

MINUTES OF JUNE 21, 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 June 21, 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
Town Attorney Randy Riddle
Senior Civil Engineer Nisha Patel
Associate Civil Engineer Kelly Crowe
Police Chief Todd Cusimano, 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.I Presentation of Citizen of the Year and Volunteer of the Year Awards

Mayor Bailey recognized Cheryl Longinotti, honored as Corte Madera's 2016 Citizen of the Year. Councilmembers individually read portions of the proclamation into the record and a round of applause followed.

Ms. Longinotti said she was both surprised and excited to be honored as Citizen of the Year. She spoke about her love of biking and walking in town and her involvement in community activities and thanked the Council for the award.

Mayor Bailey then recognized David Kunhardt as Volunteer of the Year but said he could not be present at the meeting. Councilmembers read portions of the proclamation into the record and a round of applause followed.

3. OPEN TIME FOR PUBLIC DISCUSSION

JACQUES YENI expressed his puzzlement as to why there was no acknowledgement at the last meeting of the letter signed by many residents opposing the refinance the Council approved. He voiced concern as to the actual savings from the refinancing and asked that Town Council vet information on any profit or compensation awarded to the broker and bank. Lastly, he said it was unusual that there was no peer review or second opinion conducted regarding the refinance and stated that everything was negotiable in the deal.

Mayor Bailey suggested Mr. Yeni contact Director of Administrative Services/Town Treasurer George T. Warman, Jr. to further discuss the refinancing's details.

LAURA VON WALDBURG, Lakeside Drive, asked the Council to discuss putting sand back into the Town Park sandbox. The box was vandalized with glass and she has worked with Public Works to find replacement sand. They identified 3 options and asked the Town Council to order the new sand and have it replaced in the box by the 4th of July parade, if possible.

4. COUNCIL AND TOWN MANAGER REPORTS

- Town Manager Report

Town Manager Bracken gave the following report:

- Per Mr. Warman's memo regarding the refinancing, Certificates of Participation were refinanced this morning and savings will be approximately \$111,000 per year versus the \$90,000 which was previously presented. The total cost of the refinancing was close to \$275,000 versus \$300,000.
- An email was received from Superintendent Valerie Pitts asking the Town to finance a crossing guard this year at the Paradise/Sea Wolf/El Camino intersection at a cost of approximately \$16,000. Staff will return the matter to the Council for consideration of a supplemental appropriation.
- Staff is working on a long-term financial plan and will have a presentation on the matter at the July 19th Council meeting.
- A feasibility study is underway and should soon be completed for the Dog Park.
- The Parks and Leisure Services Director received a proposal from Circus Vargas for use the gravel lot for a show in September which will be discussed. He will soon update the Council on the lease of the gravel lot and Restoration Hardware.
- The Centennial Weekend was a huge success and he complimented Town staff on their work for the event.
- Summer Playground began June 20th with 113 children signed up.

Mr. Bracken added that Public Works staff was working on the Town Park sandbox and has been in communications with Ms. Von Waldburg.

- Director of Planning & Building Report on Tamal Vista East Corridor Study
- Mr. Wolff reported that the Town is on track to have the study completed prior to the expiration of the moratorium this fall.
- Council Reports

Councilmember Lappert had no report.

Councilmember Andrews had no report.

Councilmember Condon gave the following report:

- She commended the Public Works Department, the Parks and Recreation Department, Chair Pati Stoliar and Chamber of Commerce Executive Director Julie Kritzberger for their work on the Centennial celebration's Weekend 100.
- She read a thank-you letter into the record regarding the fireworks at Weekend 100 as seen from San Quentin prisoners.
- She reported that the Town received one of the highest scores by the County Grand Jury regarding review of Sanitary District services, and she recognized Town Clerk Rebecca Vaughn for her involvement and work to respond to the Grand Jury.

Vice Mayor Furst gave the following report:

- She recognized volunteers who worked during Weekend 100 and reminded everyone that events will continue each month for the remainder of the year.
- She was appointed to represent Central Marin Sanitation Agency (CMSA) on the Watershed Association and attended a recent meeting. CMSA now has operable their recycled water tap which is only for certain uses. She suggested the Town be in contact with subcontractors regarding filling up recycled water trucks at CMSA which is for limited uses. She commented that trucks must be licensed by MMWD in order to use recycled water.
- She attended TAM Executive Committee meeting and reported:
 - OBAG II funding in Marin will be approximately \$6 million. Of that \$6 million, approximately \$900,000 must go to Safe Routes to School, and approximately \$3 million must go to Priority Development Areas (PDAs) which leaves less than \$3 million for all other agencies in the County.
 - Agencies submitted to TAM their requests which total \$49 million.
 - Corte Madera submitted 4 projects and she is working with Town staff on avocation of these projects which include work on Tamal Vista, Wornum, Paradise Drive between San Clemente and Sea Wolf and Redwood Highway.
- She attended a TAM Ad Hoc meeting on Transit Demand Management (TDM) and reported:

- TAM is working on various programs to make it easier for people riding the SMART train to get to the SMART train and their final destination, which is called First Mile/Last Mile.
- TAM is working on car share expansion, bike share programs, transit incentives, and working with Uber and Lyft.
- This work is in addition to work that Marin Transit and Golden Gate Bridge and the Highway Transportation District is doing.
- She also attended a meeting regarding update on the North/South Greenway project and reported:
 - The SMART General Manager is balking at allowing the Greenway to be built on the SMART right-of-way despite multiple statements of committing the agency to be cooperative with the County and various cities to get the pathway built.
 - She has uncovered a document from 2005 in which they signed off on agreeing to allow that right-of-way to be made available for transportation. There are multiple video-taped examples of the General Manager confirming that this will be done.
 - The northern section which will be the bike pathway alongside the freeway over Corte Madera Creek will be widened along with providing a new shoulder on the off-ramp. This should be completed by mid-2018.

