



Agenda

INTERNAL OPERATIONS COMMITTEE

March 9, 2015

2:30 P.M.

651 Pine Street, Room 101, Martinez

Supervisor Karen Mitchoff, Chair

Supervisor John Gioia, Vice Chair

Agenda Items:

Items may be taken out of order based on the business of the day and preference of the Committee

Present: Karen Mitchoff, Chair; John Gioia, Vice Chair

Staff Present: Julie DiMaggio Enea, Staff

Attendees: Jason Crapo, County Building Official
Kate Bieker, Contra Costa Superior Court
Keith Freitas, Airports Manager
Cynthia Belon, Behavior Health Director
Warren Hayes, Health Services Dept.
Jamar Stamps, DCD
Lindy Lavender, District IV Supervisor's Office
Jill Ray, District II Supervisor's Office
Maurice Gunderson
Charles Kreling
Charles Madison
Candace Pereira
Patricia Mantelli Bristow
Stan Baraghin
Connie Spears
Janet Marshall Wilson
Tom Weber, Aviation Advisory Cte
Tyra Wright, CC Assoc of Realtors
Carla Weston, CC Assoc of Realtors
Nick Solis, CC Assoc of Realtors
Fred Weston, CC Assoc of Realtors
Lauren Rettagliata, Mental Health Commission
Theresa Pasquini, Mental Health Commission
Matt Turville, Del Sol Energy
Robert Rogers, District I Supervisor's Office
Heather Schiffman, CC Assoc of Realtors
Lea Bristol, District IV Supervisor's Office
Sharon Madison
Jonathan Kevles, CA First Program Administrator
Eva Perez, HERO Program

Steve Padburg, Solar Universe
Brandon Wilkers
Josh Aldrich, Del Sol Energy

1. Introductions
2. Public comment on any item under the jurisdiction of the Committee and not on this agenda (speakers may be limited to three minutes).

No public comment was offered.

- a. CONSIDER approving Record of Action for the February 9, 2015 IOC Meeting, as posted on the County Website.

The Record of Action for the February 9, 2015 Internal Operations Committee meeting, attached hereto, was approved as published on the County website.

AYE: Chair Karen Mitchoff, Vice Chair John Gioia
Passed

Attachments:

IOC Record of Action for 2/9/15

3. APPROVE nomination of Patricia Mantelli Bristow (Byron) to the County seat on the Contra Costa Transportation Authority Citizens Advisory Committee to a four-year term ending on March 31, 2019.

The Committee approved the nomination of Patricia Mantelli Bristow to the County seat on the Contra Costa Transportation Authority Citizens Advisory Committee to a four-year term ending on March 31, 2019 and directed staff to forward the Committee's recommendation to the Board of Supervisors.

AYE: Chair Karen Mitchoff, Vice Chair John Gioia
Passed

Attachments:

DCD Recruitment Material for CCTA CAC

Candidate Application_CCTACAC_Patricia Mantelli Bristow

4. INTERVIEW four candidates and DETERMINE nomination for the At Large #1 seat on the Aviation Advisory Committee, for a three-year term ending on February 28, 2018.

Candidates Elizabeth Clough and Gary Olsen did not appear for the interview. The Committee interviewed candidates Maurice Gunderson and Charles Kreling, and decided to recommend the appointment of Maurice Gunderson to the At Large #1 seat on the Aviation Advisory Committee to a three-year term ending on February 28, 2018, and directed staff to forward its recommendation to the Board of Supervisors.

AYE: Chair Karen Mitchoff, Vice Chair John Gioia
Passed

Attachments:

Candidate Application_Elizabeth Clough_AAC
Candidate Application_Maurice Gunderson_AAC
Candidate Application_Charles Kreling_AAC
Resume_Charles Kreling
Candidate Application_Gary Olsen_AAC

5. The potentially significant environmental and economic benefits of PACE financing suggest the County may want to consider participating in such programs. However, ongoing efforts by FHFA to discourage mortgage lending on residential properties with PACE loans requires that the County act prudently in considering the formation and operation of PACE financing districts.

