

MINUTES OF MARCH 1, 2016

REGULAR MEETING
OF THE
CORTE MADERA TOWN COUNCIL

Mayor Bailey called the Regular Meeting to order in the Town Hall of the Town of Corte Madera on March 1, 2016 at 7:30 p.m.

1. ROLL CALL:

Councilmembers Present: Mayor Bailey, Vice Mayor Furst and Councilmembers Andrews, Condon and Lappert

Councilmembers Absent: None

Staff Present: Town Manager/Town Engineer David Bracken
Director of Planning and Building Adam Wolff
Assistant Town Attorney Judith Propp
Police Chief Todd Cusimano, CMPA
Captain Michael Norton, CMPA
Town Clerk/Assistant to the Town Manager Rebecca Vaughn

SALUTE TO THE FLAG: Mayor Bailey led in the Pledge of Allegiance.

2. PRESENTATION

- 2.1 Central Marin Police Authority 2015 Calls for Service and Traffic Report Presentation by Capt. Michael Norton and Lt. Hamid Khalili, Central Marin Police Authority

Captain Michael Norton gave a PowerPoint presentation highlighting CMPA's 2015 calls for service and traffic report which covers the three jurisdictions of San Anselmo, Corte Madera and Larkspur. He explained calls for service include everything police do and the top two areas are the Village and Town Center. They also get called for service at the high schools and other shopping centers. A large bulk of their work is traffic enforcement and stops, extra patrol and foot patrol and response to medical aid and alarms.

He presented a chart for CMPA calls for service, stating there are slightly less in Corte Madera, but the numbers increase for report-writing in Corte Madera due to the shopping centers and the Town's proximity to the highway and off-ramps.

Captain Norton then presented the following breakdown:

- The bulk of calls for service occur between 7AM and midnight.
- Higher numbers for calls for service relate to enforcement and report writing at the shopping centers, restaurants and areas near the highway on and off-ramps.
- Part 1 crimes are serious felonies and Part 2 crimes are everything else.
- There were no homicides in Corte Madera, but there were some rape crimes, robberies, residential burglaries, commercial burglaries, vehicle thefts, general thefts, DUI's and drug violations, fraud and identity theft.
- Corte Madera's reports increased from residents coming in the station and reporting a crime.
- Top 7 offenses in Corte Madera are auto burglaries, incident reports, commercial burglary, shoplifting, mental commitments, psychiatrics and grand theft.

Regarding traffic citations and collisions, Captain Norton presented the most cited locations, stating that off of Tamalpais and off of Tamal Vista there are 8 side streets that an officer might be called out; however, they are spread out evenly which he reviewed. He stated police do not do a lot of parking enforcement in Corte Madera, other than handicapped parking enforcements as compared to Larkspur and San Anselmo because there are no meters and zoning is different.

CMPA staffing has remained the same size but has reorganized staff a bit to focus on enforcement and have received a statewide grant for enforcement. Regarding collisions, the main area these occur are in parking lots.

He concluded by presenting the various collisions which include 242 hit and runs with no injury, city street accident names exchange such as fender benders, accident no injuries and accident injuries, private property names exchange, and DUI accidents, DUI accident with injury and hit and run with injury. He said traffic collisions are evenly spread between the 3 cities and the bulk of these occur during the day.

Vice Mayor Furst thanked Captain Norton and said she was astounded that more than 30% of collisions are hit and runs. She asked what occurs if the perpetrator is found.

Captain Norton said they can handle it as a crime or with elderly drivers, they might not be aware that they hit a car. In this instance they would exchange names and do a re-evaluation of a driver's test but they would try to help the other party get whole again if the perpetrator is found.

Mayor Bailey asked how numbers compared to last year's statistics.

Captain Norton said two years ago they had 103 calls per day on average and last year they had 102 calls for service. Some of their traffic enforcement numbers decreased a bit, but they are rising given staffing changes in the division which has made them stronger. They hope through this that collision numbers go down.

Mayor Bailey opened the public comment period.

PATI STOLIAR, Casa Buena Drive, said there is a perception that the crime rate is higher in some of the areas where affordable rental units are located and she asked if this is shown in statistics.

Captain Norton said their numbers do not distinguish between affordable versus market rate units. Their numbers show that the crime rate is higher along major arteries, whether it is Highway 101 or Sir Francis Drake Boulevard.

BOB BUNDY, Golden Hind Passage, asked how many vagrancy, disorderly conduct and public drunkenness crimes are related to homelessness. He also asked if this turns into a revolving door syndrome wherein the County intervenes and provides services.

Captain Norton said the County has been effective in providing services and officers are aware of those services. Like any crime, whether it is drug addiction, DUI or public drunkenness, there are some people who turn their lives around as well as always some with repetitiveness. There are also some middle and upper class people who also get arrested for the same crimes. When possible, police steer them toward resources.

Mayor Bailey thanked Captain Norton for his presentation and asked Councilmember Lappert to provide a brief fact regarding Corte Madera.

Councilmember Lappert said the Council is talking about efficiencies, possibly merging their paramedic and fire services, and he reviewed the history of this in Corte Madera. He read that in 1907 a prediction was made that Corte Madera would not incorporate, preferring to wait for the day when all Marin communities would form a single city. In fact, the Corte Madera Improvement Society put together and adopted a unanimously approved resolution in 1914 where Larkspur, Corte Madera and Kentfield should join and become one city. The resolution was passed in 1907 but never went anywhere. But, here Corte Madera is talking about the same thing 109 years later.

3. OPEN TIME FOR PUBLIC DISCUSSION

BOB BUNDY, Golden Hind Passage, said he attended the neighborhood disaster preparedness event last Saturday where the Fire Department and paramedics talked about

a cardiac arrest they responded to that morning. He spoke about how defibrillators have made a big difference in paramedic care. He received word that the victim was a good friend of his and went to Marin General Hospital, was in an induced coma for 36 hours, was brought out of it, spoke to his family and him and appears to be making a remarkably good recovery. He recognized the Fire Department paramedics for their great care and congratulated the Town for looking into sharing of services and consolidation and asked the Town to publicize this so the public can weigh in and provide feedback.

Councilmember Lappert stated that his paramedic son, Andrew Lappert, was involved in saving his life, stating that the Corte Madera Paramedic Department has the highest success rate of any jurisdiction in Marin County. Additionally, the Council and public should receive news about the Fire Department in the next week.

JIM BITTER, Mill Valley, thanked the Council for running for office and said on February 16th the Council considered the Climate Action Plan, and it would be helpful to tell residents what this is. He suggested the Council search for Agenda 21 and said there are funding ties close to Marin whereby the Marin Climate Energy Partnership gets some of their funding from ICLEI.

Mayor Bailey indicated that the Climate Action Plan is on the Council's Consent Calendar tonight but allowed Mr. Bitter to proceed with his comments.

Mr. Bitter continued stating that Councils really do not know the costs of implementing such a plan, has little time to address it, and suggested they know more given the Council approved a project like the Tamal Vista project.

KEITH HAGUE, Willow Avenue, said he and his wife moved to Corte Madera one year ago and live along the train tracks and bike path. About one week ago he put up a fence to protect his family the skunks, deer, raccoons, rats, dogs running into their yard and other animals. He learned the fence is not completely on his property line, although it appeared to him that a precedent had been set along the path. He said the fence he installed is very respectful of the bike path. The slope he is on is very steep and the fence is where the slope begins to drop off. He thought it was a good idea to install it for public safety purposes and hopes to be able to come to some compromise.

4. COUNCIL AND TOWN MANAGER REPORTS

- Town Manager Report

Town Manager Bracken gave the following report:

- He had previously attempted to work with Caltrans regarding runoff that comes off of the freeway at 1421 Casa Buena Drive which became an issue when they applied for their subdivision permit. He announced that Senior Engineer Patel spoke with Caltrans and today they programmed a repair and were out surveying with results for construction planned for next summer.
- The Bicycle and Pedestrian Plan is out for public viewing. It will be posted on the Town's website and the deadline to receive comments on it is April 1, 2016.
- A major project is coming up on Tamalpais Drive in the summertime which will include handicapped ramps, paving, slurry seal, rapid flashing beacons, enhanced crosswalks, accessible improvements to curbs, and reflective striping. In response to Vice Mayor Furst regarding room for bicyclists, Mr. Bracken said they will review this as well as parking along the area when striping is undertaken.
- The Town has two new Firefighter Paramedic employees; Reserve Robert Craft and Mark Layman.
- The Parks and Recreation Commission met last Monday and are reviewing rules and regulations for the Skate Park. The Town has had some minor confrontational issues there between older and younger skaters, and the department is looking at posting new rules and signage.
- Regarding Tam Ridge Residence, Ledcor Construction has been removed from the site and has withdrawn from the building permits as a building contractor of record. A replacement contractor has not been determined due to the legal process with a surety bond. Once that is resolved, the new contractor will be declared and brought

on to formally apply and take over building permits. The partners are actively working to get this resolved and get the new contractor on board. In the meantime, construction work is on hold. However, the developers are aggressively installing temporary weather resistant measures to keep structures dry.