Mayor Bailey gave the following report:

- He attended the Marin Clean Energy Board meeting and reported:
 - New members were present and include all 5 cities in the County of Napa and the City of Walnut Creek.
 - Rates are being reduced by 9% across the board for the coming year.
- He attended the Marin County Council of Mayors and Councilmembers Legislative Committee and reported:
 - They discussed the Governor's "By-Right" Trailer Bill which is on the Consent Calendar.
- The Town received a letter from the President dated June 1, 2016 which he read into the record.

5. CONSENT CALENDAR

Councilmember Condon requested removal of Item 5.V.

- 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 Approval of the Plans and Specifications and Authorization to Bid For Project 15-005, 2015/2016 Pavement Rehabilitation Project

(Report from Kelly Crowe, Associate Civil Engineer)

- 5.III Approval of Grading Plans and Authorization for Issuance of a Grading Permit for the 1421 Casa Buena "Enclave Townhomes" Project
(Report from Kelly Crowe, Associate Civil Engineer)
- 5.IV Second Reading and Adoption of Proposed Flood Plain Ordinance Revisions
(Report from Kelly Crowe, Associate Civil Engineer)
- 5.VI Consideration of Cancellation of July 5, 2016 Town Council Meeting
(Report from Rebecca Vaughn, Town Clerk)
- 5.VII Receive and File Investment Transactions Monthly Report for April 2016
(Report from George T. Warman, Jr., Director of Administrative Services/Town Treasurer)
- 5.VIII Approve Warrants and Payroll for the Period 6/01/16 through 6/14/16: Warrant Check Numbers 213778 through 213864 Payroll Check Numbers 5221 through 5228, Payroll Direct Deposit Numbers 29639 through 29710 Payroll Wire Transfer Numbers 2018 through 2021, and Wire Transfer of 7/01/16.
(Report from George T. Warman, Jr., Director of Administrative Services/Town Treasurer)

MOTION: Moved by Andrews, seconded by Lappert, 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, 5.VII and 5.VIII

Item Removed for Discussion:

- 5.V Council Position On Governor Brown's "By Right" Housing Trailer Bill
(Consider authorizing the Mayor to send a formal letter of opposition to the Governor's "By Right" Housing Bill)

Councilmember Condon first pointed out a couple of typographical errors for correction and said she wanted to impress upon everyone that what the Governor is proposing could have huge ramifications on the zoning corridor on Tamal Vista.

Previously, there were laws regarding density bonuses, reduction of setbacks, increasing height limits, and expedited design review. If jurisdictions subject themselves to

impediments, they can be sued by the federal and state government or advocacy group. The bill also does not provide for collection of permitting fees which affects jurisdictions. The previous impediments law sunset in December 2015 and it is being re-introduced by the Governor's proposal.

She suggested revision to the letter:

- Last paragraph of the first page to state, "We have already learned from a current project being completed that current laws in place including density bonuses, reduced parking requirements and height limits already impose onerous conditions on our community."

Mayor Bailey opened the public comment period and there were no speakers.

Councilmember Andrews requested the following revisions to the letter:

- Second italicized paragraph, rework it to identify that it relates to a different project than the San Clemente project.
- The second italicized paragraph, rework the paragraph to make it tighter. Key points would be to emphasize that it is a different project, the second project had a truncated design review and citizen participation similar to the process described in the legislation; the result is a highly controversial project with the project's massing, scale and appearance not in harmony with the community; on the last point state it has become a negative symbol for high density housing in the County and is not helping foster additional high density housing.

Vice Mayor Furst disagreed with Councilmember Andrews' comments, stating the process was not truncated but instead went through a process over many years. She explained that when the Town went through the process of replying to the Grand Jury about how the WinCup development came to be, there were a few failures. One was that the density had been determined during a General Plan update when the then-Planning Director inserted language in a Land Use Element that, unbeknownst to the then-Council, locked in that development at 40 units to the acre. This was before the Council discussed the Housing Element which was backwards.

She added that ABAG made a mistake with the Town's RHNA numbers and the Town was forced to accommodate a lot of housing that they should not have been ever required to accommodate. And, it was failure of the then-Planning Director to carefully explain what changes of the Land Use Element truly meant when the Council adopted it.

Councilmember Andrews stated there was no requirement that the Town place the entire RHNA on one parcel.

Vice Mayor Furst stated the Town went through an entire process to update the Land Use Element and it was decided by everybody involved that the best place in Town was to place

many units at that site. Then the Town went through the Housing Element process. All groups involved disagreed with putting the bulk of the units at the site of a non-operational Styrofoam cup factory. The alternative was to place all of the units around the Town. There was discussion by the Citizens' Advisory Committee to potentially put many of the units up in Old Corte Madera Square.

The implication of those amendments was that the Town did not follow the process, which was not the case as there were 40 meetings on the matter. She suggested the following revisions:

- Last paragraph on page 1, first sentence to be revised per Councilmember Condon's comments.
- Last paragraph on page 1, immediately before the word "criticism", add "For example, during deliberation of a project in our community commonly referred to as "WinCup" criticism of design or request for reduced density could have been interpreted as an impediment, leaving the jurisdiction potentially open to lawsuits."

Councilmember Condon and Lappert concurred with the suggested revisions by Vice Mayor Furst.

Mayor Bailey said he would reduce the language a bit, stating it was unnecessary to go through the direct link to identify the specific WinCup project. He stated there was a conference call hosted by Senator McGuire and participated in by the League of California Cities, members of the Legislative Committee and Marin Councilmembers that occurred recently. They were trying to determine a consensus as to opposition of the Governor's bill which they perceived as intruding upon local control.

He both summarized existing, revised, and new amendments as follows:

- Maintain the first italicized paragraph the way it was.
- Add the sentence suggested by Councilmember Condon which reads: "We have already learned from the example of a different project currently under construction that...."
- Add Councilmember Andrew's suggestion that at the end of that sentence which states "...already impose onerous conditions on our community and reduce true citizen participation."
- Delete the next sentences and keep the last sentence which reads: "We certainly wouldn't be willing to relinquish more power over our land use." Eliminate the next two paragraphs which state, "The Corte Madera community already feels the state's usurping of local control and would be outraged to hear that...." And eliminate the last paragraph that begins with: "This proposal is disappointing from our Governor."
- Conclude with, "On behalf of the residents we represent who deserve a voice in the future shape of their communities the Town of Corte Madera respectfully states our opposition to this measure."
- Add Councilmember Condon's preamble which Vice Mayor Furst suggested

language for: Last paragraph on page 1, immediately before the word “criticism” add: “For example, during deliberation of a project in our community commonly referred to as “WinCup” criticism of design or request for reduced density could have been interpreted as an impediment, leaving the jurisdiction potentially open to lawsuits.”

