

MINUTES OF MAY 17, 2016
REGULAR MEETING
OF THE
CORTE MADERA TOWN COUNCIL

Mayor Bailey called the Regular Meeting to order at Town Hall Council Chambers, 300 Tamalpais Drive, Corte Madera, CA on May 17, 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 Administrative Services/Town Treasurer George T. Warman, Jr.
Director of Planning and Building Adam Wolff
Assistant Town Attorney Judith Propp
Building Official Mark Flatter
Acting Deputy Fire Chief Pete Davis
Planning Customer Service Representative Tracy Hegarty

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

- II. Report Out of Closed Session from May 3, 2016 Regarding the Following Item:
PUBLIC EMPLOYEE APPOINTMENT [Govt. Code Sec. 54957]
Title: Town Manager

Mayor Bailey reported on the Closed Session the Town Council held at the last Town Council Meeting of May 3, 2016, stating that the Council discussed the Town Manager's position and there was no reportable action.

2. PRESENTATION - None

3. OPEN TIME FOR PUBLIC DISCUSSION - None

4. COUNCIL AND TOWN MANAGER REPORTS

- Town Manager Report - None
- Director of Planning & Building Report on Tamal Vista East Corridor Study
 - The Town continues to be on track with work prior to the moratorium's expiration in October.
- Council Reports

Councilmember Lappert gave the following report:

- The Ross Valley Paramedic Authority (RVPA) convened and discussions are centered on their financial picture, and improvements are underway.
- A meeting was held with the Larkspur-Corte Madera Fire Consolidation group and discussion will soon be held with respect to consolidation.

Councilmember Andrews had no report.

Councilmember Condon gave the following report:

- On Sunday, May 22nd the Centennial Classic Car Show will be held on Casa Buena Drive from 10AM to 3PM as presented by Marin Luxury Cars, the Town and the Lion's Club. There will be over 60 entries and the event will be free to the public.
- Weekend 100 will be held June 10-12 with activities held every day. She invited the public to view www.cortemadera100.com to obtain information.
 - The first event will be free dinner with fun and games at the Community Center.
 - The second event will start at 10AM at Town Park with events extending to the Village Shopping Center all day. Jimmy Z and the Great Band will play at 7PM and a fireworks display will start at approximately 9:15PM.
 - The third event will be on Sunday with Police and Fire playing softball at Town Park. A time capsule will be buried and a time capsule will be dug up from 25 years ago, with proclamations made by dignitaries.
- Age-Friendly Corte Madera wants to contribute to the Town for viewing the certificate presented by the World Health Organization in the Town Hall Council Chambers.

Vice Mayor Furst gave the following report:

- She attended the Central Marin Sanitation Agency meeting and reported on their long-term financial plan, stating fees will be increasing.
- She attended, as alternate for Councilmember Lappert, the Disaster Council meeting. There are many events coming up which include: 1) Senior Fair on May 26th at 2PM at the Community Center; 2) Fire Extinguisher Day at Fire Station 14 on May 21st; Wildland Fire Evacuation Operations Awareness Course in Mill Valley on May 18th from 9AM to 12noon; Mill Valley's Evacuation Drill on May 21st; Marin Violent Encounter Exercise at Indian Valley Campus of College of Marin on May 24th; Sidewalk CPR Classes on June 11th at Town Park.

Mayor Bailey gave the following report:

- On May 18th at 6:15PM the Lion's Club is sponsoring Candidates Night at the Community Center. All 8 Supervisorial candidates are invited to speak and the debate begins at 7PM and he will be moderating the debate.
- He will be attending the Marin Clean Energy Board meeting on May 19th and the primary topic will be the impact of absorbing new communities in Northern California. A 7 ½% reduction in rates is expected for the upcoming year which will allow MCE to put aside reserves and keep rates stable.

5. CONSENT CALENDAR

Town Manager Bracken requested Item 5.V be removed and acted on separately.

- 5.I Waive Further Reading and Authorize Introduction and/or Adoption of Resolutions and Ordinances by Title Only. (Standard procedural action – no backup information provided)
- 5.II Action to Move the Tuesday, June 7, 2016 Town Council Meeting to Monday, June 6, 2016 So As Not to Conflict With Election Night
(Report from Rebecca Vaughn, Town Clerk)
- 5.III Approve Transfer of Funds - \$5,000 out of \$110,000 of Approved Centennial Funds From FY 2016-17 to FY 2015-16
(Report from Mario Fiorentini, Director of Recreation and Leisure Services)
- 5.IV Adopt Resolution No. 19/2016 Endorsing Zero Waste Marin and Allowing A Temporary Sign in the Public Right-of-Way From June 15 to July 31, 2016

Publicizing Waste Reduction
(Report from Doug Bush, Assistant Planner)

5.VI Transmittal of March 31, 2016 Summary Financial Report (Interim Reports on Cash Basis)

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

5.VII Approve Warrants and Payroll for the Period 4/28/16 through 5/10/16: Warrant Check Numbers 213550 through 213630, Payroll Check Numbers 5200 through 5206, Payroll Direct Deposit Numbers 29441 through 29515, Payroll Wire Transfer Numbers 2006 through 2009, and Wire Transfer of 6/01/16.