Should the Board decide to permit PACE financing within the county unincorporated area, each proposal to form a PACE district should be evaluated by County staff to ensure the benefits of PACE financing can be made available while also protecting the interests of the County and the public. Factors such as a PACE program's participation in the State's Loss Reserve Program, disclosure of potential negative impacts to participating property owners resulting from federal regulatory action, and agreement to release the County from liability associated with operation of the program should all be considered as preferred program elements.

To this end, we recommend that entities interested in forming PACE financing districts within the unincorporated area of the county submit an application with their proposal to the Department of Conservation and Development (DCD), which will serve as the central point of contact for applicants and would work closely with other County departments, including County Counsel, the County Auditor-Controller and the County Treasurer Tax-Collector, in the review of applications. Following a satisfactory review of application materials, staff would proceed to develop contracts with program providers to operate PACE programs within the county. Such contracts would be developed in consultation with County Counsel and would include terms requiring that program providers participate in the State's PACE Loss Reserve Program, disclose potential mortgage risk to borrowers resulting from federal regulatory actions, and indemnify the County from claims that may arise from operation of PACE programs within the county. Other conditions may also apply based on staff review of application materials. Following successful negotiation of contracts with PACE providers, staff would submit such contracts to the Board of Supervisors for consideration.

DCD proposes to collect an initial deposit of \$5,000 from each applicant to pay for County staff time and other costs incurred by the County to review an application. Staff may seek additional reimbursement of application processing costs from program providers if such costs exceed the initial \$5,000 application fee deposit. Any portion of the deposit not spent will be returned to the applicant at the conclusion of the application process.

Jason Crapo presented the staff report and concluded that should the Committee and the Board decide to proceed with PACE, then staff recommends contractual agreements that include the following risk mitigation provisions: (1) a requirement to participate in the State's PACE Loss Reserve Program, (2) a requirement that the program disclose to property owners potential financial risks associated with PACE financing, and (3) a requirement that the PACE provider indemnify the County for potential legal claims resulting from the program. Jason noted that the larger PACE providers already comply with these requirements in other jurisdictions.

Supervisor Gioia commented that the PACE programs are voluntary and one of many financing options available to consumers, and that it is important to give residents of the county unincorporated area (est. 50,000-60,000 households) the same opportunities as other county residents. He noted that San Diego County, which is reputed to be fiscally conservative, was comfortable with implementing PACE with California First, HERO, and Fig Tree because there were adequate consumer disclosures. He added that there have been no draws to date from the State's loan loss reserve and that the loan loss reserve program incorporates some underwriting standards. The challenge is to implement a program that ensures that people get proper information when they are making their choices about financing.

Nick Solis commented that FHFA does 90%+ of mortgage lending and, from a real estate practitioner's point of view, there are weaknesses in the PACE programs. He said that none of the risk mitigations under consideration change the fact that a PACE lien takes senior position on the tax bill (the basis for FHFA's objection). He said that the FHFA's warnings that the State's PACE loan loss reserve was inadequate should be taken seriously. He said realtors and lenders "don't know that they don't know" -- that due to time lapse between approval of a PACE lien and the appearance of a PACE lien on tax or title documents, lenders aren't always aware of the existence of a PACE encumbrance when a loan is approved.

Carla Weston commented that PACE is still relatively new and that problems are only now beginning to emerge in counties that were in the forefront of PACE, such as Riverside County. She expressed concern over aggressive marketing or "trolling" to seniors, who may not understand the nuances of PACE financing and may not be in their homes long enough to recoup any of the costs.

Tyra Wright suggested that homeowners of properties with PACE encumbrances should be required to sign indicating that the homeowner is aware of the risks (FHFA) and that proper disclosures will be made to buyers and mortgage lenders.

