

MINUTES OF MARCH 21, 2017

REGULAR MEETING  
OF THE  
CORTE MADERA TOWN COUNCIL  
AND THE BOARD OF SANITARY DISTRICT NO. 2,  
A SUBSIDIARY DISTRICT TO THE TOWN OF CORTE MADERA

Mayor Furst called the Regular Meetings to order at Town Hall Council Chambers, 300 Tamalpais Drive, Corte Madera, CA on March 21, 2017 at 7:32 p.m.

**1. CALL TO ORDER AND ROLL CALL**

~~Councilmembers Present:~~ Mayor Furst, Vice Mayor Condon and Councilmembers Andrews, Bailey and Ravasio

~~Staff Present:~~ Town Manager Todd Cusimano  
Interim Town Attorney Judith Propp  
Director of Planning and Building Adam Wolff  
Senior Civil Engineer Nisha Patel  
Town Clerk/Assistant to the Town Manager Rebecca Vaughn

**SALUTE TO THE FLAG** – Mayor Furst led in the Pledge of Allegiance

**2. OPEN TIME FOR PUBLIC DISCUSSION**

WERNER MASSEN, Summit Drive, stated he and six neighbors are present representing about 16 neighbors who live near the top of Christmas Tree Hill and who are concerned with 310 Summit Drive which is abandoned and an eyesore. He presented photographs and letters outlining their concerns and said neighbors have been asking the owner to bring the home up to standards and very little has been done to address the nuisance.

MATT MIHALY, Summit Drive, stated in 1999 the Town sent the owners a letter regarding the nuisance of the owner's two properties involving an abandoned building, a removed deck, rebar on the property, neighbors' requests to develop a driveway service to access the garage, provision for a hard surface entrance to the home and repairs to siding of the home, and said the property is now in worse shape. He then described the Town's nuisance ordinance, property value impacts, building permits and Stop Work notices and asked that the Town enforce the nuisance ordinance.

Mayor Furst asked and confirmed with Town Manager Cusimano that staff is aware of it, has evaluated the matter and will be bringing the nuisance to the Town Council.

CHERYL LONGINOTTI, Tamal Vista Boulevard, referred to TAM's presentation at the last meeting regarding Marin's proposed extension of the sales tax measure which funds transportation. She noted that approximately one-fifth of people over the age of 65 do not drive, discussed a pilot program by the State to review road charges based on miles traveled which will conclude in March with the State making its recommendation to the legislature at the end of the year. She asked the Council to utilize the League of California Cities to advocate for charges based on miles traveled instead of extension of the sales tax measure.

**3. PRESENTATIONS**

- 3.I ~~Update on Corte Madera Marsh Restoration Project~~  
Presentation by Ewa Bauer and John Eberle, Golden Gate Bridge District

John Eberle, Deputy District Engineer, Golden Gate Bridge Highway and Transportation District, provided an update on the Corte Madera Marsh Restoration project. He introduced District Engineers Lynford Edwards and Carolina Wallin and the District's consultant team, George Salvaggio and Stephanie Freed who can answer questions.

Mr. Eberle gave a brief overview of the 72-acre parcel owned by the District in Corte Madera and its obligations to restore 4 acres to create marsh habitat and they seek to restore additional areas as mitigation credits to be used for the District's ferry terminal improvement projects in Larkspur and in San Francisco.

The District is also seeking to present a concept to relocate the public access easement on the property to create a larger parcel that would be available for the Town. He then displayed and described various points on the parcel and said as part of the Bay Conservation and Development Commission (BCDC) permit, a condition of the permit includes a 10-foot wide by 4,000 foot path or .92 acres. The permit does not authorize access to the northern area of the parcel which is used or access to the inside of the parcel.

Mr. Eberle described restoration of a significant amount of the area to a tidal marsh and it is cost-effective to improve a larger portion. They would like to expand and relocate the easement and provide a buffer zone between the public access areas and the habitat.