- In response to Mayor Bailey, Mr. Bracken said the Tamal Ridge Residence project is approximately 85% to 90% complete.
- Regarding the fence installation on the railroad right-of-way, he will be in touch with Mr. Hague and thanked him for his comments.
- In follow-up to the Mayor's request last meeting, Mr. Bracken displayed curb ponding maps and provided the following update:
 - Curb ponding in Mariner Cove occurs because the subdivision was never properly constructed or had proper grades.
 - There is insufficient storm drainage, sea level rise, and ponding is also due to settlement.
 - Fixing them is a major task. In 2007 the Town conducted a drainage and flood control study that produced these maps and plans to fix it. It broke Mariner Cove up into 7 different tributary areas for drainage and each would need a pump station and storm drain improvements.
 - One area was fixed on the end of Golden Hind near the Cove School which costs \$1 million.
 - Another major improvement needed is a flood wall around San Clemente Creek which will cost about \$20 million.

Mayor Bailey said he had asked that these maps be brought forward to highlight what the Town has done, how funds have been spent and he thanked Mr. Bracken for the report.

- Director of Planning & Building Report on Tamal Vista East Corridor Study

Director of Planning & Building Adam Wolff gave the following report:

- Two additional outreach meetings were held at Book Passage with local residents of Chickasaw, Council Crest and Tamal Vista Boulevard. Good comments came out of the meetings and staff is in the process of gathering information and reporting back.
- On April 6th a workshop will be held at the Community Center at 6PM.
- He met with the Beautification Committee on February 24th which was a briefing and chance for informal feedback and comments.
- For anyone wanting to be added to the Tamal Vista Corridor Study email list, he asked that they email him at Awolff@tcmmail.org. Staff will prepare for a larger workshop and will keep the Council informed of updates.
- In response to Mayor Bailey, the Town is on track to have options presented before the moratorium expires.

- Council Reports

Councilmember Condon gave the following report:

- She reported on Chamber of Commerce activities:
 - She attended the Chamber of Commerce Board meeting today.
 - She reminded everybody that on March 30th the State of the Town Luncheon will be held at the Best Western. She asked people to contact the Chamber of Commerce at www.cortemadera.org or contact Julie at 924-0441.
 - In April the Chamber of Commerce will be holding its annual fundraising auction and it is open to anybody.
- The Centennial Committee has been working hard to get all of the activities in line. She asked people to calendar June 10-11-12 which is the Centennial Weekend 100. There are activities for all ages starting Friday evening through Sunday.
- The Central Marin Police Authority is partnering with Age-Friendly Corte Madera. They will go live with the *Are You Okay?* Program. Anyone 60 or over can get a daily call. After a third call without any answer, police will come to the house to check on seniors.
- CMPA has also offered their conference rooms to provide programs for seniors, are willing to provide an 11-passenger van to pick up seniors to the program, with the end goal to end isolation for seniors and those living alone.

- Councilmembers Andrews and Lappert and Vice Mayor Furst had no reports.

Mayor Bailey gave the following report:

- He attended a merger study input meeting on the merger between ABAG and MTC held immediately before the MCCMC meeting last week:
 - The idea is to propose and solicit input on a merge between local housing and transportation planning agencies. The topic has been controversial and the MCCMC meeting was fairly emotional and members pointed out their local needs should be taken into account.
 - A survey was distributed which is due on March 6th, and the Town was solicited to express an opinion from those who want to do the merger and those who are very much against it. After the meeting, he will send out information on the survey.
 - A follow-up meeting will be held on March 14 in Novato.
- He attended the MCCMC Legislative Committee:
 - He learned that the last day for new bills in California was February 19, 2016.
 - Brief reports were given by representatives including aides for Assemblymember Marc Levine and for Senator Mike McGuire, and when they are finalized, he will report back.
 - Senator McGuire's priorities included dealing with the marijuana tax issues and Assemblymember Levine's priorities included issues dealing with the CalPERS portfolio and investment and state infrastructure issues.
- He attended the Marin Clean Energy meeting on February 18, 2016:
 - New member Sashi McEntee from the City of Mill Valley was sworn in.
 - All rates for MCE customers will remain the same for 2016, but the actual amount on the bill customers pay on the bill will slightly increase.
 - One charge paid to MCE is to have purchased power which is from renewables. Part of the bill is for transmission of that electricity from purchased plants into homes and PG&E handles that part of it. PG&E then publishes those combined bills all at once.
 - The PG&E and MCE portions fluctuate slightly, but the additional surcharge is called the Power Charge Indifference Adjustment (PCIA) which is PG&E's way of capturing lost revenue from customers moving to CCAs. This charge went from \$4.50 to \$10.00 this year as well as increased PG&E rates.

5. CONSENT CALENDAR

Councilmember Andrews requested removal of Item 5.II.

- 5.I Waive Further Reading and Authorize Introduction and/or Adoption of Ordinances by Title Only. (Standard procedural action – no backup information provided)
- 5.III. Receive and File Investment Transactions Report for Month of November, 2015
(Report from George T. Warman, Jr., Director of Administrative Services/Town Treasurer)
- 5.IV. Receive and File Investment Transactions Report for Month of December, 2015
(Report from George T. Warman, Jr., Director of Administrative Services/Town Treasurer)
- 5.V. Acceptance of Annual Statement of Investment Policy
(Report from George T. Warman, Jr., Director of Administrative Services/Town Treasurer)
- 5.VI. Approve Warrants and Payroll for the Period 2/12/16 through 2/25/16: Warrant Check Numbers 213036 through 213105 Payroll Check Numbers 5131 through 5140. Payroll Direct Deposit Numbers 28874 through 28986. Payroll Wire Transfer Numbers 1970 through 1977 and Wire Transfer of

3/01/16.

(Report from George T. Warman, Jr., Director of Administrative Services/Town Treasurer)

MOTION: Moved by Lappert, seconded by Condon, and approved unanimously by the following vote: 5-0 (Ayes: Andrews, Condon, Furst, Lappert and Bailey; Noes: None)

To approve the Consent Calendar Items 5.I, 5.III, 5.IV, 5.V and 5.VI

Item Removed from the Consent Calendar:

5.II. Adoption of Final 2016 Climate Action Plan
(Report from Phil Boyle, Senior Planner)

Councilmember Andrews asked staff to display a series of slides and said he objects to the definition of climate change everybody is being forced to use and said an entire edifice has been built on that definition. It is contrary to what 20 years would have been the common sense definition of climate change. When talking about global warming, most people would say it is the increase in the average surface temperature. Another way to define it is the increase in temperature due to man-made activity. With climate change, it is the same thing. It could be the variation in climate or it could be the variation in climate solely due to human activity.

He presented the next slide which shows what the historical climate record looks like going back 18,000 years. It has fluctuated and most of this occurred before General Motors or Exxon. He then presented a slide showing the next 2,000 years and said people are concerned with warm temperatures, but the median warm period was one of the most prosperous times during the medieval period. When there is cold weather, this tends to collapse civilizations. The Ice Age occurred from 1400 to 1850 and this shows the fluctuations that have happened with just temperature.

The next slide shows civilizations occurred during the last global warming period. Therefore, global warming is not necessarily bad.

The next slide shows that anything related to the International Panel on Climate Change uses a definition for climate change. It is solely man-made activity. An analogy would be if Mr. Bundy and the Flood Board were instructed to analyze flooding, but they could only look at man-made sources. People would not have to worry about king tides, rain run-off and it would make planning for flooding much easier.

Therefore, his objection to the study is that it is fixated on man-made activity. He said he will not vote against it, but rather abstain. Additionally, he said when looking at the action items suggested in the study, they are good in that they increase the resilience to encourage people to use solar as a first step, but they do not go far enough and the technology is not there yet.