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

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

To approve the Town Consent Calendar Items 5.I, 5.II, 5.III, 5.IV, 5.VI and 5.VII

Item Removed from Consent Calendar:

5.V Refinance of 30-Year 2006 Park Madera Center Certificates of Participation (Bonds Dated September 28, 2006) for Remaining 20 Years of Certificates (Bonds) With Maturity (Final Payment) Remaining February 1, 2037

1. Adopt Resolution 15/2016, A Resolution of the Town Council of the Town of Corte Madera Authorizing Delivery and Sale of Refunding Certificates of Participation to Refinance Outstanding 2006 Certificates of Participation, and Approving Related Documents and Actions

And

2. Approve a Supplemental Appropriation of Both the Revenues and Expenditures of the Refinancing Transaction

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

Director of Administrative Services/Town Treasurer George T. Warman, Jr. stated this item has been included in his Monthly Reports for some time. The Park Madera Center bonds initially had a 10-year call which would mean bonds could be called and re-financed at no penalty effective February 1, 2016. Before the Council is a refinance to be effective August 1, 2016 which is the next time an interest payment is due.

The Council is being asked to consider adopting Resolution 15/2016 which approves a number of documents which he briefly described and the estimate for refinance would be \$9,500,000. Outstanding bonds are \$9 million and the extra \$500,000 is a high estimate on refinance costs.

Mr. Warman explained that the bonds would be refinanced for their remaining 20 years with no extension in the final maturity which is February 1, 2037. The projected annual debt service would be roughly a savings of ±\$90,000 a year for 20 years. Assets were used to collateralize the initial issue which are the same and that includes the Center itself, the Town Hall building, and both fire stations and land. There is an 8 year call feature on this proposed issue at which time the refinance bonds could be called again if savings could be

realized at no interest penalty. The other feature is that the Reserve Fund would be provided by an insurance policy.

Mr. Warman introduced Jones Hall representatives present as James Ruzicka, Jones Hall and Craig Hill of Northcross Hill and Ash Advisors (NHA). He reported on factors, stating that the outstanding bonds are \$900,000, the high estimate of \$11 million assumed that the Reserve Fund would be provided by bonds, and the existing issue is accounted for in an accrual, and not modified accrual, basis. The interest payment due is already in the adopted FY 2015/16 Town's Municipal Budget, and when bonds are marketed, the Town will realize savings from lower interest rates. Mr. Warman concluded stating that he and representatives were available for questions.

Vice Mayor Furst referred to the \$11 million amount and the lower interest rate resulting in the sale of more bonds and asked if the projected savings would be less than \$90,000. Mr. Warman replied no, stating that the Town would pay more principle and less interest.

Councilmember Andrews asked and confirmed that the bonds will be issued at a discount.

Craig Hill, NHA, stated there are investors that are looking to buy bonds at a discount and in this case they are issuing more bonds and getting less proceeds. They are making up for this by having a lower interest rate. They have been monitoring the market, and savings from last year would have been about \$10,000 a year. The end costs would have been about 5.4% and less than the existing obligation. However, in today's market they are at 4.4% or 100 basis points lower than last year, resulting in a targeted savings of between \$78,000 and \$92,000 a year.

Vice Mayor Furst confirmed the interest rate was fixed. She noted the bonds are Certificates of Participation (COPs) which involves a lease and lease back. She asked if there is any exposure of the Town due to changes outside of their control.

Mr. Hill explained the COP structure which allows multiple buyers to participate. Interest rates are set at the time the Town signs a purchase contract with the underwriter and cannot change through maturity unless the Town refinances the bonds in the future.

Vice Mayor Furst asked and confirmed that the transaction has an 8 year call feature without penalty, and she asked about the time up until 8 years.

Mr. Hill said if the Town were to pay off the debt in 3 years, they would structure the payoff so as to put money in escrow, but the investors will not get paid off by the 8th year and a trust could be set up which would include all interest and principle up to that 8th year.

Vice Mayor Furst asked for more information about the Reserve Fund for insurance. Mr. Hill explained that there is a debt service reserve fund requirement by investors in order to make payments if the Town somehow loses its ability due to fire or other catastrophe. Insurance companies will sell a surety bond which will cover the reserve fund which is the cost of approximately \$35,000.

Vice Mayor Furst asked about insurance on the actual properties themselves, and Mr. Warman stated the properties are and have been insured and he briefly explained coverages, and he confirmed the Town is covered for estimated replacement value.

Councilmember Andrews asked for the insurance company for the surety bond and asked what would happen if the company's credit rating was negatively affected.

Mr. Hill said they price the surety bond with multiple insurance companies which write their bonding against their policies. He noted this is an investor risk if the rating of the insurer goes down, but he said the Town is not obligated to provide additional security at that point. Mr. Warman commented that this had occurred with the existing issue. The

Town had no liability other than to report it.

James Ruzicka, Jones Hall, clarified how the legal documents work in response to Council questions, stating that there is no acceleration of lease payments, no foreclosure and the trustee represents the bondholders and would come to the Town looking for payment after looking to the insurer on the reserve policy.