Councilmember Condon said the Town is actually experiencing first-hand the results of a similar situation the Governor is proposing, given the lack of design review

Mayor Bailey suggested making the Governor aware of this specific problem and to indicate that the Town Council has a specific understanding of what is being proposed and that the Town opposes it. He did not think the letter should include identity of the WinCup project and asked for consensus of the proposed revisions as he previously summarized into the record.

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

To approve the letter of opposition to the Governor’s “By Right” Housing Bill, as amended

6. PUBLIC HEARINGS - None

7. BUSINESS ITEMS

7.I TOWN ITEMS:

7.I.i Consideration and Possible Action to Contribute Funds to the Yellow School Bus Program for the 2016-2017 School Year

(The Town Council will receive a status report from Tiburon Vice Mayor Jim Fraser and Belvedere Councilmember Bob McCaskill)

Recusal: Vice Mayor Furst recused herself from participating in the matter, stating she lives in the Reed School District and her daughter takes the school bus, and she left the Chambers.

Tiburon Vice Mayor Jim Fraser thanked the Council for agendaing the matter and for support of the Yellow School Bus Challenge which was launched last year. They hit many success points and are bringing the program forward for the next school year which is vastly improved from the current program.

Vice Mayor Fraser referred to data forwarded to Councilmembers with results of this year, the budget and highlighted the following additional points:

- A JPA has been formed with the Reed Union School District, the City of Belvedere and the Town of Tiburon.
- The JPA has 6 representatives; 2 Councilmembers each from Belvedere and Tiburon and 2 Trustees from the Reed Union School Board.
- They have met and continue to meet to fine tune the 2016/17 program as well as looking for a long-term funding source.
- He recognized the efforts of 5 parent volunteers, City staff members and Councilmembers.
- As a result of the program, they reduced traffic and added the benefits of creating additional community with families and added community amongst students.

He introduced Councilmember Bob McCaskill who will add to his comments and said he looks forward to the Town responding to their request and joining them again in 2016/17 with an even better program.

City of Belvedere Councilmember Bob McCaskill said all of the relevant facts are contained in the letter they submitted. He echoed Vice Mayor Fraser's comments and said they were available to answer any questions about the program.

He stated that the biggest problem in southern Marin is traffic congestion, but equally important is that the program addresses the environment. It takes several hundred cars off roads in the most congested times of day and provides for an affordable means of transportation for children in all three communities.

Mayor Bailey opened the public comment period.

LUCY CHERTAIN, Prince Royal Drive, said she has relied on the bus system for the last 6 years for her two children in two different schools and she spoke last year in support of the Bus Challenge program. She hoped Corte Madera will help subsidize the crucial program. At the meeting last year there was discussion regarding Corte Madera addressing its own traffic problems and funding this program does that. Buses begin in East Corte Madera around 7:20 a.m. which removes all traffic along Cove School along Paradise Drive and reduces congestion.

She added that Mill Valley's Edna McGuire's School is implementing a similar pilot program this year and thinks the towns should work together on this concept to help traffic. She also hoped that a bus program could help with Redwood High School and urged the Council to support Tiburon and Belvedere in this endeavor.

BOB BUNDY, Golden Hind Passage, questioned the traffic the program resolves and said he did not understand whether traffic going east on Paradise and then around to the Reed

District schools was where the impact was located or whether it was those traveling to Hwy 101 and heading to Tiburon from Hwy 101.

He thinks Corte Madera's biggest problem is that they have no connection with I-580 from Hwy 101 and it causes traffic to back up on streets. The same thing could be said for the problem they have with the district boundaries and he suggested changing these to address traffic congestion for the Reed Union School District because students would attend school in Corte Madera.

PHYLLIS GALANIS, Prince Royal Drive, said she believes most traffic is traveling to Marin Country Day School and she did not see that many vehicles traveling with students to the Cove School. She asked and confirmed that Marin Country Day School was not involved in the program and this is not addressed at all. However, anything the Town could do to help parents not be part of traffic congestion is a good idea. She also echoed Dr. Bundy's comments about the need to change district boundary lines for Corte Madera students to attend school in Corte Madera.

RAMON GARCIA, Balclutha Drive, said he thinks the bus solution is better than having individual vehicles bringing students to school. However, he also agrees with Corte Madera students being able to attend Corte Madera schools without having to apply for acceptance. His kids walk to school which takes them 5 minutes and he was lucky after 2 years in applying for the school, as otherwise he would have to drive them or they would take the bus. He therefore fully supported the Town funding the bus program and easing traffic.

CARL CROWIT said he is present with his wife Jody and his son, Rett. He attended last year's meeting regarding the same subject and has been impressed with the Town. What representatives did not indicate is that they are working on a long-term solution for this and ways to obtain federal grants to bring school buses back for the entire state of California. He asked Corte Madera to be a leader in the community. He lives on Sonora Way on Ring Mountain and the boundaries were drawn years ago. He would hope that all students could attend Corte Madera schools that live in the town.

He held many conversations with Dr. Gould, the school psychologist at Bel Aire who opines that buses are good for kids and for independence. He asked to be reflective and think about the long term goal to get traffic off of roads but also make a great environment for kids in schools.

RETT CROWIT said he will be 8 years old and a 3rd grader at Bel Aire next year. He thanked the Council for supporting the School Bus Challenge. He likes riding the bus because he can play with his friends and because sometimes he wants alone-time after school. Riding the bus is good for the environment, as they learn about global warming and changes at his school and his dad tells him he can be part of the problem or the solution. He is proud to

live in Corte Madera because his family is part of the solution. He asked the Council to vote “yes” to make the Yellow School Bus Challenge even better.