Jason Crapo clarified for Jonathan Kevles that he is not recommending an competitive RFP (Request for Proposals) process to implement a County PACE program in which only one program is selected but, rather, that the County would receive all applications and evaluate each application on its own merits. He anticipated having multiple PACE providers operating in the County if the Board decided to implement PACE.

David McCord of the Sierra Club spoke in favor of PACE. Steve Padburg of Solar America commented that homeowners want to match the asset life with the financing method. He added that PACE was not just about solar panels but other types of energy and water improvements to reduce energy consumption. His company has added four staff to meet consumer demand.

Eve Perez commented that HERO has over 90% of all PACE projects, estimated at 27,000 projects valued at \$525 million. She stated that of the 2,033 PACE lien holders who sold or refinanced their properties: 55% of those who sold their property successfully transferred the PACE lien to the buyer and 85% of refinances transacted successfully with the PACE lien, despite the FHFA warnings.

Matt Turville commented in favor of PACE and stated that his Brentwood-based solar energy company that operates statewide has hired 14 new employees to meet consumer demand.

Supervisor Gioia commented that PACE will eventually become systemized and with evolution, the County can develop educational materials to inform consumers about opportunities and risks. Heather Schiffman requested that the County put all disclosures about FHFA policies and their potential impacts to PACE borrowers on the County's website to help people understand the risks.

Jason Crapo commented that should PACE continue to prosper, more companies will enter the market and programs may change over time. Consequently, he recommended the use of operating contracts that specify the County's requirements anticipating new entrants into the future market, ensuring the County's requirements are met as long as a program is operating in the county.

Supervisor Mitchoff directed staff to prepare a plan of implementation for recommendation to the Board of Supervisors ideally by the end of April (last April Board meeting is April 21) or as soon as possible thereafter. Staff is to outline a structure and process modeled on Sonoma County and using the contractual agreement and risk mitigation measures recommended in the staff report.

AYE: Chair Karen Mitchoff, Vice Chair John Gioia

Passed

Attachments:

Attachment A FHFA Statement

Attachment B Fannie Mae Statement

Attachment C Program Summary

Attachment D Letter to Gov. Brown

Attachment E_FHFA Letter to Santa Clara County Counsel

Attachment F_SolarCity news article 10-8-14

Attachment G EMPower Program

Attachment H_Suspension of Fees for CA PACE Loss Reserve

Attachment I_Public Comment from Renewable Funding_November 2014

Attachment J_Pace Industry Response to IOC Request for PACE Information

Attachment K_CC Assoc of Realtors Response to IOC Request for PACE Information

Attachment L_Email to Bob Campbell re Pace Loss Reserve

Attachment M_Survey on CA Counties re PACE

Attachment N_San Diego County PACE Implementation

Attachment O_Diablo Solar Svcs Ltr of Support for PACE

6. The IOC review the above information and analysis and request the County to clarify the following respective roles pertaining to the MHSA budget process:
 - a. The Board of Supervisors approves the MHSA Three Year Program and Expenditure Plan and yearly Plan Updates.
 - b. The County Administrator's Office provides recommendations to the Board of Supervisors regarding the MHSA Three Year Plan and Updates prepared by the Health Services Department.
 - c. The Mental Health Commission reviews the adopted MHSA Three Year Plan or Update, and makes recommendations to the Behavioral Health Services Director for any revisions. The Mental Health Commission also monitors the implementation of the MHSA Three Year Plan or Update through Program Review reports and monthly Finance Reports as part of its review and evaluation of the community's mental health needs, services facilities, and special problems, and reports to the Board of Supervisors.
 - d. The Consolidated Planning Advisory Workgroup advises the Behavioral Health Services Director regarding prioritized service needs and strategies to meet these needs, and assists the County to implement a comprehensive community program planning process in order to ensure active participation by the community in public mental health planning and evaluation efforts.
 - e. All bodies commissioned by the County to support the above efforts are to abide by the letter and/or intent of the Brown Act to identify and mitigate any potential conflict of interest pertaining to recommendations regarding use of public resources, to include MHSA funds.