He presented two alternatives:

- Alternative A would maintain the public access easement at its current location and include creation of a channel to create the marsh habitat. Once restored, the District would like to deed the property to the California Department of Fish and Wildlife who would prefer not having a public access easement in between two marsh sites.
- Alternative B would relocate the public access easement to a higher area which would be created for the easement with a loop. He noted that multiple regulatory agencies have jurisdiction over the parcel and have advised the District that relocating the easement is preferable and it is beneficial that people and animals or other uses should be kept away from a restored habitat areas containing endangered species.

Both alternatives would restore 25 acres of tidal habitat as well as 6 acres of seasonal wetlands. Both habitats are resilient to sea level rise, but Alternative B would relocate this and create a +8.5 acre area which the District would propose deeding to the Town so it could have it for other public recreational uses on the site.

Regarding the project's status, Mr. Eberle said they have held informal consultations with the U.S. Army Corps of Engineers, the California Department of Fish and Wildlife and the Regional Water Quality Control Board, made a presentation to the Marin Baylands Advocates and the Marin Audubon Society, have completed all technical studies, hydrographic reports and biological resources. They hope to finalize a concept by early June in order to begin the CEQA process which they hope is completed by June 2018. They hope to complete the design by January 2019 and secure permits and advertise for construction of one of the alternatives by June 2019, with construction taking approximately one year.

Mr. Eberle concluded and asked the Town Council to discuss the matter and for Town staff to meet with the District on relocation of the public access easement.

Councilmember Ravasio noted that people are currently able to walk far out onto the marsh, and he asked if the proposal would restrict this. Mr. Eberle said if the easement is maintained at its current location with the breach, people will not be able to walk across the breach because it will be a channel and they would not be able to do a loop.

Councilmember Ravasio asked how the proposal would affect flood control. Mr. Eberle said this is not a flood control project and the levies were not designed or constructed as a flood control facility. The area was created from dredging during the original construction of the

Larkspur Ferry Terminals. Berms were placed around the perimeter to allow water to drain away. He pointed to another area and said the District has conducted initial evaluations of sea level rise and this would continue to be above sea level, but surrounding areas to the north and south have no protection.

Councilmember Ravasio said he was advised recently by a Flood Control member there has been substantial erosion along the bay and he asked and confirmed that this is not part of the proposed project.

Mayor Furst opened the public comment period.

BARBARA SALZMAN said she is representing Marin Audubon Society and Marin Baylands Advocates and they have had a field trip and presentation. She said they have urged the District to proceed with restoring the wetlands for many years and it is important that they relocate the easement as quickly as possible because the Bay has lost wetlands and habitat. She said there had never been talk of the lands being restored to tidal marsh, but if this had been contemplated at the time the public access would not have been where it is now. Marin Audubon Society would prefer the entire parcel be tidal marsh, but given this would not occur, the relocation of the easement under Alternative B is a much better design than what exists now. She urged the Council to support the District to move forward with a larger project.

Councilmember Bailey asked if it would be Marin Audubon Society's preference to allow no public access. Ms. Salzman said not necessarily. They prefer habitat to public access and access along the northern and western section edges would be fine. However, she noted that the western section was transferred from the District and is now owned by SMART.

Mayor Furst and Councilmembers thanked Mr. Eberle for his presentation.

#### **4. COUNCIL AND TOWN MANAGER REPORTS**

- Town Manager Report

Town Manager Cusimano gave the following report:

- Last week the Fire Department responded to a fire in a shed at the Village Shopping Center between Boudin's Restaurant and the Cheesecake Factory. They responded within one minute and they quickly located and contained the fire without damage to surrounding areas.
- CMPA identified and ultimately arrested the suspect in the attempted bank robbery inside Safeway Stores which occurred a few weeks ago. He recognized CMPA's Investigations team who has been 100% successful with the bank robberies through the Hwy 101 corridor.
- He said one major issue related to crime is property crimes of opportunity. Last week there were 15 auto burglaries or theft in the Chapman Park area and the Town's own Clerk was a victim. On *Next Door*, messaging is that crime is running rampant in neighborhoods, but robberies are different than petty theft and auto burglaries. He emphasized that 80% of crime occur because 13 of the 15 auto burglaries occurred because vehicles were unlocked or items in plain sight. He said *Next Door's* discussion requests cameras with license recognition readers for Tamalpais. CMPA has a registry program for people sharing that they have a security system camera at their homes, and many crimes can be solved this way. He asked for those interested to contact Chief Norton.