Vice Mayor Furst asked that during the 20 year term do the corporations or counter party to the lease agreement have any input into whether or not the Town sells, refinances or makes material changes to the property. Mr. Ruzicka said no; the Town will continue doing what it is doing with the property and the structure proposed to be in place is the same as when the Town sold the original bonds in 2006. They are simply refinancing the 2006 bonds resulting in a reduced interest rate.

Mayor Bailey opened the public comment period.

ED GRAMMENS, Christmas Tree Hill, objected to the City owning the property and locking the Town into another 8 years. The Town is \$2.2 million in debt and is losing \$250,000 to \$300,000 a month. He said the Town has an opportunity now to remove itself from the deal and spoke of his 30 year commercial real estate experience with Cushman and Wakefield. He suggested the Town arrive at a plan to dispose of the property in the interests of the community and taxpayers.

JACQUES YENI, Summit Drive, said the center was once owned by Mr. Peter Chan who owned the gas station and he sold the center to the Town for \$10 million after it had been appraised for \$5.5 million which was shocking. Knowing what the leases were bringing into the Town, he thought there would never be a way to get rents high enough to justify the price. He did not see how the Town would ever make the proposal work and is dismayed at what the Town is proposing to do.

EMMA BRIAN, Lakeside Drive, questioned the reason for the Town purchasing the property.

A SPEAKER said he heard that the Town purchased the property in order to build apartments on the property.

Mayor Bailey said if the Town decided it wanted to sell the property 6 months from now, he asked how the transaction of refinancing be affected and asked if it would inhibit the Town's ability to sell the property.

Mr. Hill stated there is a cost to it and his advice would be that if the Town was to contemplate selling the property in the next 4 years, they would recommend that this financing be structured in a way for no call protection. This means is that the interest rate paid today might be slightly higher than the current market rate, and also the Town would have to pay the accruing interest to those investors up to the redemption date or 8 years of interest.

Councilmember Lappert reported that he was on the Town Council at the time of the original purchase and explained the reason for the purchase. The Town had entered into a master plan for the 22-acre park and the property which is contiguous to the park. The Town Hall was envisioned to be moved to that property which would become part of the Town's municipal complex. Additionally, the Town was also fearful that a developer would purchase the property and build apartments and increase traffic problems. He said years later the center has been improved dramatically but the gas station has a 30 year lease which clouds the title.

Councilmember Condon added that part of the Town Park is owned by the Larkspur-Corte Madera School District and there had been talk about extending the school campus onto the

park and acquiring the center which would enable the Town to extend the park if it were to be taken by the school district. The purchase was also to ensure that the Town Park remain viable for Town-related activities. Mr. Warman confirmed that the school district owns a little less than 25% of the Town park which would eliminate the playing fields if the district expanded.

Councilmember Andrews stated the Town was working on a financial plan this winter and he asked for the status. Mr. Bracken noted that this is separate from the item, but reported that he will meet with Libby Siefel tomorrow morning and she should have a status report in the near future.

Mayor Bailey thanked local speakers for their comments and said people ask him his own view of the burden the Town has to maintain the property, and while the price was high, the Town's children and their children have the opportunity to enjoy the park, community center, and other civic opportunities which have a cost. The Town has to service that debt and the item tonight shows diligence on an annual basis to manage the debt service.

He said the recommendation reduces the Town's debt annually. Councilmembers Andrews and Furst are knowledgeable about the matter and he believes there were sensible reasons the plan got entered into and suggested adopting the staff's recommendation.

Vice Mayor Furst voiced reservations and said she did not think the Town necessarily needs to own the shopping center forever. Originally there was a plan to build a new community center and possibly move Town Hall there. Instead, the Town was awarded a modest grant to make impactful improvements to the Community Center and the Town is proud of the center. The Town will never be able to afford an impressive civic center complex, pool and community center unless it is willing to absorb steep costs.

She said in looking at what they have been able to do with the center, the Town was able to improve the bank, create Café Verde and Town Park Plaza, but the gas station has a lease for another 20 years. Pet Club and the other retail center are older, need work, and she does not think the Town needs to own this particular property. The Town is not planning on building a new community center or pool, moving Town Hall, and this is a conversation the Town has not had. She thought now seemed to be a good time to sell it before the start of another recession.

Councilmember Andrews referred to the financial plan and agreed the Council has not discussed this issue.

Councilmember Condon agreed and said what is before the Council is refinancing. To go into details on whether the Town wants to or does not want to maintain ownership would be something that would have to be agendaized and not discussed now.

Mayor Bailey agreed this is another topic and he asked whether or not to adopt the interim measure to get some relief from lower interest rates or explore allowing an earlier call option within the refinance.

Mr. Warman stated the school district owns between 25% to 33% of Town Park and although they represented they do not anticipate expanding Neil Cummins School, for young families who want to live close to San Francisco, it is extremely difficult for them to purchase single family detached homes and he expects more families moving into the WinCup property than the school district is projecting. Therefore, in the next 4-5 years, the district may have to seriously consider adding onto Neil Cummins School which would mean going into the park property, and this was one factor taken into the Town's original consideration.

