



## Agenda Page 1 of 2

### Executive Committee Meeting Friday, October 5, 2018 12:00 P.M.

**Charles F. McGlashan Board Room**, 1125 Tamalpais Avenue, San Rafael, CA 94901  
**Mt. Diablo Room**, 2300 Clayton Road, Suite 1150, Concord, CA 94920

1. Roll Call/Quorum
2. Board Announcements (Discussion)
3. Public Open Time (Discussion)
4. Report from Chief Executive Officer (Discussion)
5. Consent Calendar (Discussion/Action)
  - C.1 Approval of 7.6.18 Meeting Minutes
  - C.2 Monthly Budget Update
  - C.3 Withdrawal of MCE Policy No. 005
6. Resolution No. 2018-08 Authorizing Delegation of Authority by CEO (Discussion/Action)
7. Establishing an Alternative Claims Procedure (Discussion/Action)
  - a. Proposing First Reading of Ordinance No. 2018-02 Establishing an Alternative Claims Procedure pursuant to Government Code Section 935
8. Employee Retention and Streamlining Human Resources Functions (Discussion/Action)
9. MCE Joint Powers Agreement and Land Use (Discussion)





MARIN COUNTY | NAPA COUNTY | UNINCORPORATED CONTRA COSTA COUNTY  
BENICIA | CONCORD | DANVILLE | EL CERRITO | LAFAYETTE | MARTINEZ | MORAGA  
OAKLEY | PINOLE | PITTSBURG | RICHMOND | SAN PABLO | SAN RAMON | WALNUT CREEK

## Agenda Page 2 of 2

10. Review Draft 10.18.18 Board Agenda (Discussion)
11. Committee Member & Staff Matters (Discussion)
12. Adjourn



Agenda material can be inspected at 1125 Tamalpais Avenue, San Rafael, CA 94901 on the Mission Avenue side of the building and at One Concord Center, 2300 Clayton Road, Concord, CA 94520 at the Clayton Road entrance. The meeting facilities are in accessible locations. If you are a person with a disability and require this document in an alternate format (example: Braille, Large Print, Audiotape, CD-ROM), you may request it by using the contact information below. If you require accommodation (example: ASL Interpreter, reader, note taker) to participate in any MCE program, service or activity, you may request an accommodation by calling (415) 464-6032 (voice) or 711 for the California Relay Service or by e-mail at [djackson@mceCleanEnergy.org](mailto:djackson@mceCleanEnergy.org) not less than **four work days** in advance of the event.

**From:** David Trotter <[david.trotter@dtrotterlaw.com](mailto:david.trotter@dtrotterlaw.com)>  
**Sent:** Thursday, December 14, 2017 11:18 AM  
**To:** 'Dawn Weisz' <[dweisz@mcecleanenergy.org](mailto:dweisz@mcecleanenergy.org)>  
**Cc:** 'Kymberleigh Korpus '  
**Subject:** FW: MCE, and the power to take property from Moraga residents by eminent domain  
**Importance:** High

Good morning, Dawn. As you will recall, Moraga Town Councilmember Kymberleigh Korpus has raised concerns about the eminent domain power of MCE which is referenced in the JPA Agreement. I am forwarding a slightly edited version of her e-mail below on that subject, with a request that MCE staff study the issue and bring it forward to the appropriate MCE committees and/or board for further discussion during the next 12 months. Thank you.

Regards,

Dave Trotter  
Mayor, Town of Moraga  
(925) 876-1503

**From:** Kymberleigh Korpus [<mailto:kkorpus@moraga.ca.us>]  
**Sent:** Thursday, December 14, 2017 10:14 AM  
**To:** [david.trotter@dtrotterlaw.com](mailto:david.trotter@dtrotterlaw.com)  
**Subject:** MCE, and the power to take property from Moraga residents by eminent domain  
**Importance:** High

Dave:

I have another concern that I'm hoping you can help me with: As you know, I am deeply concerned that the terms of the Marin Clean Energy Authority Joint Powers Agreement gives MCE the "all powers common to the Parties and such additional powers accorded to it by law," and authorizes MCE to "exercise all powers and do all acts necessary and proper to carry out the provisions of [the JPA Agreement] and fulfill [MCE's] purposes." This grant of powers is deeply concerning to the extent that it includes the authority and power of MCE to exercise in its own name the Town of Moraga's power to acquire real property in Town by eminent domain.

The JPA Agreement gives this power and authority to MCE in section 2.5.4. This is problematic because: (i) I do not think it served the best interests of the Town or the residents to give another outside agency any decision making power (or influence) on the question of what should or can be built in Moraga, and (ii) as currently drafted, the JPA Agreement doesn't even give the Moraga Town Council the right to veto any such exercise of the power of eminent domain against its citizens.

During our deliberations earlier this year as we tried to determine whether Moraga should join MCE, MCE strongly stated that it had no intent of exercise the power of eminent domain anywhere – much less in our town. That statement was not very reassuring to me, as organizations, policies, and plans all change over time. I want to make sure we provide adequate protections to our residents on this issue for now, and for the future, and when I expressed my concerns in this regard, the MCE representative

stated that MCE would be willing to consider amending the JPA Agreement to remove this power from its arsenal, because that kind of tactic was not part of its business plan.

Would you be willing to follow up on this and see if you could get the JPA Agreement amended so MCE no longer has the ability to exercise the power of eminent domain to take property from our residents and put it to use in generating renewable energy?

I would really appreciate any headway you can make into this issue.

*Kimberleigh*

**Kimberleigh N. Korpus**  
Town Councilwoman  
[kkorpus@moraga.ca.us](mailto:kkorpus@moraga.ca.us)

Town of Moraga  
329 Rheem Blvd.,  
Moraga, CA 94556  
(925) 388-6555  
[www.moraga.ca.us](http://www.moraga.ca.us)