~~Update on Larkspur-Corte Madera Shared Fire Services~~

- He referred to recent articles and Editorial in the Marin IJ regarding the potential fire merger and noted that what did not come across in the Editorial was the thoughtful community involvement and overall communication. He gave an overview of the work to date which has involved many public meetings, updates, informative Larkspur and Corte Madera websites, pension reforms and negotiations with labor groups, and the merger's ability to improve service delivery and reasons for its proposal.

#### ~~Update on Tam Ridge Residences Project~~

- He referred to a Marin IJ article regarding the status of the Tam Ridge project and said planning staff spent a month working with the author of the article in order to help him do his investigation and tell the story of the project to the community. They thought Marin IJ was the right avenue, given frustrations over time. They explained roles of the construction team, ownership, the Council and staff and the article did begin to tell this story. Staff will soon add to its website a "frequently asked questions" page and post questions of the community and the Town's responses. The Town used outside inspection services, the cost of which is the responsibility of the applicant/owner. Over 650 inspections were conducted with over 3,000 pages. Changes in the stop work order were conducted properly and these documents were also shared with the Marin IJ.
- He shared Mayor Furst's statements into the record when asked about the project: "This has been a long and frustrating process, but we are very encouraged by the responsiveness and the work done by the new construction team and we look forward to finally having completed development in the near future so we can welcome our new neighbors."
- Today staff met with the Tam Ridge construction team and he asked them to explain what they did since taking over the project which was responded to succinctly by the project manager. He recommended inviting the project manager to the Town Council for a future presentation to share what has occurred over the last year.
- Staff has been frustrated over the amount of time the project has taken, but there is a difference between identifying a problem and remediating the problem and rebuilding. The new construction team rebuilt major portions of the 7 buildings which is the Town's expectation. For the first time, he heard someone take ownership and has done things right.
- Regarding timing, Building 2 is the largest building and approximately 30% of the project. It is set to come to completion within the next 2 weeks where final punch list items will take place. Building 3 is set to go next in the next 45 days unless major storms occur. Building 1 on the highway side and Buildings 5 and 6 will also come to completion over the next 2 months. Building 4 will be the final building estimated to be completed in the next 2 ½ months. This building had water damage from one of the storms where the plastic covering came undone. They reconstructed down to the studs and have one of the top water proofers in the nation to seal all buildings tight.
- It is possible that as Buildings 2 and 3 are completed towards the end of March if safety is not an issue and progression is made, 4 models may be opened with advertising, showings and leasing.

Mayor Furst confirmed these matters will return to the Council for an update in April.

- Council Reports

Councilmember Ravasio gave the following report:

- A meeting of the Bicycle and Pedestrian Advisory Committee was held last Thursday:
  - They had a very short presentation from Restoration Hardware which will return to the BPAC for comments and direction on pedestrian and bicycle improvements for the entire project should it move forward.
  - BPAC also discussed improvements to the multi-use path running along Redwood by Nordstrom's which is in very poor condition. A grant was received to repave this and BPAC's direction was to look at a larger scope. However, in subsequent discussions, this would multiple costs of the project by 8 to 10 times. Therefore, this will be brought back to BPAC for discussions on how to best use the grant.
  - On the April 20<sup>th</sup> BPAC agenda, a group has been working locally to create bike and pedestrian bridges over Hwy 101. They were able to receive pro bono work from the large architectural firm of Skidmore, Owings and Merrill because two of its owners live in Corte Madera.

Mayor Furst stated Caltrans has a program to upgrade some of their facilities to accommodate disabled access and they have identified the Tamalpais Drive overcrossing as being deficient in ADA accessibility. The Town with the help of Skidmore, Owings and Merrill and a citizens group are trying to ensure that what Caltrans does is the best they can achieve. She discussed enhancement of the connectivity between the west and east side of Corte Madera which is not currently a safe route kids could use to be able to use to go to school.