He said at the time the Council decided to purchase the center in 2006 there were businesses inquiring as to that property as far as zoning and development options, and this

was the reason the Council land banked the property. If at some time in the future if the Council decided it would want to sell and relocate Town Hall and the fire facilities, the best use in both instances was 7 single detached single family homes.

Councilmember Lappert supported the staff recommendation and made a motion, noting the topic is worthy of continued discussion. Councilmember Condon seconded the motion.

Vice Mayor Furst said she did not think there was a rush other than the risk of interest rates changing. She thinks it would be fool-hardy to lock the Town into 8 years. She suggested locking in the Town for 4 years or less and then spending some time considering what its long term financial plan is and using that time to review the zoning and potential future development if the Town were to sell the property.

Councilmember Andrews agreed with Vice Mayor Furst's comments.

Mayor Bailey agreed there would be no harm to explore this further and to continue the matter to the next Council meeting to review the cost difference in a 4 year or other call option. He thinks the Town should refinance in some way, but agreed the need to explore more options as to what is available to the Town and agreed this makes more sense.

Mr. Hill clarified that the resolution and draft documents do not specifically call out an 8 year call. This is usually negotiated as part of finalizing the terms of the transaction with the underwriter. While 8 years has been represented, there are a number of structures, such as a 'make whole' provision. At the time the Town would like to pay off the debt, there is a formula which indicates exactly what would need to be paid to bondholders to make them whole.

The public comment period was re-opened.

Mayor Bailey said he thought the primary difference in having the 8 year no call option was it got the Town a better interest rate.

Mr. Hill said there is a price point or interest rate an investor will take knowing that they are guaranteed they will receive interest for 8 years. If paid off in 4 years, the investor will make a decision and most likely want a higher interest rate.

Mayor Bailey asked if the discussion resulted in changing the 8 year call date and less than \$90,000 savings, he suggested having this information before authorizing approval.

Mr. Hill said to clarify a fixed or hard call date there is no impact on the interest rate so savings would remain the same. The risk is that depending on when the Town Council pays off the debt or refinances it again, there is a market determination or formula which will tell the Town what the cost of paying off the investor will be. He would recommend that if there is any doubt by the Council or the Council wants to terminate the relationship with the property, the Town would want to maintain the flexibility to pay off the obligation and this should not drive the decision.

Mayor Bailey asked and confirmed with the Assistant Town Attorney that the Council would want to continue the matter if it wanted to research what its preferred terms and conditions would be.

Mr. Hill said they still have one month of work to go through a rating agency and negotiations and turning to the underwriter and investment banks to determine terms. He recommended that the Town agendaize the item for discussion at its next meeting in June at which point more discussion can be held on the economic impact of different scenarios.

Councilmember Andrews said in terms of advanced pre-payment, he asked what the normal term lengths were. Mr. Ruzicka said the market is accepting of an 8 year term

without penalty to the interest rates and shorter terms start to impact interest rates.

Mayor Bailey again called for public comments.

ED GRAMMENS appreciates Vice Mayor Furst's comments and suggested the Council look at the long-term impacts and the Town's future financial plan for the property. He said he would be happy to provide advice and suggested any refinancing be done for as short of a time period for flexibility purposes.

PHYLLIS GALANIS, Prince Royal Drive, asked if the Town knew what the property was now worth.

Mr. Warman stated the property is worth \$11,230,000 was the appraised value in 2015.

JACQUES YENI said the property is worth what a willing buyer will pay for it. That buyer would look at what rents could be set at and improvement costs for investment. He has worked as an institutional securities salesman and there is a lot of negotiation to do with whoever the Town wants to deal with. The current representatives do this professionally for a living and he cautioned the Town and asked that it receive good advice.

Mayor Bailey asked if Councilmembers Andrews and Furst thought that if the Council adopted the current resolution would retain control and freedom to exercise direction later or if they thought it was premature.

Vice Mayor Furst referred to the title of the agenda report which locks the Town into the current structure and she said she would not feel comfortable in voting to move forward at this time. She suggested continuing the matter and said the only issue would be that interest rates move up.

Mayor Bailey supported continuing the matter. He asked to call a vote on the existing motion.

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

To Adopt Resolution 15/2016, A Resolution of the Town Council of the Town of Corte Madera Authorizing Delivery and Sale of Refunding Certificates of Participation to Refinance Outstanding 2006 Certificates of Participation, and Approving Related Documents and Actions

And

Approve a Supplemental Appropriation of Both the Revenues and Expenditures of the Refinancing Transaction

Vice Mayor Furst suggested a motion to continue the matter and hold discussion regarding flexibility of the refinancing and future Town plans for the site.

Mayor Bailey noted that this would be a large discussion and Vice Mayor Furst said she would like the opportunity for the Council to bring up questions and hold discussion about its long-term plans for the property, as well as flexible refinancing options.

Councilmember Condon suggested delaying any long-term discussions regarding the property until after the summer vacation period is over or held in September. She suggested a series of workshops be held so the community can provide input.

Councilmember Andrews agreed and asked that some refinance scenarios be provided.

Councilmember Lappert said no matter what the Council decides, they are in negotiations with bond counsel and what the Council does not bind itself in any way. If more discussion is needed it can be further reviewed and occur separate from the current recommendation.