Mayor Bailey asked Vice Mayor Fraser and Councilmember McCaskill what is expected to occur next year and thereafter with the program.

Councilmember McCaskill said they are talking with the County, the State, have held conversations with TAM to obtain funding from a non-local entity, and they all say they are working on the issue but it could be a year or two away. He hopes that they do not have to ask cities to fund the program, but their goal is to find other funding sources.

Mayor Bailey asked what would be the policy by a state or federal entity that would encourage those agencies to want to pay for local school buses.

Councilmember McCaskill said it will most likely be focused at the County level because the problem is not unique. Ross Valley has the same problem although they instituted a bus system. Mill Valley is now taking initial steps with two buses for a much larger population, so he thinks it will ultimately come back to the County and their ability to receive transportation funds from the state.

Councilmember Condon stated if the Town were to provide \$25,000 to the program, she asked if this would impact the \$16,000 which Superintendent Pitts needs for the crossing guard.

Town Manager Bracken said no, it would not impact that, but simply be a reduction in the General Fund.

Mayor Bailey said it possibly might mean they might need to cut \$25,000 from something else.

Town Manager Bracken suggested having staff review the matter and return with a supplemental appropriation request from the General Fund at the next meeting.

Councilmember Andrews said as a child he rode school buses. He thinks the program is useful for helping a portion of the Town but there are other parts of the town in a different school district that he also thinks needs transportation assistance, such as those students walking along Casa Buena with no sidewalks.

He also believes the Larkspur School District has a deal with Marin Transit or Golden Gate to run between the Cove, Neal Cummins and Hall School and may ask for a subsidy in the future. In the letter today, the Town received a request for assistance to pay for a crossing guard. Therefore, from a policy standpoint he asked if the Town wanted to involve itself in

the school transportation business and he was not sure as to whether he supports this or can afford it.

Councilmember Lappert said he brought this up last year and he always has an issue with a large number of people paying for the use of something by a small number of people. He thinks the Town is enabling single passenger cars to continue driving. He believes that at the start of the school year, parents should have a choice to either bring their child to school single and in a car which will cost them \$5 for that privilege as opposed to making everybody pay.

He referred to the heartfelt letters of support, signatures from a variety of people and said this is not how Town money should be spent. He insisted on people paying when driving one passenger in a car and this is the way to pay for the bus; not requiring others not using the service to indirectly pay for it as taxpayers.

He supported the request this year, but asked representatives that when they come next year to bring something for the Council to review and something where the school is taking an active role to ensure that single passengers in cars are not allowed to deliver their children without some sort of penalty or fee.

Mayor Bailey said he thinks generally the Town is in favor of this, but suggested continuing the matter for one more meeting to have the Town Manager research as to whether the Town has the funding. It is his view that it is an innovative program in that, aside from the philosophical issues, they have a practical and operational problem which is that they have too much traffic on roads. He does not believe there is any magic solution to this. One of the incremental things they can do is to reduce congestion by parents driving their children in the mornings and at conclusion of school and this is part of that solution.

He did not disagree that the Council ought to be hitting it from multiple angles and agreed with Councilmember Lappert philosophically, but the question is whether \$25,000 should be spent to help, and he supported continuation to the next meeting. He also asked representatives to develop a metric for next year that can quantify the reduction of time on the road, number of vehicles, or something that would provide more information about how the program provides an impact on reducing congestion.

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

To Continue the Matter to the next Town Council meeting

Noted Present:

Vice Mayor Furst returned to the dais to participate in the remainder of the meeting.

- 7.I.ii Consideration and Possible Action to Approve an Employment Agreement with Todd Cusimano for the Position of Town Manager
(The draft Agreement is included for review in the agenda packet and a verbal report will be provided by Mayor Sloan Bailey)

Mayor Bailey stated as background, the authority of the Town Council to appoint a Town Manager stems from Government Code Article I, Section 485 (1) which in the local Municipal Code Chapter 2.12 for the Town Manager, appearing in Section 2.12.010, etc. and he read the authority of the Town Council into the record:

“The Town Manager shall be appointed by the Town Council wholly on the basis of his/her administrative and executive ability and qualifications and shall hold office for and during the pleasure of the Town Council.”

He said the Town Manager’s contract is up in September 2016 and he indicated earlier in the year that it was not his intention to continue as Town Manager and Town Engineer and the Town will need a new Town Manager. It was announced at the April 5 and 19 Town Council meetings, and the Council began discussions in Closed Session about how the Council would go about hiring a Town Manager, who runs the Town.

In or about April, a letter of interest was received from Police Chief Cusimano. For the ensuing time each Councilmember performed its own due diligence and identified things they know about Todd Cusimano. Todd has been locally helpful as a public servant for more than 22 years. He has proven that he can deal with multiple personalities and exercise outstanding judgment. He is honest, fiscally and administratively excellent, managed the CMPA consolidation and budget to maintain a flat payment while improving the level of service in terms of response times and how crimes are handled locally over multiple years. Therefore, his executive skills are well-known and personally observed by each Councilmember for a long period of time.

The Town Council knows Chief Cusimano and has been able to observe him under stress, pressure and he is the kind of person who could serve Corte Madera well. Councilmembers talked with people independently Chief Cusimano who has worked for and those who work for him. They also spoke with new and long-standing residents, each other, other Councilmembers, read materials and formed an Ad-Hoc Contract Committee to try and negotiate what would be a potential actual form of agreement the Town would have with him.

Councilmembers collectively agreed that it seems like Todd would be the best candidate. They did not discount suggestions for a national search or broaden the network more; however, this takes time and money but it also unnecessary if they know what they have and what they want, which is someone superior in many ways.

Mayor Bailey said the Ad-Hoc Contract Committee was appointed and consisted of himself and Councilmember Andrews. They began to negotiate what kind of agreement they could ultimately reach with for their Town Manager. The Town cannot reach an agreement without exposing it to public comment and they must have something to present to the public to comment on. They developed a rough outline of terms, such as surveys of other Town Managers, public employee compensations throughout the state, leveraging questions about pensions, talking about entitlements and many provisions.