He explained that if someone puts in solar and the grid goes down, people are still sitting in a dark house. When there are adequate battery backups at an affordable cost, it will enable resilience throughout the community. In looking at electric power usage in California, it is 300 KW per annum of which 90,000 or one-third is imported from out of state. This means if they expect more extreme weather, people are dependent upon long power lines to deliver electricity throughout the state.

In terms of action items, he suggested continuing to encourage solar power but also suggested people start thinking about reconfigurations of wiring of houses for new construction.

Mayor Bailey opened the public comment period.

SHERYL LONGINATTI, Tamal Vista Boulevard, said she thinks Councilmember Andrew's comments are good information but it is like looking at the elephant and holding the tail

and not seeing the bigger picture. What people are really talking about are GHG emissions which have numerous impacts on the environment including ocean acidification which changes the pH in the ocean which will change the entire food chain. She thinks the Town should look at this more in a broad sense.

DAVID KUNHARDT, Hill Path, said he received a preview of the slides displayed and spent the last half hour at the Town of Yountville where they continued their Climate Action Plan and enhanced it, adding several new steps including some actual solar projects. He said he was very confused about why one would show 1991 and 1992 United Nations information and data because so much has changed over the last 25 years.

When jumping to the end point of the slides and advice, he completely agrees. It reminds him of what Governor Brown is doing now with other states and jurisdictions where he is taking the phrase "Climate Change" and setting it aside. The Governor wants to talk about the things people can do and talk about clean air, asthma, electrification of vehicles and getting rid of bad health effects. The reason that the UN focuses on things that are caused by humans is because these are things people can do something about and sea level rise is something people can do something about. It will rise thanks to additional carbon in the atmosphere which is directly caused by human activity and people will not slow it down or stop it.

He offered that at the next Lions Club Meeting on March 10th at 7:30 p.m. there will be a representative of Measure AA to discuss the \$12 parcel tax to make funding available for wetlands restoration in the Bay. Secondly, the Environmental Forum of Marin will hold a session at 7:00 p.m. on March 23rd on progress of renewable energy. He will be moderating, and there will be a physicist and a representation from the Post Carbon Institute to talk about real facts, progress, frustration and what can and cannot be done with renewable energy.

BOB BUNDY said if this is true it will make his job easier on the Flood Control Board. Following the precautionary principle, he asked what if scientists are right and the fact that CO₂ increases in the atmosphere where they are over 400 parts per million which has never been seen before. They have done core ice samples through ice age periods and CO₂ levels do not seem to reflect the warming trend. This seems to be something man-made. He suggested people should try to do something about their CO₂ emissions. Additionally, they are dealing with coal, gas and oil industries which will run out at some point. They have found ways to extract more with fracking which may or may not have environmental consequences, but this will run out at some point and alternative energy sources will be needed and will most likely be renewables.

He suggested adhering to some of the recommendations and hedging their bets going forward. Also, part of the problems involving Enron shorting the system and causing power blackouts was so they could make huge profits.

JIM BITTER, Mill Valley, said the Climate Action Plan is an important item and thinks residents of Corte Madera should have access to all information of the Marin Climate Energy Partnership. The Town is contracting with Ms. O'Rourke to prepare the plan and at the last meeting Councilmember Condon voiced concern with the language in the plan. She was concerned that the Town would be held liable for compliance. He suggested the Council tell the public what costs will be incurred based on the plan and he asked the Council to continue the item to another evening and notice it.

Vice Mayor Furst said she appreciates that each Councilmember comes to issues with their own points of view. She thanked Councilmember Andrews for putting together the slide show to explain his views; however, it is difficult for her to take some of this information seriously because she does not understand the sources. There may be times when it is appropriate for Councilmembers to provide their own slides, but she would generally like these put together by staff.

Also, if there are concerns regarding definitions of climate change or global warming she thinks it would be appropriate to ask staff to research it and arrive at what the appropriate definition is. She also thinks that she and Councilmember Andrews differ greatly in points

of view regarding climate change. She believes in the consensus of the overwhelming majority of scientists around the world, but regardless of Councilmember Andrews' personal point, the Climate Action Plan is a toolbox. It is a list of many things the Town, businesses and residents can do and projects they can undertake to lessen their carbon footprint.

She appreciates that Councilmember Andrews recognizes this is a series of tools for the Town they might consider in the future, and this is how she is looking at it. Mr. Bitter also spoke about costs and how the Town is undertaking a huge burden. What the Town is undertaking is adopting a document that provides many ideas. The Town is not obligated to pass all of the policies in the plan. The Council requested language to be added which is included in the final document tonight. The language makes it clear that the Town is under no obligation to adopt all of the policies included in the plan. The fiscal impacts are zero except for staff time which is minimal given that the Climate Partnership has covered much of the cost for preparing the document. Therefore, she thinks the plan is cost-efficient with many great ideas the Town can use.

She added that some of the things not included are future solar capabilities or a micro-grid, and possibly they will be included in future revised plans given growth in technologies and needs. Therefore, she thanked staff for making the changes to the document as the Council requested at the prior meeting and voiced her support for adoption of the plan.

Councilmember Andrews said the definition on the last page is the one used at the Paris Conference. He said they refer to the United Nations Framework Convention on Climate Change which was put together in 1992. When talking about climate change, it is a term of art and it only means man-made caused climate variations. When the Town is publishing documents about climate change it should make it clear in the document that this is what they mean.

He noted that in 1816 they had a "year without summer" due to a volcano eruption in Indonesia which caused famine in parts of Europe. Just prior to the Ice Age, it is believed that 3 or 4 volcanos erupted which caused the Ice Age. When asking the average person if they have an Ice Age whether that is climate change, they would say yes. By the plan's definition it would not be considered climate change and he thinks if the Town is publishing documents it should be very clear to say it is only man-made climate change.

Councilmember Andrews suggested that wherever in the document it states "climate change" it should be changed to "man-made climate change" because otherwise it is false and misleading.

Councilmember Lappert asked that the Town not tax staff with putting together reports for presentations and he thinks any Councilmember should have the opportunity to voice their concerns.

Councilmember Condon said she appreciates the information. She also has an aversion when hiring consultants but feels that the resolution with its insert about "the document is not intended to create specific or enforceable obligations by the Town" makes it such that it will not come back to bite the Town; that there are very good suggestions in the plan and for the most part, constituents are prudent about the use as opposed to the waste of energy. Therefore, she can see adopting the resolution and approving the plan because it provides a toolbox and also it is not something the Town will be bound to.

She said the trend today is to promote awareness of climate change and there has been a lot of talk in Sacramento that this component might be made into a requirement of a General Plan, so she believes the Town is one step ahead.

Vice Mayor Furst said her point is that she did not want to burden staff to create extra PowerPoint presentations, but there are certain issues where staff is in a better position to research and come to a conclusion about such as using a 1992 term or a California term to what is more appropriate.

Mayor Bailey pointed out that as stated at the last meeting, this is an aspirational document

and staff clarified in writing that it is not intended to create a specific and forceful obligation to the Town but it is a reference tool for possible future actions. He believes that the mission is to set up the Town for future generations, and there are many ways to accomplish things in the plan.

He thinks that the plan asks whether the Town agrees it ought to conserve resources, be sensible about water quality, be careful about polluting the environment, recycle, conserve energy, and he believes these are all things the Town should do. It is also strong to send a message to children that they believe these things. He agrees that to help affect things is incrementally, steadily and consistently. He suggested that Councilmembers refuse to participate but try to help in a concrete way to voice what the problem is.

At the last meeting Mayor Bailey said he explicitly asked Councilmembers to find out what bothered them in the document and to suggest alternate language. He is now hearing that they think there is a problem with a specific term but do not know how to change it. He is not persuaded that the word "climate change" from a 1992 study is the same one being used here or intended in the same fashion. Words are taken in their plain and ordinary meaning which means that absent a defined term within the body of the document, it is not so defined. It is meant in an ordinary course of way. He would have wanted a page and line number be identified but in the absence of doing so it comes down being responsible to do what can be done. What the Council can do now is to show support for the plan and suggested a motion.

Councilmember Lappert said he will vote to oppose the plan because if he sees something wrong he does something right. He said he just does not want something overreaching by a higher government authority that imposes on small communities like Corte Madera with unfunded mandates that wind up costing the Town money. They are solely used as a vehicle for their power grab. He thinks all people should be good citizens and not waste and pollute. He simply does not want someone requiring the Town to count carbons and making the Town pay someone to create and revise a plan.