Mayor Bailey suggested narrowing direction and asked that the motion be to consider the approval of authority to execute the refinance with options presented, allowing the Council to change its mind if it wants to sell the property. He said the urgency has to do with fluctuation in interest rates and he suggested continuing the matter to the next meeting to learn about options available to the Council. He did not want the next meeting to be anything other than a discussion about what long-term options the Town should keep in play so as to inform the interest rate and refinance terms.

Discussion ensued regarding clarification of the agenda's description, and Mr. Hill agreed to provide information at the next meeting regarding all options and call dates for bonds.

Vice Mayor Furst restated her motion and Councilmember Andrews seconded the motion.

MOTION: Moved by Furst, seconded by Andrew, and approved unanimously by the following vote: 4-1 (Ayes: Andrews, Condon, Furst and Bailey; Noes: Lappert)

To continue the matter to the June 7, 2016 Town Council meeting

6. PUBLIC HEARINGS

- 6.I Public Hearing Nuisance, 14 Lakeside – Determination Whether the Property Conditions Constitute a Public Nuisance as Designated in Chapter 9.04 of the Corte Madera Municipal Code and Direction to Staff for Further Action (Report from Adam Wolff, Director of Planning and Building)

Recusal: Mayor Bailey stated he lives about one block away and to avoid any appearance of impropriety, he recused himself from participating in the matter and left the dais.

Director of Planning and Building Adam Wolff gave the staff report and said the Council will consider whether property conditions at 14 Lakeside Drive constitute a public nuisance and potential options for abatement. He said he would introduce the item and then turn over the item to Building Official Mark Flatter who will discuss specific code violations and conditions found at the property. He said Acting Deputy Fire Chief Pete Davis is also present from the Fire Department and Assistant Town Attorney Judith Propp to answer questions.

Mr. Wolff discussed the location of the property, presented views from the front of the property, and said staff believes the property conditions particularly inside the house and the structural conditions of the house constitute a public nuisance pursuant to Section 9.04.020 and 9.04.030A, B1A and B3A of the Municipal Code. Staff recommends the Town Council make that determination this evening and said the code sections relate to those which define what a public nuisance is, violations which constitute a public nuisance, condition of disrepair and deterioration such that it can be considered a health, fire and safety hazard to occupants of the property or to the general public, and structures which are partially destroyed, damaged or otherwise dilapidated to be a fire, health, safety hazard to occupants or nearby residents.

Mr. Wolff then referred to page 3 which outlines the considerable amount of time working with the owner to resolve building issues in response to neighborhood complaints. The property owner was initially responsive to staff, but contact was broken after issuance of the Notice of Abatement.

Building Official Mark Flatter provided a PowerPoint of the historical account of the events leading up to the recommendation as identified in the staff report. He presented

photographs of fire damage, excessive storage in many rooms of the home, damage to the back bedroom, missing smoke detectors, use of dining room as a bedroom, overload of power strip, water damage to flooring and subfloor and possible damage to joists or girder system, egress violations, live electrical wires, a gas line which was cut off that served a furnace, two water lines that feed a bathroom, electrical hazards, exposed and unsupported wires, water entering the electrical meter box and subpanel, outside debris, garbage and rodent habitat, lack of heat to the home and fluctuating garbage service. He concluded by citing the various California Building and Fire Code violations affecting the property.

Mr. Wolff said staff's main concern is electrical issues and ensuring that repairs are done to ensure the house is habitable for the existing homeowner or occupant of the house. The homeowner is living in the house even given the limited entry determination made in 2005 and more recently with a Notice of Abatement from the Building Official.

Staff has recommended options identified in the staff report for the Council's consideration. There are a variety of ways to combine some of the options or separate them and while staff has concerns with occupancy and has indicated its recommendations, there are options to provide time and/or determine the home does not constitute a public nuisance.

Councilmember Condon asked and confirmed that some damage as a result of the 2005 fire is still a problem. Mr. Wolff added that some repairs have been made and some not fully completed.

Councilmember Condon noted that the problems began as early as 2003. The Town adopted its nuisance ordinance and the property is not only a hazard to the property owner but also surrounding neighbors. Mr. Wolff said most complaints received from neighbors related to the exterior of the home and garbage and he was not sure they are aware of the interior home conditions which need to be addressed as well.

Councilmember Lappert stated he has seen the property three times in the past and was familiar with the problems.

Battalion Chief Pete Davis discussed the Fire Department's philosophy on safety, neighbors' safety and the unpredictable nature of what could occur at the property which allows for the rapid spread of fire.

Vice Mayor Furst opened the public comment period.

ANN O'BRIEN, 11 Lakeside, said she lives across the street from 14 Lakeside and said neighbors' concerns relate to the enormous amount of garbage on the property and rodent infestation. She said the state of filth in the property is a health and safety nuisance and a danger to the occupant and to neighbors, and they have exhausted their patience since 2003. She said there has been a citation from 2005 that the owner may not live in the property, yet she lives there full-time and neighbors are concerned for her health and safety. She asked how soon garbage could be removed from the property, noted the lawn is about 4 feet high, and the Mosquito Abatement District and the Health Department have visited the property and she asked that something be done and asked how the Town will handle the matter.