Their guiding philosophy was that someone with this kind of background and service can properly be compensated giving acknowledgement to the fact that Todd has never served as a General Manager before, but is superior to a General Manager in some ways and has things to learn in other ways, and to reach the mid-point of compensation of what managers are paid in this County.

Mayor Bailey said the agreement was then vetted by the Town Attorney, Director of Administrative Services/Town Treasurer and the primary terms are available for comment. The Town has received comments from residents and he opened the public comment period for those who wished to speak.

BOB RAVASIO, Oakdale Avenue, said he served on the Town Council for 8 years and 5 of those he served as the Town's representative on the Police Council, working directly with Chief Cusimano. He enthusiastically supported the Council's decision to hire him as Town Manager. Most importantly, he managed the successful integration of San Anselmo into the Twin Cities Police Department, which is not easy to do, given different cultures, unions, politics and the results are great. There is more police on the streets, they are doing it for the same amount of money paid 10 years ago and response times have been reduced. This is the definition of good government and this is good management and the kind of talent Corte Madera has the opportunity to hire tonight.

Mr. Ravasio said Chief Cusimano had a great ability to train staff. The police consistently enforce crime but do it non-violently and he spoke of the Bank of America hostage incident which could have gone very badly. Lastly, he said he thinks they have the best Town staff they have had in years and he likes that Chief Cusimano serving as Town Manager is going to make them even better and they will make him better. He encouraged the Council to approve the agreement this evening.

PETER HENSEL, Willow Avenue, said he has a different perspective and apologized in advance if he hurts anyone feelings. He thanked the Mayor for referencing the section of code and stated that some might say that Todd is a great administrator. He cut staff at CMPA but those gains have come at a price for less service that police find troublesome or unpopular to enforce. He said this is the same Chief who appeared before the Council last August and argued for striping the general noise regulations out of code. This would have

led to citizens' arrests, pitting neighbors against neighbors as the only enforcement remedy for loud and unnecessary noise. The Chief did not explain how this would benefit the community and the Council wisely rejected the Chief's proposal. He questioned if this was the kind of questionable executive judgement that the Council now intends to reward by naming Chief Cusimano the Town's next top administrator.

He said the Municipal Code clearly states that it shall be the duty of the Town Manager to enforce all laws and ordinances of the Town. He asked also to reflect on the word "qualifications." He asked if this presumed some experience in the field of Town planning and administration, which Todd has none, yet Councilmembers want to reward him with a contract that would put him in the top pay tier of the Marin Town and City Managers with an annual base salary of \$219,000 plus an additional \$10,000 allowance for coaching and mentoring so he can be tutored while he learns on the job which he finds unbelievable.

In 2015, the Marin Grand Jury's recommendation to the Town was Corte Madera must ensure that government procedures are performed in a fully transparent manner and he asked why would this proposed inside hire would revert to the same "deal making" and "insider politics" that got the Town into trouble over WinCup. He also asked how many people know what is going on tonight, noted the Grand Jury asked the Town to use social media to promote project awareness and suggested enlarging the field of candidates through a national search, evaluate impartially and felt the Town will then have a base for candidate comparison.

He also suggested Councilmember Lappert recuse himself, given he is a CMPA police officer with Chief Cusimano as his boss. Vice Mayor Furst and Councilmember Condon also serve on the CMPA Council and he asked that they step down, as well.

BARBARA SOLOMON, Willow Avenue, said she is a retired lawyer with the San Francisco Attorney's Office and she has worked with the Town's Attorney Randy Riddle. She has been an active community and school volunteer and got to know Chief Cusimano when she worked on the bond to build the Twin Cities Police Department rebuild and also on the Twin Cities Coalition for Healthy Youth. She thinks Chief Cusimano is an amazing person, an excellent administrator and thinks he would make an excellent Town Manager. He knows the people and the culture of this Town. She would much rather have a manager who knows Corte Madera than spend \$50,000 to conduct a national search. They have had changes in the Town Council and hiring Chief Cusimano would be a positive step for the community and she urged his hiring.

BOB BUNDY, Golden Hind Passage, said he has lived in Mariner Cove for over 30 years now. Given a number of issues with noise, storage of debris, and various disputes, no police department is good at resolving all of these types of issues. These are things that resolve with time. In enforcing the noise ordinance, Mr. Bundy said this is a very small aspect of

what the police department really does. What he is impressed with is the work done in the consolidation with San Anselmo.

He noted that there have been delays and issues in working on a fire consolidation/sharing with the rest of Ross Valley or Larkspur, and Chief Cusimano was called to help with that discussion. They are now moving forward with a new Police Chief and shared responsibilities that will be of benefit to the Town. Potentially, Todd as Town Manager could help with other consolidations of either police or fire services that could save additional funds.

Dr. Bundy said he has also seen a number of Town Managers come and go. Dave Bracken has been successful because he knows the town, knows its infrastructure and he has been one of their longest serving Town Managers. He would anticipate that given Chief Cusimano's background, he could also be a long-serving Town Manager and he thinks would be an excellent choice. In going to a national search at times money is spent through the process and towns do not end up with the right candidate for hire. He therefore fully supports the Council approving the agreement with Chief Cusimano.

PATI STOLIAR, Casa Buena agreed with comments of Dr. Bundy, Mr. Ravasio and other speakers. She is co-Chair of Age-Friendly Corte Madera and before they could do any outreach to the police department, they were contacted by the Chief saying he would like to be part of it. Todd has been instrumental in creating this mesh of the Age-Friendly group working with the CMPA and it has been extraordinary. They are starting a speaker series at the Community Room at CMPA and they would not have had this opportunity without their offer, and she is very grateful to Chief Cusimano. She thinks it would be silly to go look beyond what is already here.

PAT RAVASIO, Oakdale Avenue, said she gets involved in many things and one is the concern about pedestrian safety crossing at Chapman and Tamalpais. She has found under Todd's direction, CMPA has been extremely responsive and pro-active. When she saw the way Todd managed the construction of the police facility which was built early and under budget, beautiful and LEED-certified, she knows in moving forward, Todd will have the ability to guide Corte Madera to a great future. She also did not want to spend money to nationally search for a manager who will come to Town without any understanding of this quirky little community.