Mayor Bailey said he largely does not disagree with Councilmember Lappert's comments; however, the Town periodically seeks to get funding through grants. He does not mind his tax dollars used to reduce flooding in town and the way he makes a strong case to get that money directed to help citizens is that the Council has checked the boxes to do those things which the people who award the funding are fond of and does not believe the Town has the resources on its own to forestall the flooding in East Corte Madera which is \$27 million.

MOTION: Moved by Furst, seconded by Condon, and approved unanimously by the following vote: 3-0-2 (Ayes: Condon, Furst and Bailey; Noes: Lappert; Abstain: Andrews)

To adopt Resolution 03-2016 approving adoption of the Final 2016 Climate Action Plan

6. PUBLIC HEARINGS - None

7. BUSINESS ITEMS

- 7.I Consideration and Possible Action to Approve Amendments to Adopted Town Budget for Fiscal Year 2015-2016
(Report from George T. Warman, Jr., Director of Administrative Services/Town Treasurer)

Director of Administrative Services/Town Treasurer George T. Warman, Jr., stated the item is a routine action where the Town Council considers revenue adjustments. The County informs staff about the property tax roll the end of October and normally there is an adjustment in what is provided. There are 8-10 categories of property taxes current and secured which is somewhere between 85% and 9% of the roll. This is the one that tends to see the increase. The others, except for the supplemental roll are essentially unchanged year to year. The supplemental roll can fluctuate depending on real estate sales.

The sales tax override does not look like it needs an adjustment. This adjustment to the main sales tax is primarily the result of automobile sales. Very little of the sale tax override is related to auto sales. Transient Occupancy Taxes (TOT) is up primarily because of improvements in the travel industry. The other items are not predictable at the time the budget is enacted. In this case there are state-mandated cost reimbursements that are monies due to the Town 12 to 13 years ago.

State fire reimbursements are unpredictable and this year it looks like the Town will have one of the highest amounts they have had. At the end, revenue came in as a reimbursement related to the housing litigation and the Town has been able to sell some of its replaced vehicles and equipment.

The park in-lieu adjustment is related to a subdivision that occurred. The sewer fund revenue adjustment is property taxes when they already discussed. The settlement of the Panogatacos litigation resulted in the Town receiving \$1.5 million back which allows the Town to reinstate some postponed sewer projects which are in the list.

Most of the General Fund expenditures are JPAs and at the time the budget is put together, the JPA budgets are generally not finalized. The one this year that has been finalized is Marin Emergency Radio Authority (MERA). There is also an adjustment involving legal services, the fire disaster overtime is related to the revenue source he just discussed. Building activity is up requiring the Town to use the contractual building inspection service more than was anticipated. The Chamber of Commerce adjustment is related to the increase in the TOT tax where the Chamber automatically receives 2% of the tax.

The Town had two appraisals done not directly anticipated when the budget was put together. One involves the re-finance of the Park Madera Bonds. The other is associated with litigation which was an appraisal on the gravel lot.

There was an omission in the budget involving state disability access fees which is actually a mandated cost put on the Town that self-funds itself. The Reilly Subdivision park in-lieu funds are proposed to be budgeted and lastly, there is money being reinstated and proposed to be moved up from FY 2016/17 which is the Paradise West Sewer improvement which was postponed one year because of the Panogatacos litigation. As was indicated, that settlement enables the Town to move that project back up.

Lastly, the budget adjustments approved to date are attached. Most had to do with compensation increases when the budget was put together while negotiations were underway. Mr. Warman said he was available for questions.

Vice Mayor Furst referred to the State Fire reimbursements, there are revenues and expenses. She said she thought those both were accounted for in the salary line item, but she asked if these were actually in revenues. Mr. Warman replied that the revenue amount is a gross amount that includes reimbursements for overtime, a reimbursement for vehicle usage, as well as an administrative overhead reimbursement. This is why the revenue number is higher than the expense number. When this amount is accrued, the overtime charged to fire suppression and emergency medical services, when the reimbursements come back it is reversed out and put under Fire Disaster overtime. At the end of the year, those end up being budgeted 100%. Otherwise it distorts the actual performance of the Fire budget.

Vice Mayor Furst referred to Transfer to Park Madera Center, there is \$10,300 for the gravel lot appraisal, and she asked why this was under Park Madera. Mr. Warman said the appraisals done in the past that had to do with Park Madera Center were there, as the same appraiser did it. There were several reasons for him putting it there but one reason was land banking. It was felt that if there is something that comes in as a result of the gravel lot discussions, it might make sense to use that additional money to reduce the deficit in that fund. In any event, the money is coming from the General Fund. It is not going to increase the deficit in that fund because it must come from the General Fund.

Vice Mayor Furst asked which item was the Reilly Subdivision. Mr. Warman said this is above Marin Joe's where there was an isolated lot. The purchaser of the lot was able to

achieve access through somebody's property, but all neighbors were concerned about it. Mr. Wolff clarified this occurred in 2007.

Mayor Bailey opened the public comment period.

BOB BUNDY, Golden Hind Passage, said he did not realize the Town was paying \$25,000 to help kids from Corte Madera to Reed School. This gets back to the redistricting issue brought up many times and he completely agrees with.

Councilmember Lappert noted that Councilmembers from Tiburon and Belvedere had come before the Council requesting funding for the Yellow School Bus Challenge 2.0, and this is not a permanent allocation.

MOTION: Moved by Condon, seconded by Furst, and approved unanimously by the following vote: 5-0 (Ayes: Andrews, Condon, Furst, Lappert and Bailey; Noes: None)

To approve amendments to the Adopted Town Budget for Fiscal Year 2015-2016

- 7.II Consider Providing Additional Direction For Amendments to the Town of Corte Madera Municipal Code Chapter 9.36 - Noise to Clarify Noise Regulations and Enforcement
(Report from Randy Riddle, Town Attorney, and Judith Propp, Assistant Town Attorney)

Assistant Town Attorney Judith Propp said last August the Central Marin Police Authority (CMPA) came to the Council with recommendations regarding the noise ordinance. They pointed out that it is outdated, difficult to enforce, there is evidence that there have been no citations issued by CMPA for a significant period of time and the purpose of bringing the staff report back to the Council was to clarify discussion points that were held last August, get more direction and work with CMPA and the Planning and Building Department and bring this back as quickly as possible with an updated noise ordinance.

Ms. Propp pointed out that at the August meeting the Town Council gave staff direction to amend the noise ordinance regarding leaf blowers, particularly under Section 9.36.030 with new language at subsection e and subsection f. In the Council packet she provided a red-lined version and suggested review to confirm this is what the Council wanted.

She said the other recommendation by CMPA was to jettison those portions of the ordinance that were unenforceable regarding general noise and the definitions as pointed out previously by Captain Norton. Her recommendation tonight is to walk the Council through some types of enforcement tools. There were questions when this matter was previously discussed regarding Penal Code Section 415 and she attempted to provide more information in the staff report concerning that and they also tried to provide some additional information about some administrative processes through the administrative citation process or the abatement warrant.

The idea tonight would be to receive priorities from the Council and the community about what type of general noise issues the Council thinks are important so they can work with the Police Authority and Town staff and return with a workable and enforceable noise ordinance.

Councilmember Condon asked how the Town includes such noises as dogs barking all the time or if there are loud parties where police are called.

Ms. Propp said when the noise ordinance was drafted in 1978 part of the update would be to clearly define what noise is and how it is measured. There is a maximum noise level and this may be for barking dogs, lawnmowers, parties, etc., and then they are defaulted to Section 040 on the general noise regulations that basically states anything over the noise level chart is not allowed. That is where the police need more clarity and discretion so it is not so absolute. She said it did not seem this was what the prior Council had intended, but

staff needs some clarification on that.

Ms. Propp said tonight they would want to hear from the Council what they would want to regulate, such as barking dogs, amplified sounds, complaints coming into the town for parties or social events, and those types of things. There are more current noise ordinances available from other jurisdictions and they want to work with the Police Authority to determine what they believe is an enforceable mechanism and some consistency with other cities they represent as well so there is some economy of scale for the enforcement they do here as well as in the other jurisdictions.