GARY LAWLER said he and his wife Jenny own the house directly across the street and another house further down on Lakeside. They lived across the street when the fire occurred and watched over the last 11 years the Town not addressing the situation which gets worse year after year. He has seen the increasing outside garbage and cat collection and said the house is unfit for habitation. He provided a copy of the LinkedIn page where the homeowner has cited her low income status; however, she works for a dental company and he did not want this as a deterrent to address the situation and asked that the Town Council take immediate action.

JOSIE STEDSMAN, 12 Lakeside Drive, said she has lived next door to 14 Lakeside Drive in her home since 1986 and loves the Town. She never complained about the property, but the problems have escalated to the point where something needs to be done. The tree on the homeowner's property has pushed the fence and she is not able to open her back gate. She wrote a letter twice to the homeowner and the homeowner indicated she would do something. One year passed and the fence then was pushed too much and she had to put a 2x4 against her house's wall and her fence. The second letter indicated that the homeowner's tree was covering part of her roof, that she has difficulty cleaning the gutters and asked that it be trimmed but again, nothing happened. She then paid to have the tree cut from her side of the property. She cited the large amount of garbage which is piled up on the property and is now exposed outside of the plastic bags. She cited health and safety concerns and asked that something be done quickly.

HELGA KEYS, 13 Lakeside, said she is renting her home from Mr. and Mrs. Lawler and voiced concerns with health and safety for neighbors and the homeowner. A fire could occur at any time and the neighborhood could burn. She echoed all comments and asked that the Town Council address the matter.

SHIRLEY GATLAN, 14 Lakeside, said she does not live at the house but stays there late and her friend picks her up. She lives in Novato and said there is heat in the house. She has water, heat, and a full bathroom and can stay at the house. She said she lost her job and did work for Wells Fargo Bank and temporarily worked at HPAG which is a health management organization in Southern California. She recently got a job in September and cannot apply for a loan. Her brother could not help her and she did what she could with what she had. As of March she got approved for a loan for \$150,000 which she believes can fix what is wrong with the property. However, her brother also passed away in March. Therefore, she must wait until title cures until she can finish the loan process. She uncovered the water damage when she removed carpeting and this was not from the fire damage. There is only power in the kitchen, the main room, bathroom and the garage and none in the back half. She asked for an opportunity to fix it, said she tried to arrange garbage service with Mill Valley Refuse and she asked for help in re-bagging the garbage.

Vice Mayor Furst asked what the estimate is for getting the title cured. Ms. Gatlan said she has worked with the title company last week and they anticipate it will be a 30-day cure and another 3 weeks for the bank to approve the loan. She recognized the time to have improvements done and apologized to neighbors but is committed to getting improvements done.

Councilmember Lappert said this has been a subject he has dealt with since he was elected 11 years ago and he asked when Ms. Gatlan can assure him that all garbage will be removed from the outside of the house and visible to neighbors. Ms. Gatlan said the garbage can be removed by May 26th by Mill Valley Refuse and no garbage will be visible to any neighbor. She also said part of her lawn is mowed, but she ran out of electricity on her electric mower.

Councilmember Andrews suggested contacting a hauling company to clean up the yard, and Ms. Gatlan said she did not have the funds to pay for anything and just now has some savings to qualify for the loan.

Councilmember Condon said she was sorry for the challenges Ms. Gatlan had to face, but is concerned that problems have occurred over the last 13 years without remedy.

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

Councilmember Lappert said he heard that garbage would be picked up by May 26th and this is the only point. The Building Official has told the owner she is not allowed to live in the house and he wanted to confirm this because Ms. Gatlan states she does live there.

Mr. Flatter said he reviewed the file and there is no documentation from the previous

Building Official of any approval or allowance for the homeowner to move back into the building. Therefore, she is not allowed to live in the house.

Vice Mayor Furst said asked how to differentiate from Ms. Gatlan spending time at the home from living there, including late at night. Mr. Flatter stated limited access was set up so that she could access her belongings, work on the building and this does not mean she can occupy or live in or habitate the building.

Assistant Town Attorney Propp stated the Building Code defines "habitability" and generally the home must have some plumbing facilities, sleeping facilities, safe ingress/egress and heat, and most important is that when there is limited access one cannot stay in the home overnight. However, the owner can visit the property to remove things, fix things and any evidence of food or lengthy stays would give Town staff concern there is a violation.

Councilmember Condon said the Town has had problems with the property for almost 13 years that have not been resolved. She recalled that one thing that the nuisance ordinance does provide as a relief is that the Town would handle repairs and a lien placed on the property to be collected when the house sells or an option that it could be added to the property tax bill and when paid, dispersed to the Town.

She thinks one of the two alternatives should be exercised and she sympathizes with the homeowner but also feels the Town must assume some liability to neighbors near the property. The property fits well into a nuisance situation given pictures provided by Ms. O'Brien and difficulties of Ms. Stedsman and the impact to Mr. Lawler's property. There are severe health and safety issues that make the property completely unsafe and a fire could easily spread to neighboring properties. She thinks concerns merit the Council's considerations and she suggested no admittance to the property and that the Town temporarily absorbs the cost to address health and safety concerns which is impacting the lives of surrounding neighbors.