PHYLLIS GALANIS, Prince Royal Drive, said serves on the Twin Cities Disaster Preparedness Committee and Chief Cusimano has attended many meetings. When issues arose they were smoothed right out by him and she was appreciative of this. She knows Chief Cusimano has a degree in Public Administration, he wants to serve as the Town Manager, has proven success with CMPA. She thinks the Town will be well-served by Todd taking over as Town Manager and hoped the Council would not decide to go out for a national recruitment.

LAURA VON WALDBURG, Lakeside Drive, stated that when she initially contacted the Town about the sand, she was met with many “no’s” and was disappointed. She asked the Town to hire a positive, “yes” person who is enthusiastic and will make things happen.

She spoke of her home being burglarized twice and because she has spoken with the Chief a couple of times who came up with good preventative ideas and supported him as the Town’s next Town Manager.

JULIA MIKA, Yolo Street, said she has been a resident of the Town for 52 years and has a 14 year old and a 14 month old. She left to join the service and has retired back to Corte Madera. When she heard the name Cusimano, it brought back his father, familiarity, small town, and happiness. Corte Madera has a Police Chief who knows the community, who will know her children and she thinks shifting him to be Town Manager is incredible, unheard of and a gift. She cannot commend the Town Council enough and asked the Council to hire him. Those in opposition have small issues which are small compared to what Todd brings to the Town, and she is excited about this opportunity.

Mayor Bailey stated the Council heard from those very active in the community tonight and it speaks very highly of Chief Cusimano that he had so many supporters.

Councilmember Lappert said this agenda item was to discuss his contract and salary and he commended Mayor Bailey and Councilmember Andrews for putting the agreement together. He supported the agreement and said it seems very reasonable to put him in the middle of the pay scale.

Vice Mayor Furst said she is excited to have Todd Cusimano joining the Town as Town Manager. It helps to alleviate the bittersweet feelings we have of losing David Bracken. She thinks the Town would be very lucky to have Todd as its Town Manager, recognized the many nice comments, thinks Todd has an incredibly appropriate and solid set of skills including management of staff and financing and building the new police facility. She cited the consolidation with San Anselmo as difficult to negotiate and thanked Todd for his tactfulness and respect which extends to how he deals with the public, which is precisely the kind of person the Town wants.

Additionally, Todd has a Master’s Degree in Business and Public Administration. There were comments made about the noise ordinance and the recommendation to throw it out. She noted there was a very good reason for Todd coming to the Council about the ordinance, as it was unenforceable. Todd was proactive and asked the Town to re-write it in a way that it could be enforceable. The Town Council is still working on it, but this is exactly the kind of effort the Council wants.

Regarding the process the Council went through to come to where they are now, she said this is called promoting from within the organization. She is glad that Todd has wanted to make a career change and she was happy they could keep him in the community, and she supported him.

Councilmember Andrews stated he wanted to call attention to the fact that over and above managing the specific departments, the Council will be setting specific additional goals which they will expect Todd to meet on an annual basis so they know on an annual basis where they want to end up a year from now.

He said comment was made about the Council agreeing to pay for coaching and mentoring for the new Town Manager and this was his suggestion and a conscious decision. Todd is making a career shift from law enforcement to Town management, and he believes he has already been in touch with a couple of former retired Town Managers so he can refer to them as needed.

Councilmember Condon said she is thrilled that the Town has the opportunity to hire Todd Cusimano. Regarding questions as to the fact that he has not been a Town Manager before, she said she worked for the City and County of San Francisco prior to Willie Brown as Mayor and the City's Charter being changed. At that time Willie Brown had responsibility over many, many departments, was not an expert in public works, finance, but he was a manager of people.

Similarly, Todd Cusimano has proven in a stellar way that he is an excellent manager of people. He does a lot to encourage morale through his ranks and file in the police department and this can be transferred to the Town. She did not expect him to be a land use, parks and recreation or public works expert. When it comes to finance, having worked closely with him during the consolidation she was one person against it and she asked him to prove that it would work financially as well as providing better and less expensive service. Todd worked out an incredible funding formula that the three jurisdictions felt was fair and equitable. He was able to establish parity in this formula and she sees him coming to the Town to be fiscally conscious about what needs to be done to maintain its fiscal health.

As stated by the Mayor, the Council does not have any say or part in the selection of any other employee in the Town except for the Town Manager and Town Attorney. She also said Todd's standards are high and she knows they will remain when he becomes Town Manager.

Regarding a search, Councilmember Condon thinks it is a total waste of money to go through the exercise and in spending \$50,000 to \$75,000 when they already have a great candidate. To impose upon people to go through an application process that costs thousands of dollars when the Town and community support Todd's hiring is not

necessary. Therefore, she said the Town has a gift which the Town will benefit from and she highly supported the hiring of Todd Cusimano.

Mayor Bailey extended appreciation for speaker comments. He said there were some last minute modifications made by Mr. Warman regarding “mid-management” and a term about a pension contribution. He suggested a motion to approve the agreement with authority to make the final terms.

Town Attorney Randy Riddle said the Council can make those changes now and approve it or continue the matter and return with a revised agreement.

Vice Mayor Furst suggested reviewing the revisions now and itemizing any changes of substance and anything minor such as typographical errors which can be reviewed by the Town Attorney:

- Page 4, word on the bottom right hand corner should be revised from “Mid-Management” to “Miscellaneous Department Head.”
- Page 5, top, the words “for CalPERS Miscellaneous Classic Employees”

Mayor Bailey stated the only issue where no clarification can be made is the contribution towards CalPERS which he thought was supposed to increase effective July 3, 2017 to 5½%, as it is currently 4.8%. It is the only item that the Council cannot confirm, but everything else is the same.