Mayor Bailey said this was his question and he had expected the Chief to answer this. He had understood it was one of the most persuasive reasons why the Council should amend and change the ordinance was to make it consistent with other jurisdictions under the CMPA for uniformity of enforcement. He would have thought in the drafting, counsel would have already considered what it is in San Anselmo and Larkspur.

Ms. Propp said they have done some preliminary research on that, although again, their noise ordinances are a bit more current in the 1980's but not much more than that. The thought was not only to come back with a chart that shows exactly the issues they regulate but also to focus and clarify on items that are enforceable and those which police think cannot be enforced in Corte Madera.

Mayor Bailey said those sorts of recommendations are very important to know and while it does not hurt to hold a meeting, this feels very premature to him because he does not know what the options are or what is recommended. He suggested for the next meeting having what the Chief is recommending as being appropriate and, secondly, to identify what options other towns have considered and either have accepted or rejected. He relies a lot on what the experts think is important and then they can amend and modify.

Councilmember Lappert said the problem with trying to enforce noise ordinance is that some towns are very sensitive to noise problems, and most often it is driven by few people. This will be found no matter where one goes. He recommended not getting too wordy on the matter.

Vice Mayor Furst said it might be that they have two or three really loud people or machinery in town. She said considering that none of the three jurisdictions in CMPA have a noise ordinance that is fully enforceable, she asked whether this would be more appropriate to bring up at the Marin Managers Meetings and ask whether any of the other cities have an enforceable ordinance.

Mr. Bracken said he would be happy to do this. He thinks that in reflecting on Councilmember Lappert's comments the noise ordinance is a difficult ordinance. He suggested searching "noise levels" on the Internet and one will find many different charts comparing various decibel levels. In comparing to what the Town has for allowable noise levels, at certain times of the day, a person can violate the noise ordinance simply by talking loudly. He did not believe it has been addressed recently by any city and can look beyond Marin County. He suggested continuing the process and getting something definitive back to the Council by the end of April.

Councilmember Andrews asked if ordinances are different in each jurisdiction for leaf blowers. He also asked how to make it easy to explain to landscapers the rules on hours and noise levels so it is consistent between jurisdictions.

Captain Norton noted that currently the Town of San Anselmo has specific times they allow leaf blowers. They provide landscapers with a handout and the police put them on record as being warned and occasionally they must issue a citation.

In terms of uniformity, Captain Norton said police want to make all ordinances uniform to enforce. However, in working in three different towns and attending Council meetings, each city is a bit different and unique in its values and citizenry. Police can work with that as it is something they expect of officers, and while it is sometimes challenging because it might take them longer, they are able to do distinguish the differences of each town.

Chief Todd Cusimano pointed out that they have a barking dog ordinance which is similar to the other cities and towns as well as uniformity with their social host ordinance and loud party complaints. They would usually provide warnings and if there is a need to return they would use 415 of the Penal Code. This is his 'hammer' to shut down a loud party or loud music. The ordinances were written in the late 1970's and they are unclear and difficult to discern.

He noted that a conversation between two people is at about a 55/60 decibel level and he wants the ordinance to be clear. They have looked at many ordinances in the county and Bay Area and it is something that everybody has struggled with. He said they have been talking about leaf blowers for 3 years and for every one complaint, he has received 15 phone calls from people on the other side asking how it is fair to cite someone working in 6 different communities working under 6 different ordinances.

When they brought this to the Council previously, their intent was not to change the ordinance so they can continue what they think should happen, the Council was not prepared for this issue. Just thinking about the process, he suggested police step back and he would be happy to continue to have Captain Norton to represent police, but hold a workshop with the community and the Council to revisit the ordinance and focus on certain areas, have some talking points, pros and cons, feedback from the community and from staff, and decision points for the Council when they return. He thinks there is no boiler plate to review, as Larkspur and San Anselmo have the same issues.

Mayor Bailey asked if it was the Chief and Captain Norton's opinion that it is not helpful or they do not need the ordinance. Chief Cusimano said he thinks they need clarity in the ordinance. While the Town Attorney did not agree, outside of mechanical noise police already have tools to handle noise. Therefore, if they are not going to ban two-stroke engines, lawnmowers or leaf blowers, much of the ordinance's content is not necessary.

Captain Norton further discussed pros and cons about having a noise ordinance, and said one exception is construction demolition. When discussing whether or not landscaping would be considered under this he thinks it should be clarified, as if anyone did any landscaping at any time, they most likely were in violation of the noise ordinance regardless of the time of day simply because it went above the level and there was no exception.

Mr. Bracken added that when he reads the noise ordinance it was originally geared toward construction which comprised of the majority of complaints. It morphed into other things and it is more enforceable for construction than anything else. He thinks the Town needs to know what is a noise and how does one violate it, and what is the process for enforcing it.

Mayor Bailey opened the public comment period.

JANE LEVINSOHN, Tamal Vista, suggested the Council first invest in earplugs and said leaf blowers will never go away, as nobody can afford to pay a gardener to hand sweep properties. She thinks it is up to the individual homeowner, with the exception of construction noise, to make a complaint. She experienced a dog barking for several hours a few weeks ago and it got to the point where she could no longer stand it. Consistent barking is terribly annoying and she called police and they took care of it. Therefore, she suggested much of this should be left up to an individual to make a complaint or deal with it. Many problems are solvable with the exception of construction noise.

BOB BUNDY, Golden Hind Passage, said for every one person who is vocal about complaining about leaf blowers, there are 10 others that are bothered by it and wonder what these things really accomplish when someone is walking down the street with earplugs on. He would be in favor of banning two cycle, gas-powered leaf blowers and weed eaters in Corte Madera which is probably the goal. This also fits into the Climate Action Plan to try and reduce CO2 emissions, particularly the pollution associated with 2-cycle motors. He would not extend this to chainsaws as they are very efficient for what they do and are much less frequent.

The reason leaf blowers and weed eaters could be eliminated now where difficult 10-15 years ago is lithium powered batteries out now for power equipment. Many of his tools are run by batteries or electric 110-volt leaf blowers, which are of high quality. He would see this as something that should be consistent throughout all three jurisdictions and this should be the goal. It could be that timing could be such to allow commercial landscapers to use up the equipment they have and purchase newer lithium powered units.

PETER HENSEL, Willow Avenue, distributed a draft of the Larkspur noise ordinance to the Council which was adopted in 2015 so much of what has been said is not true. Their ordinance is modern and addresses issues. The sections of the noise ordinance dealing with noises made by people are useless. Powered equipment is something used by people, as well as noises made by people, and he thinks some people simply do not care.

He referred to page 1 of the Larkspur's ordinance under Section F, Fixed Noise Source, Stationary Device, and said he would add, "...or Facility that creates sounds while fixed or motionless, including but not limited to machinery equipment, pumps, fans, compressors." He has lived next to neighbors for 44 years and until 2013 there was never a problem. He is a patient person willing to talk and live and let live, but when screeches and yelling for 2 hours starts hitting 80 decibels it can drive a person nuts.

He said his neighbor's pool was not correctly located in the middle of the lot, but placed intentionally closer to neighbors. Police have done nothing and he has now been denied service even though the Town Manager suggested he continue to contact police. He suggested police live around a pool where kids yell at 2 hours at a time and not just once but varying groups coming and going. It is like a public pool in a private residential area. He has asked that it just be regulated, is not anti-kid, and there needs to be tools to make neighbor civil.

Mayor Bailey said the Council received a thoughtful letter from Karl Spurzem who lists a variety of arguments and counterpoints relating to the leaf blower component of the ordinance. He was very much in support that he would like a ban on all types of leaf blowers and his letter is available to the public, discusses significant air pollution and noise pollution impacts, high winds in Corte Madera not making it sensible, dust and debris and concludes that how he believes that the CMPA have more important things to do than respond to noise complaints.

Mayor Bailey closed the public comment period and returned discussion to the Council.

Councilmember Lappert said in his experience as a law enforcement officer, the major things police respond to are traffic, dogs barking, and crime. Originally the intent of the noise discussion was leaf blowers and noise from machinery. He suggested stepping back, getting groups together to talk and as he said before, he thinks they will all come down to leaf blower complaints and all are being driven by one person. He cautioned the Council to get too technical on something that can be addressed by an officer. He thinks the Town should scrap the entire idea to have a noise ordinance, as it does not work.

Mayor Bailey asked if a police officer has the authority in the absence of an ordinance to opine on what is and is not okay.