Councilmember Andrews asked about specific information if the Town were to affect repairs and lien on the property.

Ms. Propp said the Town code is unique in the fact that the Town has two options. If the Council were to direct staff to secure the property and spend a certain amount to make repairs for life safety, health or other issues as determined tonight the Town can return and proof up with costs of repairs.

Secondly, Section 9.04.010C allows the Town to include staff time and costs. The Town can place a lien on the property and not collect until the property is sold, but also the alternative to file a special assessment with the County Tax Collector/Assessor which would be imposed on the property owner immediately and the Town would not have to wait for a sale to occur. Additionally, the Town can invoice the property owner for full cost of abatement which includes costs of identifying, clarifying, abating the nuisance, levying the abatement, inspections and tracking of costs for repairs. It does not include interest unless it is not paid.

Councilmember Lappert said his concern is the neighbors' health and safety and he proposed that 1) if garbage is not removed by May 26th, the Town will remove it; 2) authorize staff to spot check the property and maintain a log of their staff time; 3) that the Town mow the lawn; 4) that an electrician be hired by the Town to cut off power to all rooms except those necessary for the homeowner to enter the residence; 5) follow-up with the homeowner on the status of the loan.

He said he would not favor any liens and thinks the Town can address the neighbors' health and safety needs immediately and be able to recover funds assuming that Ms. Gatlan has a loan forthcoming. The Town should then charge Ms. Gatlan for any charges tracked for the

identified work done.

Vice Mayor Furst said in looking at the 3 options outlined in the staff report it appears that Councilmember Lappert is choosing Option 3 which indicates that if the Council directs staff to take appropriate action to secure the property in the interest of public safety, including shutting off electricity and preventing access until such time code violations have been abated, this would require court authorizations and expenditure of Town funds for enforcement action.

Councilmember Lappert said he was not in favor of banning the homeowner from being able to access her home and said his suggestion was a modification of Option 3. The repair of the electric or mowing the lawn will not require a court order.

Ms. Propp stated since it is private property, the Town needs the homeowner's permission which could be granted as a condition and alternatively, a court order would be needed temporarily for staff or contractors to enter or be on the property. She noted that the Town is required to give notice to the property owner of the court hearing. The Council can set a time that if certain items are not addressed by a certain date, the Town can be authorized to obtain the court order. However, if a date certain is provided, the court order would take within one week depending on the day one is requested.

Councilmember Lappert suggested not obtaining a court order which may cloud the ability of the homeowner to get a loan. He asked Ms. Gatlan if she would give the Town authorization to coordinate with work to assist her in one week to mow the lawn and address the electrical problem.

Ms. Gatlan agreed to provide the Town with access to her property to do these things and clarified that the garbage would be picked up by Thursday, May 26th.

Councilmember Condon also noted that there are egress issues and she thinks safe ingress and egress within the home take place and be added.

Ms. Gatlan verbally agreed that this work could be done as well.

Chief Davis clarified that work needs to be done to the ceiling electrical wiring and service panel and the subpanel replacement if there is corrosion and remove all extension cords in the house.

Vice Mayor Furst summarized that immediate items that need addressing include: 1) outside garbage removed; 2) hallways cleared of storage to comply with the path of travel through the house; 3) abate electric risk by inspecting and repairing as needed the wiring in hallway ceiling, the service panel and subpanel; and 4) removal of all extension cords.

Councilmember Andrews asked if the roof also needed to be repaired, given it is leaking into the electrical panel. Chief Davis said yes and this should be added to work hand-in-hand with the electrical work.

All Councilmembers agreed with the proposed items of immediate need.

Vice Mayor Furst stated there is currently a 'no occupancy' notice on the home. The owner is there quite a bit and possibly living there which is a topic of debate. She said the subfloor may not be secure enough to walk on, and she asked if the Council wished to restrict her from accessing the home.

Councilmember Lappert suggested the Town cannot stop the homeowner from accessing her home and suggested prior to condemning the home, he suggested curing the immediate problems first. He asked that Ms. Gatlan alert the Town of receipt of loan funds.

Vice Mayor Furst said if the Town identifies this as a nuisance, these conditions can be made as part of their determination tonight.

Councilmember Condon said she personally thinks it is generous to allow the immediate items to be addressed and said because of past history, she was skeptical of seeing the items resolved. She voiced concerns of the safety of neighboring properties which is compelling and questioned whether the immediate items would be abated.

She suggested instead that the Council disallow access to the home and that immediate work be done by the Town and that the Town place a special assessment on the property. She confirmed with Ms. Propp that an itemization would return to the Council, that the Council would make a determination for appropriate charges and the information would be sent to the County to add to the tax rolls as a special assessment. When paid, the County would disperse the funds back to the Town.

Vice Mayor Furst asked about the deadline of May 26th for getting these items abated. Councilmember Condon noted that she would defer this to the Town's counsel. Ms. Propp stated complaints received from neighbors over the many years and more recent months have put the Town on notice. They consistently take action by serving notices of abatement and the hearing is being held tonight. Each step takes time and there is risk if the Town does not move forward. But, if some reasonable diligence is seen, it would be in the Town's best interest. She cautioned that if voluntary agreement is not given for access and the Town goes to the court with a finding of nuisance for an immediate order, the court would have the option of granting additional time to the homeowner.

