Dalessi responded that the most objective way to quantify this experience is through references, the firm's customer list and talking to customers that they serve or have served. He further believed that verification would be uncomplicated and noted that he would be present during the interviews with bid respondents.

Chair McGlashan considers operational experience to be key. Ultimately, the Board must go back to their colleagues and council members to explain that the provider or providers can deliver a load responsive to their consumption curve.

Director Cromwell pointed out that Navigant Consultant and Interim Director Weisz's expertise is needed. Chair McGlashan agreed and is extraordinarily impressed with the wealth of knowledge and amount of support received from incredibly sharp individuals.

6. Consider appointment of Ad Hoc Contract Review Committee

Vice-Chair Marshall confirmed with staff that all information contained within the bids is confidential. General Counsel Stepanicich further clarified that the information shall remain confidential until a contract is before the Board, at which time it may become public.

Chair McGlashan asked staff if the Board needs to sign confidentiality agreements. General Counsel Stepanicich explained that the concern is outside of the MEA itself. Unless the Board so desired, it is not necessary to have confidentiality agreements signed by the Board members.

Chair McGlashan proposed that Directors Collins, Connolly, Thornton, and himself serve on the Ad Hoc Contract Review Committee.

Chair McGlashan declared the hearing open to receive public testimony, and seeing no one wishing to speak, the Chair closed the hearing and brought the matter back to the Board for action.

Chair McGlashan asked for a motion.

M/s, Tremaine/Marshall, (passed 7-0-2), to form an Ad Hoc Contract Review Committee that included Chair McGlashan and Directors Collins, Connolly, and Thornton. Connolly/Leone absent.

7. Revised Contract with Nixon Peabody

Project Coordinator Tuckey summarized the staff report and recommended that the Board authorize the Director to execute the revised agreement with Nixon Peabody. Contractor's fees for professional services under this agreement are as follows.

- Partner, Senior Council, and Council \$570/hr
- Associates \$475/hr

- Howard Golub & Travis Gibbs \$495/hr
- Robert Stroh \$425/hr

In addition to fees for professional services, described above, contractor's fees shall include reasonable and necessary charges for photocopying, messenger and delivery service, travel, long-distance telephone and telecopy, word processing, computer research, and search and filing fees, and other fees and charges in accordance with the attached Policy. All such charges shall be billed monthly and shall be paid within 30 days of presentation to MEA.

Interim Director Weisz looked at comparable legal services and the \$475 rate was an average, so they worked to get as close to that as possible. There is specialized expertise needed in the development of a CCA program, specifically in regards to contract negotiation, which provides some rationale for having slightly higher fees. Staff believed the proposed rates offered are fair. The three legal consultants listed by name have the necessary expertise, so having their rates coming in lower than overall Partner, Senior Council and Council rate is a benefit. Staff noted that \$425 to \$600 is the range and pointed out that the standard rate for Travis Gibbs is around \$850/hr, making obvious the discount provided to MEA.

Director Martin recommended that staff track the invoices to make sure they stay within budget. Staff agreed.

Chair McGlashan declared the hearing open to receive public testimony.

WEM representative discussed "*Intervenor Compensation*" rates for the Board's consideration. She explained that utilities are required to publicly provide e rates for all attorneys, expert witness and consultants and a full chart with exact information is available from PG&E.

Mill Valley resident recommended that the Board consider Chadman & Parke. They are highly qualified in renewable energy and worthy of exploration.

There being no further public testimony on this item, the Chair closed the hearing and brought the matter back to the Board for action.

Chair McGlashan asked for a motion.

M/s, Tremaine/Thornton, (passed 7-0-2), to authorize the Director to execute the revised agreement with Nixon Peabody. Connolly/Leone absent.

8. Board Member & Staff Matters – None

9. Adjournment

By order of the Chair, the meeting adjourned at 8:36pm.

ATTEST:

Charles McGlashan, Chair

Dawn Weisz, Interim Director