Councilmember Lappert said they must determine whether the person is doing something malicious or to disrupt the peace, is it happening at a certain time of day or people living which creates noise. Trying to regulate all of this causes more confusion. He said if he gets called to a noise complaint at 11:30 p.m. on Christmas Tree Hill and there are adults having a good time, the doors and windows are open with noise spilling outside to next door, 99% of the time they close the doors and quiet down and the problem is gone. He personally does not think the ordinance needs to be crafted in such a way to cover all possibilities.

Councilmember Condon said she thinks it is worth looking at the City of Larkspur's ordinance for the sake of consistency in enforcement. She thinks that especially with outdoor noise, she personally thinks it is a bit too much governance to ban leaf blowers. Something operating on a battery or electricity will not be as effective. She thinks it would be helpful to have something in place that reflects common sense and also they need to

create a situation to protect their constituency without going overboard.

Vice Mayor Furst said she agrees with Councilmember Condon and said she is not ready to ban leaf blowers or gas leaf blowers. She would like people to use electric or battery-operated tools, but she was not sure it is practical. She would guess there might be issues for professional landscapers to have the ability to recharge their units throughout the day and get all of the work done. She appreciates the new language that was inserted; however, the Council will have to do something because currently what they have is not workable. She has not looked at Larkspur's ordinance which is long and complicated, and she would like it simpler; however, she was not sure "simple" will give police what they need to be able to enforce an ordinance. Therefore, she thinks the Council simply does not have enough information.

Vice Mayor Furst said she appreciates Councilmember Lappert's comments and agrees that 99% of the time neighbors will respond positively; however, there are people that are not good neighbors. Councilmember Lappert said this is what 415 of the Penal Code is all about.

Vice Mayor Furst said she did not know the particulars with Mr. Hensel's neighbors and the swimming pool, but she questioned at what point something was needed because kids are being too loud. Therefore, she thinks she is not getting enough information to know if something needs to be implemented or to rely on 415 of the Penal Code.

Councilmember Andrews said he shares comments and would like whatever the Council does to be in harmony with other jurisdictions. In thinking about it from the landscaper's standpoint, he suggested leaf blowers not be allowed to operate during certain hours and that this be clear to them.

In terms of a particular facility that generates a lot of noise, he questioned whether this should be moved to the nuisance section of the ordinance where a facility can be shut down, given it is generating consistent noise.

Mr. Bracken said he has considered this and said nuisance abatement is not an easy process and the Town has several it is working with now. It takes no less than 6 to 8 months to abate. Abating noise from a pool is difficult and most abatement processes involve debris and junk seen on property and involves court orders.

Ms. Propp said what makes a nuisance abatement work and how the code is set up is each section of the Municipal Code deems a certain activity as a public nuisance and then it allows the Town to start the abatement process. Therefore, the Council would still have to craft language in some sort of noise regulation or ordinance that would deem a particular activity as a public nuisance if someone does "x, y or z" and clearly define it. They could then refer it to an administrative or court process for abatement, but police cannot just decide it is a nuisance and refer it to the Town for prosecution. It must be defined first as part of the Code.

Mayor Baily stated he feels strongly it would be good to have something consistent with the other jurisdictions. It is surprising this is not possible and he thought the Town could follow along with what others have done. Secondly, he does not have particularly strong opinions on leaf blowers but he is approached regularly at CYO basketball, at school events, at the Lion's Club, at church and social gatherings in the last week or two with people wanting to know when the Town is going to do something about the leaf blowers in town.

Vice Mayor Furst asked if those approaching Mayor Bailey all live in one neighborhood, and Mayor Bailey said no. He said he likes that there is some effort about limiting the use of leaf blowers during certain hours to provide peace to those opposed to them.

Councilmember Lappert asked how the Council feels about holding a workshop. Mayor Bailey said he thinks this is a lot of work. Chief Cusimano said they are not experts on this, and he said if the Town outlaws leaf blowers it will have to restrict Town employees from using them. Therefore, the language needs to be fixed in a way that either restricts all gas-powered two-stroke engines or not.

Vice Mayor Furst said she did not want the Chief to hold a workshop. She suggested doing a survey monkey and invite people to provide input. They can track it by IP address and this way people cannot game the system. She thinks input is needed and asked if staff could do this and see if there is another ordinance outside of Marin. Mr. Bracken said staff will develop a Survey Monkey questionnaire and determine what other jurisdictions have noise ordinances outside of Marin.

Chief Cusimano noted that the City of Larkspur's ordinance is workable, but one core issue is still the issue with leaf blowers and two-stroke engines. The same issue is there. There are some things they handle regarding the mechanical issue of noise which they can look at. Mr. Bracken stated he is meeting with the Larkspur City Manager tomorrow and he will bring this up and was surprised they adopted a new ordinance.

Councilmember Lappert said he vehemently opposes any kind of ordinance that places the normal course of living at odds with law enforcement, which means their skate park, the park, swimming pools, and other recreational areas. This is about mechanical things. While he feels sorry for Mr. Hensel about the noise from the neighbor's pool, he guessed that he did not hear it when he was not home all the time.

Councilmember Condon referred to the first and second page under definitions of the ordinance and the top of 3.3-6, which refers to Ordinance 697 and it has the 1983 date. Ms. Propp said it is her understanding that in January they looked at one small update to the ordinance, but the entire ordinance has not been revamped so it does date back to the 1980's. She said she is hearing similar comments to what they heard last August. She asked for some direction about whether the poll on Survey Monkey looks at just mechanical or both mechanical and non-mechanical. She has heard a lot tonight about the distinction between motorized and non-motorized.

Mayor Bailey asked if the question should be limited to mechanical only. Vice Mayor Furst said yes, with the caveat that many things are covered under other sections of the ordinance such as loud parties, dogs barking, and they can be questioned as to what other type of noise related items covered.

Councilmember Condon said in going over what is before the Council with the two additions of "e" and "f", she asked if the Council was still considering this, taking action or providing direction because these relate to mechanical things and she thought it was very good.

Mayor Bailey said he agrees, but he thinks they are spinning their wheels at this point. Personally he likes the language as it currently appears; that it begins to address the leaf blower issue. However, the Council does not have sufficient information to know how to handle any other changes. He is cautious about whether this is something the Council needs to be addressing at all. He was one of the people pushing to have it on the agenda because the leaf blower issue is a big problem, but he is hearing from police that it is not really a problem and is reluctant to go into changes other than to address the leaf blowers.

Councilmember Condon said the Council has hashed through this in the past. Mayor Bailey thought they were going to connect it and mirror it to the other ordinances of the other jurisdictions, but apparently no one has updated their ordinance and if feels the Council is making a lot of work for something they may not need to be doing. Councilmember Lappert agreed.

Chief Cusimano said from the previous meeting, they included specific timeframes where leaf blowers can be used during the day. All changes recommended are in the ordinance and he suggested working with the Town Attorney to clarify the exceptions for other two-stroke engines to make sure there is no ambiguity and then they could return to Council for an amendment.

Mayor Bailey suggested continuing it to one more hearing and asked not to implement the survey.

Vice Mayor Furst asked the Town Clerk to advertise it specifically on *NextDoor.com* so

those concerned can attend.

MOTION: Moved by Lappert, seconded by Andrews, and approved unanimously by the following vote: 5-0 (Ayes: Andrews, Condon, Furst, Lappert and Bailey; Noes: None)

To continue the public hearing to the next Town Council meeting on March 15, 2016

7.III Receive and Discuss Public Comment on Current and Historic Use of Laurel Lane in Christmas Tree Hill Area (This Item is Related to a Building Permit Application at 210 Morningside Drive)
(Report from David Bracken, Town Manager)

Town Manager Bracken said staff is not asking for action on the item. It is mainly to receive Council and public input. The issue relates to the historical use of Laurel Lane in Christmas Tree Hill area and whether the public has access rights to that lane. There are three common ways for a town to acquire right-of-way easements for a lane, trail or path which is basically through a subdivision map. There is an owner's statement on the map which he displayed and in reading halfway down on the map, the owner hereby offers for dedication for public use, public streets or highways areas designated as "A" on the map. This is an example of how it is offered.

Mr. Bracken said also on a subdivision map, there will be a Town Clerk statement. After the item is heard and adopted by resolution of the town, they will say whether or not they accept the offer of dedication noted in the owner's statement. Here the Town said yes, they accept that offer. Those streets then became public streets.

