



CASTRO VALLEY

MUNICIPAL _____

ADVISORY Advisory to Supervisor Nate Miley, 4th District

COUNCIL 224 W. Winton Avenue, Suite 111, Hayward, CA 94544 (510) 670-5400 FAX (510) 785-8793

GENERAL PURPOSE MEETING

Monday, June 15, 2015

6:00 p.m.

Council members present: Marc Crawford; Chair, Cheryl Miraglia; Vice Chair, Dave Sadoff, Sheila Cunha, Chuck Moore, Janet Everson

Location: Castro Valley Library – 3600 Norbridge Avenue, Castro Valley, CA 94646

Minutes

PUBLIC COMMENT

Bob Feinbaum, Castro Valley resident, encouraged attendees at the meeting to fill out a protest form to protest the LAFCO process of annexation of the Castro Valley Canyonlands into the Castro Valley Sanitation District. Mr. Feinbaum stated that he would provide protest forms for those who need them after the meeting.

I. **Approval of Minutes** - May 2015

A motion was made by Dave Sadoff and seconded by Sheila Cunha that the minutes of May 18, 2015, be accepted as submitted.

Motion passed 6/0.

II. **Reconsideration of the Scope of the Notifications of Residents Affected by the Watercourse Protection Ordinance Revisions**

Marc Crawford stated that this item is before the Council tonight based on a discussion among the Council about the scope of notifications of residents regarding the Watercourse Protection Ordinance (WPO). In addition, he stated that he was agreeable to use the database of residents in the Canyonlands, as they are most affected by the ordinance, for notification of residents.

Cheryl Miraglia stated that she would like to see more notification of all residents affected by the creeks, and not target one specific area. There have been a series of workshops over the last two years regarding the WPO.

Cheryl Miraglia read Howard Beckman's comments read into the record:

"At the May 18, 2015 MAC meeting, following the public comment portion of the Revisions to the Watercourse Protection Ordinance (WPO), the Chair remarked at length about the County's failure to notify individual property owners in the Canyonlands about the WPO revisions, making a case for individual notice to a selected area of Castro Valley. No motion was made on this item and public comment on this issue was not invited. The Chair asked County staff to look into the practicality of notice to property owners in the Canyonlands. This matter is now before you again, properly noticed with an opportunity to comment:

First, why is the issue of public notice being raised one year after the MAC took a series of workshops on the WPO? Those individuals on May 18, 2015 who complained that public notice about the MAC workshops was deficient are individuals who participated in those workshops. Why wait until the last minute to raise the issue? Second and more important all those who believe in fair play at public proceedings should be offended by the discriminatory and prejudicial effect of having the County notify a limited subset of property owners about the revision of the ordinance that has general applicability in the unincorporated areas of the County and general applicability throughout Castro Valley. The long-standing common law rule is that individual notice is not required for a proposed legislative act of general applicability. That idea is rooted in the practicality of government as well as principles of fair play and justice. I am a strong advocate of maximal information and education on public processes and issues as long as the outreach is conducted in a way that is impartial. Owners of property in the Canyonlands including some who have been involved in the lengthy and arduous process of revising the WPO, have waited until the last minute to not only raise questions of public notice but are now questioning the need for any revision at all or why the ordinance should apply to agricultural land, head waters in the San Lorenzo Creek Watershed. There should be no special notice to one sector of Castro Valley."

Cheryl Miraglia read Bruce King's comments read into the record: "I would like to affirm the comments of Howard Beckman's e-mail regarding the WPO. I would also note that the proposed WPO applies to all of unincorporated Alameda County and has applicability to all citizens in unincorporated Alameda County since it is a creek and watershed ordinance. So any discussion about public notice should be discussed in terms of all citizens of unincorporated Alameda County. There is no case for notifying individual property owners in Castro Valley or the unincorporated area."

Speakers

Rex Warren, Canyonlands property owner, has been involved in the process, the EPA handbook states to engage stakeholders. We want to get property owners involved. Get property owners notified. The County should have input from parcels along the creek. Notify property owners and how they will be affected.

Dan Davini stated that specific notification of property owners along the creek would be very beneficial. Mr. Davini has some issues with items in the revised ordinance.

Pat Sullivan stated that everyone along the creek should be notified, as written in County documents.

Uba Springborn is new resident to the Canyonlands and would avail to the Council regarding notifications.

Gayla Peak lives in Palomares Canyon, in the city of Hayward, however, the creek runs along her property and she feels she should be notified.

Bill Lepere, Assistant Agency Director, Public Works Agency stated that the WPO has no material effect, it clarifies types of streams however it has the same exemptions and same setbacks defined.

Liz McElligott, Assistant Agency Director, Community Development Agency, stated that while every single person has not been notified, there has been a lot of public outreach, e-mails sent and postings to websites regarding the WPO.

A motion was made by Chuck Moore to notify the approximately five hundred (500) residents in the Canyonlands, via postcard, about the WPO; Dave Sadoff added an amendment to the motion to post a notice in the Castro Valley Forum regarding the WPO, second by Janet Everson.