- Provision 9(a), the term “Mid-Management Group” should be changed to “Miscellaneous Department Head group.” In that same provision, again, “Mid-Management Group” should be changed to “Miscellaneous Department Head group.”
- The resolution number in (b) should be changed from 46/2016 to 38/2015.
- The words “of Miscellaneous Department Head Groups” should be added to the heading to Provision 10.
- The amount of \$100,000 payable to a beneficiary designated by the Manager with respect to term life insurance should be reduced to \$50,000 in Provision 10(b).
- The last sentence of the car allowance should be struck.
- Provision 13(b), there should be a period after the word “Town” in the middle of that provision and the words “in an amount of up \$3500” should be struck.
- The word “County” should be struck from the next sentence.
- In Provision 13(c) the words “notwithstanding the above” should be struck.
- On Page 7, Provision 14(b) the words “Mid-Management Town Employees” should be changed to “Miscellaneous Department Head.”
- The zip code on Provision 19; “Notices for Corte Madera Town Hall” should be changed from 94952 to 94925-1492.
- The sub-classification 1492 should be added to both noticed provisions.

- The words “Miscellaneous Department Head” should be added before the word “employees” and in lieu of the word “management” on Provision 20.

Mayor Bailey proposed making these changes and if it is not satisfactory when asking Todd Cusimano to sign it, it can be brought back for approval. However, given those changes verbatim as suggested by Mr. Warman are acceptable, the agreement will be final.

Councilmember Condon made a motion.

Councilmember Andrews said he would really like to see a final definitive contract to vote on.

Vice Mayor Furst agreed, but she asked Councilmember Condon to consider amending her motion to allow for any minor, non-substantive changes.

Councilmember Lappert was noted absent, and Mayor Bailey called for a brief recess.

RECESS

Mayor Bailey called for a brief recess at 9:35 p.m. and thereafter reconvened the meeting at 9:40 p.m.

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 an Employment Agreement with Todd Cusimano for the position of Town Manager, with corrections as voiced into the record as well as any minor non-substantive corrections

7.I.iii Consideration and Possible Action to Approve Response From the Town of Corte to the Grand Jury Report Entitled, “Police Fire Arm Security”
(Report from Todd Cusimano, Police Chief)

Police Chief Todd Cusimano said as a past practice on any Grand Jury Reports that relate to police matters, the Police Authority will write that response and the response will be reviewed by the Police Council and ultimately approved. At that point the approved response will then go to the Town of Corte Madera for review and approval. That process has taken place and now they are at the point for the Town Council to review CMPA's response and ultimately approve it.

Councilmember Condon and Vice Mayor Furst are both Police Council members and they have approved this response, which was drafted by Captain Norton. As the Grand Jury

states, there have been many auto burglaries, but specifically auto burglaries to police vehicles. He said it is in the 80% to 90% range, unmarked police vehicles have been the victims of firearm thefts. In talking to the Grand Jury and looking at the area and data, CMPA is lucky it has never been such a victim. SWAT team members were taking their vehicles home and officers were leaving rifles and handguns in the trunk or glove compartment or center console of a locked, unmarked vehicle, which is not a good practice. It got a lot of attention from the media in San Francisco and Chief Sur in early April sent a letter to all Police Chiefs to review their firearms storage policy and making it more restrictive.

The CMPA uses the Lexipole Policy Manual which is a nation-wide law enforcement best practices approach that leaves them legally defensible with policies. It is updated with case law and best practices, and it is attachment 2 of the staff report as Policy No. 312. Within that policy, page 6 speaks to that. They have revised the policy 3 times over the last 2 years specific to best practices. They also met with the Sheriff and all other Police Chiefs and compared their policy manuals.

As Captain Norton states in the response, CMPA's policy is a bit more restrictive than most and they do not allow someone to leave weapons in a center console. It should not be in a compartment of the vehicle at any time. They cannot leave firearms in an unmarked vehicle overnight. When storing weapons in a vehicle, it must be in a trunk in a secured lock box where there is no access to the trunk from the passenger compartment area. Approximately 60% of their unmarked vehicles are accessible through the rear seats and therefore they have secured lockboxes in those. For the other 40% and marked patrol vehicles, weapons cannot be accessed unless the trunk area is compromised to locate a weapon. He was available for questions of the Council.

Vice Mayor Furst said she supports the report as written, but asked for the requirement of the Town to respond to the Grand Jury in addition to CMPA, as the Town does not manage police functions.

Town Attorney Riddle said he agrees it was probably not appropriate, but in looking at the Penal Code, it states that if the Town has been asked to respond to a finding and make recommendations, the entity shall indicate one of the following. He suggested beginning the report by noting it was done "in consultation with in deference to or in consultation with, based on information provided by CMPA" so there is indication that what the Town is doing is ratifying what the police agency has determined to be appropriate.

Vice Mayor Furst asked if it would be appropriate to include that comment in the cover letter or at the top of the response. Mr. Riddle stated it could be placed in the findings to state, "The Town of Corte Madera, in consultation with the CMPA, provides the following information".

Mayor Bailey opened the public comment period, and there were no speakers.

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 Response from the Town of Corte to the Grand Jury Report Entitled, "Police Fire Arm Security", as amended to add a statement in the introduction of the response to state, "The Town of Corte Madera, in consultation with the CMPA, provides the following information" and also to clarify in the cover letter that the Town of Corte Madera does not handle police functions.

7.I.iv Consideration and Possible Action to Ratify Subcommittee Recommendations for Appointment of Robert Bundy, Phyllis Metcalfe and Jennifer Freedman to the Planning Commission; for Appointment of Pamela Fong, Emily Janowsky, and Sarah Elsen to the Parks and Recreation Commission; to Waive Interview Process and Re-Appoint Flood Control Board Incumbent Stephanie Bennett, and Consider Appointment of one Additional Member to the Flood Control Board Pending Subcommittee Interview
(Report from Rebecca Vaughn, Town Clerk)

Town Clerk Rebecca Vaughn said members need to be appointed for the Planning Commission, Parks and Recreation Commission and Flood Control Board. The recommendations for appointments to the Planning Commission are straight forward. The subcommittee consisted of Vice Mayor Furst and Councilmember Lappert and is recommending re-appointment of Robert Bundy, Phyllis Metcalfe and appointment of Jennifer Freedman.