Mr. Bracken said another way for a Town to accept or acquire a street would be by a grant deed of right-of-way or easement or a document that gets approved by a Council by resolution and then is recorded by the County. For example, typically it would be accepted on the map and sometimes he would see where the Council would reject the offer which was done on the Madera del Presidio subdivision. It was rejected to avoid any liabilities during construction and then accepted by a separate deed after construction was completed.

He displayed the map for upper Christmas Tree Hill which is a subdivision of everything above Morningside. He has highlighted Laurel Lane and on the map will be streets, lanes, trails, Spring Trail and these are all strips of land and subdivided lots. The interesting thing about everything above Morningside Drive is that this was in 1913 and before the Town was incorporated.

Mayor Bailey pointed out Lot 70 and said this parcel has no access to anything and he asked if this was the current condition. Mr. Bracken said it is not the current condition but the way it was. The land used to be one big parcel and then it was subdivided where there were two landlocked parcels; 70 and 69. This is entirely a guess, but he thinks Laurel Lane was put there not for access by the general public but for access to those two lots.

Councilmember Andrews asked if physically one could walk on any of the yellow area. Mr. Bracken said some of it can be walked on, but generally no. He and Kevin Kramer tried to walk it. Laurel Lane ties into Spring Trail and then Spring Trail goes up to Summit Avenue. He and Kevin Kramer started on Summit Avenue. They slid and then he pointed to a deer trail along the ravine.

He displayed the owner's statement on the subdivision map which was approved by the County. Interestingly, they state yes, they own this land and consent to the making and recording thereof, and that the owner does not dedicate to public use any portion of said tract of land. Therefore, based on this map, there are no right-of-ways on Christmas Tree Hill.

In getting back to the third way a town can acquire rights-of-way that would be by common law or implied dedication. In other words, if the public uses land for more than 5 years by

implied dedication not stated on a map or in a grant deed, it becomes public access or can be used by the public.

Getting back to Councilmember Andrews' question, he has no indication from what he can see that it has been used by the general public, certainly not for a period of 5 years where there is a defined path there. There are no improvements on it and the Town has never improved anything on Laurel Lane or on Spring Trail.

Therefore, with that said, the Town is here to find out if the public has used this trail and it would be good to open it up to public comment to find that out.

Vice Mayor Furst referred back to the map and compared it to Marin Map and said it was difficult to read the map. In looking at the bottom of Laurel Lane it makes a Y. The leg shown at the left goes down to Morningside. In looking at the old lots, 69, 70, 71, and half of 72 and 73 are there, she believes that was 208 Morningside. Mr. Bracken said the numbers do not reflect the street address, but are block numbers. She said she believed the homeowner used the long Y and used blocks 69, 70 and part of 72 and 73 took Laurel Lane from Morningside, and Mr. Wolff confirmed. She asked if any other sections were used.

Mr. Bracken said he was not sure those were used, and he thinks the Town needs to distinguish between specific lots and the general public here and to define whether or not the general public has the right to use that lane. Again, he has walked it, sees no indication it has been used in the past by the general public, and he could answer any questions.

Mr. Bracken said he attached a staff report from the Planning Department which was presented to the Planning Commission and it involves a remodel on 2010 Morningside or block numbers 61 and 62. The owner of the property wants to encroach in the area of Laurel Lane and they filed a quiet title action to obtain possession of that property from the Doherty Company. Therefore, if this is a public access lane, then the Town should not allow the owners to do that and if it is not, then they have a right to file the quiet title action and enjoy that property.

Mayor Bailey opened the public comment period.

JORDAN SILVER, 210 Morningside Drive, clarified that there is very few houses that are around Laurel Lane, so this really only affects his property. Lots 70 and 69, as well as 59 and 58 comprise of 208 Morningside and half of Lot 72. Therefore, there are a set of steps on Lot 69 and that owner was not using Laurel Lane to access his house or Lots 58 and 59 to his house. He submitted a letter and said three families who are long-time Corte Madera families and got together and purchased 208 Morningside after having discussions with current Town staff a couple of years ago. They demolished the house on 208 Morningside which was highly dilapidated, a fire hazard and had branches through the house, dirt floors, possums living in it and it was a mess. The entire lot was a tremendous fire hazard. The person living there was probably mentally ill and had never maintained the lot. Separating 210 Morningside from 208 Morningside is Laurel Lane which looks a lot bigger here than it is. Their plan was to demolish the house and divide 208 Morningside into 3 chunks so that the sizes of their yards would increase, but this involves quieting title on Laurel Lane in order to make that connection.

The key thing he wanted to point out, and he displayed a photo, is that he would like to testify for the record in the 5 years he has lived there on the hill is that he never saw any member of the public use Laurel Lane. It was impassable and a fire hazard. The fact that the lanes were not dedicated for public use puts them in a tough position because they live next to 6 foot strips of land that are overgrown. No one is using them. The Town will not maintain them. They tried to get the fire department to cut the brush on that land and they will not do it because it is not a town maintained trail. Therefore, it puts homeowners in danger of living next to fire hazards that no one is using and they want to connect the lots together which has positive benefits for the neighbors.

He said Spring Trail borders the other side of their property which is a Town-maintained path and a very viable passage up from Redwood and Summit down to Morningside, whereas Laurel Lane was a short jog that terminated above into Spring Trail. Laurel Lane,

even if someone cleared it, was a short connector trail and not the complete route from Summit, Redwood and down to Morningside.

He reiterated for the record that the Silver family has proposed a donation of private funds to the Town to do stone steps, a guard rail or whatever the Town might want to do on its maintained trail to make a nice, complete fire egress from Summit, Redwood and down to Morningside which would put that area into a much better position than it ever was. He said if there were ever a fire, one would get trapped and the area is impassable, and he asked for the Council's support.

Mayor Bailey asked Mr. Silver to point out where his property and neighbors' property was located, which Mr. Silver pointed out, which he said starts out at 68 and goes all the way down to 60. He surrounding 208 are the Bentleys and the Browns which he both pointed to.

BRIAN BROWN, 9 Summit, said he lives very near the strip of land known as Laurel Lane and he is in complete agreement with Mr. Kunhardt's letter who wrote a very good brief about the technical aspects of the meeting here and the issue of quiet title and whether or not to intervene or not. He thinks his description that it is a vestibular piece of property is the correct term for it.

He said other paths have a real purpose and they have morphed into their very good high use and those are on the list which the Council is familiar with. He can personally testify that this particular piece of land has not been used by members of the public and that the methodology of the quiet title is the way this should be looked at by the Town because it is in service of a larger issue which the Council is not formally looking at, but it is their master plan for the dissolution of that landlocked piece of land, and Laurel Lane is in the way of it. He therefore supports the Town's non-intervention in their legal process with the County at this time and they are almost through with that process.

JOHN BENTLEY, 204 Morningside Drive, said he has lived in their house for 28 years. The person living at 208 Morningside Drive which they tore down inherited that house and property from his mother. They lived in that area when his mother lived there and she never maintained it. The yellow part was the way she and her son got to the house. They would walk up and down it and they had a family name on a sign. Both of them would have chased out anybody that walked up the stairs and he can attest to this for 28 years albeit an occasional guest of the last occupant of the house. He said he did not even know a house was there, but he knew there was a trail there because he is a member of the Christmas Tree Hill Association where they would look at the maps to bring to the public's attention about why it was great to live up there, and it was not until he acquired the property that he actually walked up there and saw the area was impassable.

Mayor Bailey said he read some astonishing notes about the original Christmas Tree Hilldwellers Associations' efforts with the fire department to map the steps and he asked and confirmed that Mr. Bentley was part of this effort and this was not the sort of thing they were mapping when they did that. Mr. Bentley said no; there were so many small passes up there but they were not well-maintained and they wanted to bring attention to those living on Christmas Tree Hill that they were a way of escaping in the case of a fire.

Mayor Bailey thanked Mr. Bentley for answering the question because it was suggested to the Council that some of these trails, although not used, could be very valuable in the event of an emergency and what Mr. Bentley is saying is that this is not one of them. Mr. Bentley said knowing that people knew there were other trails possibly there, they could have gotten trapped. The intention was to let them know the ones existing and to maintain those so there would be no confusion. Laurel Lane was never even discussed and as he said, he did not even know where it was.