Motion passed 5/1

Crawford, Sadoff, Cunha, Moore, Everson: Ayes

Chery Miraglia: No

III. Update on the Onsite Wastewater Treatment System Permitting Program

Dilan Roe, Program Manager, Land Use OWTS Program, Environmental Health Department gave an oral presentation with hand-out material on On-Site Wastewater Treatment Systems (OWTS) or Septic systems.

The State Water Board On-site Wastewater Treatment Systems Policy became effective on May 13, 2013 and established a compliance deadline by which local agencies would either apply the OWTS Policy standards or prepare a Local Area Management Program (LAMP) in place by 2016.

The Environmental Health Department has conducted a series of meetings on this topic throughout the County for education and outreach to identify property owners who have OWTS systems.

Ms. Roe and her staff, Muhammed Khan and Hana AlBarazi answered questions from constituents regarding the OWTS and the Local Area Management Program (LAMP).

After Council discussion, Cheryl Miraglia made the following motion, seconded by Sheila Cunha:

Due to the impending deadline of the State's mandate on Wastewater Treatment and the importance of implementation of the policy, the Castro Valley Municipal Advisory Council respectfully recommends to the Board of Supervisor:

- 1) That additional staff be allocated to Environmental Health to specifically: **a)** address the current situation which is a serious problem in the County including taking inventory of existing septic systems and assessment of same; **b)** establish and work with Citizen's Advisory Councils to brainstorm about solutions; **c)** work with other agencies within the County on data sharing
- 2) Hire a consultant to formalize the LAMP
- 3) Bring on the Rural Communities Assistance Corporation to help with facilitation
- 4) Revisit where (with what agency) the Well Permitting process resides in Alameda County
- 5) Discuss who the local agency will be for the implementation of the State Groundwater Sustainability Act

- 6) Allocate funds or petition the State for fund for the mandate it is requiring, so those funds can be used for incentives or loans for people having to put in new systems, as well as to educate septic tank owners for the best ways to maintain and prolong the life of their tanks.

Motion passed 6/0.

IV. Proposed amendments to regulation 6, Rule 3: Wood-burning Devices

Wayne Kino, Director of Compliance and Enforcement, Bay Area Air Quality Management District, presented a PowerPoint presentation to notify the council and residents concerning proposed amendments to regulation 6, Rule 3: Wood-burning devices.

The Bay Area Air Quality Management District was established in 1955 to reduce health disparities due to air pollutants.

Goals of the proposed amendments

- Update and clarify Exemptions
- Adopt new EPA emission standards for new wood heaters
- Incorporate new heater technologies into the Rule
- Transition Bay Area to cleaner and more efficient heating devices

Proposed amendments

- Sole Source of Heat Exemption
- Winter Spare the Air Alert Forecasting
- Sale and Manufacturing of New Wood Heaters
- Real Estate Requirements
- Registration

Mr. Kino stated that the BAAQMD has had several workshops on the Rule 3: Wood-burning devices and has received over 1,000 public comments on the issue, with some good suggestions and also some opposition. BAAQMD are still receiving and welcomed public comment on the rule.

Speakers

Peter Rosen asked if the BAAQMD could consider adjustments and an appeal process, as he is unable to use his wood burning stove on Spare the Air days. Some Spare the Air Days are unnecessary.

Roy Peak asked several questions of Mr. Kino regarding the new regulations.

Art Walton asked Mr. Kino specific questions regarding the new regulations.

Gayle Peak stated that the central part of her home is the fireplace, and this issue could affect the property value of my home.

Dan Davini does not know exactly what the proposed rule changes, where is the codified set of rule changes? (There was not)

Rich Conway, County Administrator's Office, suggested that if BAAQMD truly wants the community's input there should be more outreach done and advertise the rule change as a ban on fireplaces so people will know what it is about.

After Council discussion, Cheryl Miraglia made the following motion, seconded by Sheila Cunha:

Since the Bay Area Quality Management Districts "Spare the Air Day" program has been so successful, the Castro Valley Municipal Advisory Council (CVMAC) believes that the program along with incentives is a better direction than the proposed amendments of Rule 3, and that such stringent and onerous regulation is not required.

The Castro Valley Municipal Advisory Council recommends that should the Bay Area Quality Management District choose to move forward that it:

- 1) Require staff to expand the public outreach to include more straight forward language and to do so through more types of media so that the larger general public is aware and not just those on e-mail lists, as too many people are not aware of the proposal
- 2) That more workshops be conducted at reasonable hours and in more locations throughout the County before any action is taken – such as at the CVMAC, where hopefully we will be able to give a final recommendation. Should BAAQMD further consider Rule 3, the CVMAC recommends that BAAQMD
 - a) Delete the real estate components
 - b) Delete the registration program or limit it to EPA devices only and no fees for registration
 - c) Use allocated funds (\$1 million) to develop incentive programs
 - d) Increase fines for wood burning on Spare the Air Days with no fines for first violations
 - e) Exempt registered certified EPA burning devices along with sole heat source households
 - f) Target only areas with highest wood smoke pollution with any more stringent requirements.

Motion passed 6/0.

V. Council & Staff Comments

None.

Adjourn

The meeting was adjourned to July 20, 2015.