For appointment of Parks and Recreation Commission members, the subcommittee of Councilmember Lappert and Condon recommend re-appointment of Pamela Fong and Emily Janowsky, new appointment of Sarah Elsen be appointed to the Parks and Recreation Commission.

For the Flood Control Board staff is recommending that incumbent Stephanie Bennett be re-appointed and that the Subcommittee consisting of Mayor Bailey and Vice Mayor Furst make a recommendation to the full Council regarding their interview with applicant Ramon Garcia.

One incumbent, William Carlsen, was asked to confirm his interest in re-appointment. He did not respond and a review of his attendance record showed that he attended two meetings in two years. Given that, staff is recommending that the full Council weigh in on

whether he should be re-appointed.

Mayor Bailey opened the public comment period and there were no speakers.

Mayor Bailey thanked Vice Mayor Furst for filling in for him in Planning Commission interviews. He and Vice Mayor Furst met with Ramon Garcia and he suggested a motion.

Vice Mayor Furst asked and confirmed with Ms. Vaughn that the position that Mr. Garcia is being recommended for is for a vacant position and not to fill the term of William Carlsen. She clarified there are 3 appointments being expired, and if Mr. Carlsen is not reappointed, there will be a vacancy for the remainder of his term.

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 ratify Subcommittee Recommendations for Appointment of Robert Bundy, Phyllis Metcalfe and Jennifer Freedman to the Planning Commission; for Appointment of Pamela Fong, Emily Janowsky, and Sarah Elsen to the Parks and Recreation Commission; to Waive Interview Process and Re-Appoint Flood Control Board Incumbent Stephanie Bennett, and Appointment of Ramon Garcia to the Flood Control Board

7.I.v Review of Draft July 19, 2016 Town Council Agenda

Vice Mayor Furst asked the Town Manager to report back on the status of the sand at the next Town Council meeting.

Mayor Bailey stated there is potentially an issue of a supplemental appropriation of funds, a potential safety issue and a health issue relating to the sand, all of which the Town may have authority to address, but it is appropriate for the Council to discuss the matter if it cannot be solved beforehand. He suggested agendaizing it.

Town Manager Bracken commented that according to Kevin Kramer, there may not be any sand that complies with the regulation. If there is it could be very expensive. As far as him saying "no" to the request, he indicated that he would not overrule staff on this and this is the Council's prerogative to do that.

Mayor Bailey suggested having the option to agendaize it and, if not necessary to not agendaize it.

Councilmember Condon referred to Circus Vargas and she asked if the film ordinance could be moved up.

Town Manager Bracken said this would be given typical permission of the Town to use the lot but it would not involve the film ordinance. He noted that the film ordinance will be agendized at the end of August.

Vice Mayor Furst said if this could be moved up, she would support this, as there is filming in Marin County.

Ms. Vaughn stated additional items not on the agenda which she became aware of over the weekend include: 1) the long-term financial plan for the July 19th agenda; 2) the Tamal Vista Corridor Study Update on the July 19th agenda, given it was heard by the Planning Commission; and 3) the election change on the July 19th agenda.

Councilmember Condon suggested showing the video of Jared Huffman, and Mayor Bailey said he can include this as part of his report.

Mayor Bailey asked Ms. Vaughn for the meeting dates for the 1) junior second unit issue; 2) the Airbnb issue and 3) looking at moving the election date issue.

Ms. Vaughn stated the election date issue is scheduled for July 19th and Mayor Bailey asked for scheduling of the Airbnb issue and junior second units.

Mr. Bracken stated staff is updating its software for the Finance Department and it has been a struggle. They are also talking with OpenGov and this has taken longer than normal.

Councilmember Andrews said in terms of the long-range financial plan, he asked Todd Cusimano to be involved in it. Mr. Bracken said he has been involved and will in the future.

7.I.vi Approval of Minutes of June 6, 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 June 6, 2016 Meeting of the Town Council

The Town Council convened as the Sanitary District Board of Directors.

7.II SANITARY DISTRICT ITEMS:

7.II.i Consideration and Possible Action to Adopt Resolution 24/2016 To Award A Contract, Authorize Expenditures, And Approve A Supplemental Appropriation For Construction Of Paradise West

Sewer Improvement Project No. 13-201
(Report from Nisha Patel, Senior Civil Engineer)

Senior Civil Engineer Nisha Patel said the Paradise West Sewer Improvement project will replace or rehabilitate gravity sewers on Paradise Drive, Westward Drive, Prince Royal Drive, an easement within the Paradise Drive Shopping Center and across Highway 101 from Paradise Drive to Casa Buena Drive close to Marin Joe's.

This project was put out to bid on May 19th and the bid opening for the project was on June 10th. The Town received bids from two contractors; Ranger Pipelines and Maggiora Ghilotti. The lowest bid is determined by the base bid including Alternative 1 or the base bid including Alternate 1 and 2, just the base bid.

Maggiora Ghilotti was found to have the lowest responsive bid of \$2,187,871. Including the two paving alternatives, the total cost for the project is \$2,403,071. Staff is recommending award of the contract to Maggiora Ghilotti including both alternates in the amount of \$2,403,071. With higher than expected construction and construction management costs, staff is also requesting a supplemental appropriation for the project in the amount of \$979,000 and they detailed out what the total amount of the project would be with this amount.

Vice President Furst asked if this will reduce the I & I, and Ms. Patel said yes it should. The reason why this project got prioritized the highest was because their normal condition assessment, there were many structural defects found.

President Bailey said the second low bid is a former client of his and he asked if he should recuse himself. He clarified it was approximately 10 years ago, and District Attorney Riddle stated this would not be a problem.

President Bailey opened the public comment period and there were no speakers.

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

To adopt Resolution 24/2016 to Award A Contract, Authorize Expenditures,
And Approve A Supplemental Appropriation For Construction Of Paradise
West Sewer Improvement Project No. 13-201

8. ADJOURNMENT

The meeting was adjourned at 10:10 p.m. to the next regular Town Council meeting on July 21, 2016 at Town Hall Council Chambers.