DAVID KUNHARDT, Hill Path, said that for over 19 years he was on a path that was fortunately publicly dedicated in the 1890s, but as he has been on the Hilldwellers Association for 18 years he is one who has fought for more public access, more continuation of trails because this is the best way to get exercise. The cut off trails like Golden Stairs are publicly maintained. The next watershed over is Old South Trail which is not a trail but he and some friends have improved them and it is a great walking way, but

not a good exit way in an emergency, and this was his first concern. If this were anything like a lane, it is not. If it were anything like a pathway, it is not. If it were possible to go down into there without falling then he would say the Town should be concerned about marking it and using it as they did with a couple of trails up above this with small markers. He would say it is incredibly generous that Mr. Silver has suggested improving that south trail because this is really the creek bed, and he would not suggest doing this because at the top of it is uncomfortably and dangerously steep to get down into the ravine that is filled with water at the bottom. So it is an inappropriate thing to entice people into.

Mr. Kunhardt said therefore, as someone who would never want to give up a public trail, this does not belong to the public, never did, is not usable and better yet, their plan is very creative and what more people on the hill might be thinking about doing which is enhancing with private uses those left-over vestibular pieces.

LOUISE BROWN, 9 Summit, said she and her husband Brian have lived in their house for 13 years and knows Marin trails well. When they first moved there, after attending a community meeting with the fire department, the Fire Chief said in talking about open hills fires, it is not a question of if but when. They went home that night and she said she wants to know how to get out of their area. They had a young son at the time then and she made a point of walking the neighborhood and finding out where the lanes were, where passable ways were to get out if streets got jammed and there was a fire. She knows Jean Bean Path, Portola Lane, Golden Stairs and Hill Path, and she takes those routinely because she is exercising or exploring. Never once did she realize there was this supposed lane right around the corner from them. It was completely overgrown. They had never seen anyone take it and it is not a path one would find and want to explore to get from one street to another. There are many places that are well developed to provide people with access points and they are just trying to take advantage of an opportunity to do something good for the overall hill, which is to lessen the density and give people an opportunity to use the paths they should use that are safe for passage.

Mayor Bailey returned discussion to the Council.

Councilmember Lappert commented that he is disappointed that it took this long to resolve this issue. He said the neighbors are working together to get something done and he questioned why this is becoming an issue.

Vice Mayor Furst said she appreciates all of staff's efforts to research the history of it and whether it was ever conveyed to the Town. She appreciates the outreach to Christmas Tree Hill to get some input from other residents which was exactly what was needed. She feels there is a good understanding of the history, the use or lack thereof and she does not believe the Town had a few months ago.

She said it is the Town's responsibility to exercise due diligence and to know what it is the Council is considering. Until input is received from those living on Christmas Tree Hill that have lived here and understand it, including Mr. Kunhardt who has been a board member of the Hilldwellers Association, as well as the history indicating that it was not turned over by the Doherty Company to the Town was helpful.

Councilmember Condon said she also appreciates the time and effort that staff took because it is important to know that even though the path was deemed never to be used, there was also input against granting it, so she thinks because of staff's efforts and attorneys as well, she thinks it was imperative to provide the opportunity to make a good decision and not just a guess.

Councilmember Andrews thanked staff for their research as well as the homeowners for doing their search. The best analogy he could come to is that if this were a stock certificate or bank account, it would be declared abandoned property and sheeted off to the government long ago. Since it is a strip of land, the Town needs to find someone to take care of it and he thinks there are some volunteers.

Councilmember Lappert noted there are also code compliance issues which are what triggered this thing and things that were built outside the scope of permitting, so he

understands this is the Town's job. However, he just remembers a time when a decision could have been made much quicker and he hopes the Council is not traveling down a goat trail and turning over every possible rock on some private property owner's dime because of the Council's inability to make a decision as something as simple as this.

Mayor Bailey thanked all speakers and noted there is no action to be taken tonight. He asked if staff would be presented with some action in the future such as making a declaration.

Ms. Propp stated the Council will be taking this matter up in a separate issue in Closed Session and then depending upon the decision, staff will report out accordingly.

7.IV Review of Draft March 15, 2016 Town Council Agenda

Mayor Bailey stated there are two items that should be considered putting on in the future. He asked if the Council should start talking about shared services. Councilmember Lappert said the Council will soon receive information over the next few weeks and all information will be given to make decisions regarding shared services and keeping people advised.

Mayor Bailey stated the bike path issue is not before the Council; however, he occasionally receives complaints about the Alto Tunnel. This is not urgent and he suggested not agendizing that.

Mr. Bracken noted that the Town does plan on bringing this to the Council in the middle of April. The concern was that items sometimes get etched in stone and if it is removed, there needs to be a reason for removing it. He will try not to agendize something unless staff is certain that information can be gathered and a staff report written. At the next meeting, the Council will see the bike path on the future agenda list which will be approval of the master plan.

Mayor Bailey asked and confirmed that the noise ordinance will be continued to the next meeting. Mr. Bracken said he will not be in attendance at the next Council meeting.

Councilmember Condon asked to revisit the sign ordinance because there have been more banners added with different sizes from what is contained in the resolution, but she said there is no urgency.

Councilmember Andrews asked to discuss traffic on northern Tamal Vista as a priority and what will be done about traffic around Tam Ridge Residences. He has received several letters from people complaining about the traffic as well as a letter included in the comments for the Corte Madera Inn rebuild.

Councilmember Lappert said once the Town knows who the new contractor is Mr. Wolff or Mr. Bracken will be updating the Council. Councilmember Andrews said he would like to fix traffic before the project comes on line and involve other jurisdictions contributing to traffic in that area.

Mr. Bracken stated Corte Madera and Larkspur have a subcommittee to address this but they have not met in a while and Councilmember Lappert is a member. He will bring this issue up with the City Manager tomorrow.

Vice Mayor Furst said during her reports, she has repeatedly referenced the plan the Joint Traffic Task Force between Corte Madera and Larkspur have come up with that they have not received funding for during the last two transportation grant rounds through TAM. There just is no money and it will cost a lot more than what the Town is getting from McFarlane.

Councilmember Condon suggested the Town going directly to the state to get the funding. Vice Mayor Furst stated the Town applied for regional ATF and State ATF funding, but did not receive funds. She thinks it might not be a bad idea to address at some point but possibly when discussing the management plan they can also talk about the transportation plan. This also is affected by the high school and there might be a related Safe Routes to

School discussion as well.

Vice Mayor Furst suggested Councilmember Andrews discuss a more specific idea with the Town Manager and thereafter discuss this with Mayor Bailey.

7.V Approval of Minutes of February 16, 2016 Town Council Meeting

Vice Mayor Furst requested the following revisions:

- Page 15, Line 12: “The goals are good overall but wrong when looking at how it affects a small town such as Corte Madera.”
- Page 15, Line 21: “The Town is already addressing flooding and over the years has invested \$40 million in flood control measures.”
- Page 15, end of Line 21: “The Town used to be the go-to place for newscasters during big flooding events prior to the investment we made in flood control which eliminated nearly all of the significant flooding problems.”

Mayor Bailey stated he found a typographical error in the Climate Action Plan which appears in his minutes on page 17, line 2. The word “forceful” should be replaced with “enforceable”. That same typographical error appears in the introduction to the Climate Action Plan, where it should state “specific and enforceable...”

MOTION: Moved by Furst, seconded by Condon, and approved unanimously by the following vote: 5-0 (Ayes: Andrews, Condon, Furst, Lappert and Bailey; Noes: None)

To approve the minutes of February 16, 2016 Town Council meeting, as amended

The Town Council convened to Closed Session at 11:05 p.m.

8. CLOSED SESSION

8.I **CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION**
Initiation of litigation pursuant to paragraph (4) of subdivision (d) of Section 54956.9:

Number of potential cases: One

8.II **CONFERENCE WITH REAL PROPERTY NEGOTIATORS**
Property: Gravel overflow parking lot on Redwood Highway (north of Nordstrom at The Village at Corte Madera) APN 024-032-19
Agency negotiator: David Bracken
Negotiating parties: Macerich (Garrett Newland and Cecily Barclay)
Under negotiation: Whether, and under what terms, the property could potentially be leased or sold.

OPEN SESSION

The Town Council reconvened its regular meeting at 11:46 p.m.

8.III Report Out of Closed Session:

The Report Out of Closed Session will be provided at the beginning of the next regular Town Council meeting, scheduled for March 15, 2016.

9. ADJOURNMENT

The meeting was adjourned at 11:46 p.m. to the next regular Town Council meeting on March 15, 2016 at Town Hall Council Chambers.