Councilmember Andrews asked and confirmed that the Town should also obtain written consent from the homeowner and that the request for the court order could be prepared ahead of time if work is not completed or the homeowner does not allow access to the property. She noted there may be delay due to the holiday weekend.

Mr. Flatter added that May 26th may be a tight timeframe to have an electrician begin on the work but staff would work on securing the work.

Vice Mayor Furst summarized that the most immediate items of concern would hopefully be done within the next 9 days and beyond that, the homeowner has a plan to take out a loan and make improvements to the property. She indicated that clearing title and finalizing the loan would take approximately 2 months. She suggested the Council move forward with declaring this a nuisance, securing written authorization from the property owner to allow the Town to address the noted items, per Mr. Flatter.

Chief Davis said one item he would like added to the list would be Item 4; installation of sheetrock once the electrical is completed which would protect residents from fire in the residence, and he said this is a small cost item. Councilmembers concurred with this addition.

Vice Mayor Furst summarized that immediate items that need addressing include: 1) receipt of written authorization by the homeowner to enter onto her property; 2) outside garbage removed by the homeowner; abate electric risk by removing all extension cords, repairing roof and wiring in the hallway ceiling, the service panel and subpanel, to be coordinated by Mr. Flatter; and 5) installation of sheetrock.

Vice Mayor Furst asked that staff track the homeowner obtaining building and occupancy permits, and to allow for inspections of work, and that if items are not completed, the matter can return to the Council. She suggested better enforcing the no occupancy requirement and asked how the Town could ensure the property is not occupied short of a court order.

Mr. Flatter stated the Town does not want the homeowner to access the property and the

Town would shut off the gas and electric. Based on complaints, staff has visited the property during early mornings and late nights, but this is difficult.

Mr. Flatter said currently the home is hazardous but not an eminent threat and the Council should consider this when determining whether or not the house is accessed in a limited fashion or must be locked down, as it is approved now for limited access. He said if the homeowner enters the house to take a nap, eat a sandwich or read a book, this does not qualify as limited access. Once the electrical work is done, the sheetrock installed, outside garbage removed, the next step is to look at the furnace and heat, and he said the only issue is the hallway rot on the floor which he was not sure how far it goes. Therefore, they are not at occupancy yet.

Vice Mayor Furst asked Ms. Gatlan for authorization to have the Town and its representatives to go onto the property to address immediate hazards. She asked that Ms. Gatlan have the garbage removed and hallways cleared in the next 9 days and to allow access immediately. The Council will then want Ms. Gatlan to complete clearing the title, move forward with the loan and return to the Town and obtain building permits. Throughout the entire process, she is not to live in the property and not resting or eating in the property.

Ms. Gatlan said she will need access to the home to do some of the work. She acknowledged that she is aware that she is not allowed to live in the property and was willing to grant the Town and its representatives to access to the property, and that the costs to address immediate hazards will be borne by her.

Ms. Propp suggested the Council adopt the resolution making the declaration of the nuisance and she said dates and conditions can be added to the resolution.

MOTION: Moved by Condon, seconded by Lappert, and approved unanimously by the following vote: 4-0-1 (Ayes: Andrews, Condon, Furst and Lappert; Noes: None; Recused: Bailey)

To adopt Resolution 16/2016 and direct staff to add the following conditions and timelines relating that immediate safety items which will be addressed and include: 1) verbal and written agreement has been given by the homeowner for the Town and its representatives to enter onto her property; 2) that outside garbage removed by the homeowner; that the electrical risk of is removed by removing all extension cords, repairing roof and wiring in the hallway ceiling, the service panel and subpanel, to be coordinated by Mr. Flatter; and 5) installation of sheetrock; and that Ms. Gatlan agrees not to live in the property.

Noted Present:

Mayor Bailey returned to the dais to participate in the remainder of the meeting.

7. BUSINESS ITEMS

7.I Review of Draft June 6, 2016 Town Council Agenda

Mayor Bailey suggested adding Consent Calendar Item 5.V to the agenda.

Vice Mayor Furst referred to the last page, last Town item which his approval of the minutes of June 6th and asked that this be amended to state May 17th.

Councilmember Condon asked again that amendment of the fees relating to filming be agendized and that the Town Attorney review the wording of the ordinance. Town Manager Bracken agreed to agendize the item for June 21, 2016.

Mayor Bailey asked for the following additions:

- A date certain for review of the junior second units.
- A date certain for considering a change of election date to be even years be agendized and follow-up information regarding percentages of voters in the Presidential election versus other election dates certain for this item; and
- Schedule an item for the Planning Commission to first meet and clarify easements and encroachments into required setbacks versus encroachment into the Town's right-of-way along the Tunnel Path and to review what the Town Council discussed years ago.

7.II Approval of Minutes of May 3, 2016 Town Council Meeting

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

To approve the Minutes of May 3, 2016 Regular Meeting of the Town Council, as submitted

8. ADJOURNMENT

The meeting was adjourned at 10:42 p.m. to the next regular Town Council meeting on June 7, 2016 at Town Hall Council Chambers.