Staff framed the issue as "is CPAW functioning effectively or is there a need to have CPAW function differently?"

Supervisor Mitchoff commented that while CPAW is advisory to the Behavioral Health Director and not subject to the Brown Act/Better Government Ordinance, she would like to establish a requirement that CPAW operate in accordance with the Brown Act/Better Government Ordinance. She noted the criticism about the membership of CPAW being weighted towards contractors and service providers, but verified that the actual composition of CPAW is balanced between consumers/family members and services providers.

Warren Hayes clarified that while one or two CPAW members may happen to be members of NAMI, no seats are designated specifically for NAMI. He said that the stakeholders are defined in statute and, based on the stakeholder requirements, 35 seats are currently authorized, of which 22 are currently filled.

Supervisor Mitchoff suggested that the number of seats could be reduced. She asked staff to provide list and number of stakeholder categories so that the IOC can determine the appropriate composition of CPAW at a future IOC meeting.

Theresa Pasquini commented that CPAW was originally formed by combining several other stakeholder groups, which operated more formally than CPAW. The MHC operates in conformance with the Brown Act/ BGO and has two representatives on CPAW. There has been some territorialism between the MHC and CPAW. Some consumer members struggle with the formal process. She said that a goal in this review should be to minimize redundancy between the MHC and CPAW so that members would not have to attend so many meetings.

Lauren Rettagliata commented that 35 is too many people on CPAW and she supports reducing the committee size. She reported that the three-hour meetings are too long and unfocused.

Sharon Madison commented that the CPAW meetings were open to the public but said that at the meeting she attended, committee members were disrespectful to the public when they commented and the paid moderator did not effectively control the meeting. That experience made her concerned about transparency, effectiveness and oversight.

Candace Pereira thinks that the changes to CPAW that IOC is contemplating should adequately address the weaknesses. She commented that some CPAW members serve on the executive committee and multiple subcommittees, and so the same voice is being repeated in every venue instead of many stakeholder voices.

Kate Bieker commented that the Superior Court is a stakeholder and would like to participate in the County's planning and implementation of Laura's Law.

Janet Marshall spoke in support of having CPAW operate under the Brown Act/BGO. She expressed concern about how consumers receive and process complex information and provide written public comment, attached hereto. Supervisor Mitchoff concurred that consumer advocates are needed.

Charles Madison clarified that currently only one member of CPAW is a member of NAMI. He felt that other counties' models should be considered, with the goal that all stakeholders should be represented.

Douglas Dunn offered some recommendations on changes to the CPAW structure: prohibit multiple membership designations per individual, limit the number services contractors and Behavioral Health staff, break up the current Steering and Membership Subcommittees to open up the process.

Supervisor Mitchoff requested staff's recommendations for alternate models at a future IOC meeting. Cynthia Belon indicated that she is open to reconstituting CPAW and reviewing other models; and that this is an opportune time to make other kinds of changes to improve how CPAW functions. Supervisor Mitchoff asked Behavioral Health staff to report back to IOC in 60 days with its findings and recommendations on how to reconstitute CPAW.

AYE: Chair Karen Mitchoff, Vice Chair John Gioia
Passed

Attachments:

Board Order Referral_MHSA

Public Comment Submitted at Meeting

Synopsis of CPAW (Consolidated Planning Advisory Workgroup)

7. The next meeting is currently scheduled for April 13, 2015.

8. Adjourn

The Chair adjourned the meeting at 4:10 p.m.

The Internal Operations Committee will provide reasonable accommodations for persons with disabilities planning to attend Internal Operations Committee meetings. Contact the staff person listed below at least 72 hours before the meeting.

Any disclosable public records related to an open session item on a regular meeting agenda and distributed by the County to a majority of members of the Internal Operations Committee less than 96 hours prior to that meeting are available for public inspection at 651 Pine Street, 10th floor, during normal business hours.

Public comment may be submitted via electronic mail on agenda items at least one full work day prior to the published meeting time.

For Additional Information Contact:

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