Councilmember Andrews had no report.

Councilmember Bailey gave the following report:

- He sits on MCE Board and rates have been reduced by approximately 3.5% for the upcoming year.

Vice Mayor Condon gave the following report:

- She and Mayor Furst were invited by Mill Valley Mayor Jessica Jackson Sloan to tour San Quentin yesterday and to see it through the eyes of inmates that had been convicted and incarcerated of capital crimes when they were 18 and under. Mayor Sloan has been active in juvenile justice reform and promotes the successes of some of the rehabilitative programs San Quentin offers. She requested a future presentation and discussion for support of not taking a broad brushed review of sentencing that often applies to youth.
- Age-Friendly Corte Madera, Twin Cities Village and the Corte Madera Parks and Recreation held another speaker series event, with about 50 attendees. There has been interest shown in the future of having an intergenerational center in town and they are continuing to build momentum.
- Next week she will attend the League of California Cities Housing Policy Committee meeting in Ontario and will report back at the next meeting.
- On Thursday at noon is the State of the Town lunch sponsored by the Chamber of Commerce. She recommended anyone wishing to attend contact the Chamber at 924-0441 and make a reservation. Lunch will be held at the Corte Madera Inn.

Mayor Furst gave the following report:

- Regarding TAM:
  - She attended the TAM Executive Committee meeting and learned that MTC and ABAG will be holding an informational meeting for County elected officials and City Councilmembers on Plan Bay Area. It will be

held at the Board of Supervisors Chambers immediately prior to the April TAM Board meeting on Thursday, April 27 at approximately 6PM.

- TAM will also hold meetings for the public; however, she was unsure of their dates.
- This Thursday the TAM Board will be meeting to discuss the likely submissions from Marin to MTC for possible funding through a future Regional Measure 3 toll bridge increase. Not including the Golden Gate Bridge, the other bridges comprise the Bay Area Toll Authority which is overseen by MTC. Funds would be used for transportation projects in toll bridge corridors. Marin is potentially looking at funding a connection from Hwy 101 northbound to I-580 eastbound, the Bettini Transit Center rebuild, and completion of the Marin-Sonoma Narrows project, and one other project. She will advocate strongly for completion of the northbound Hwy 101 to I-580 eastbound connector which is especially crucial.
- She referred to the San Quentin tour she and Vice Mayor Condon were invited to, and added that one of the inmates has the nickname "Wall Street" and he taught himself how to trade stocks and learned much more about financial investing and literacy. He ultimately created a financial literacy program for inmates, their families and the general community. He gave a TED talk which should be posted in April. Vice Mayor Condon noted that by Googling "Wall Street San Quentin" many videos and information can be found about him. They also received a tour of the San Quentin media center and they operate a radio show which is broadcast on KALW and created a podcast. They also competed against 1,500 other submissions and their media center won a grant to create the podcast.

## 5. CONSENT CALENDAR

- 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 ~~Consider Adoption of Resolution No. 18/2017 Endorsing the Corte Madera Women's Improvement Club's Indoor "Yard Sale" and Approving Temporary Banner Signs in the Public Right of Way from April 6, 2017 to May 8, 2017; and Determining that the Project is Exempt from the California Environmental Quality Act (CEQA) Pursuant to CEQA Guidelines 15061(B)(3).~~  
(Report from Doug Bush, Associate Planner)
- 5.III ~~Approve Warrants and Payroll for the Period 3/01/17 through 3/14/17: Warrant Check Numbers 215701 through 215803, Payroll Check Numbers 5447 through 5454, Payroll Direct Deposit Numbers 31626 through 31697, and Payroll Wire Transfer Numbers 2134 through 2137.~~  
(Report from George T. Warman, Jr., Director of Administrative Services/Town Treasurer)

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

To approve the Consent Calendar Items 5.I through 5.III.

## 6. PUBLIC HEARINGS - None

## 7. BUSINESS ITEMS

## **7.I SANITARY DISTRICT ITEM:**

- 7.I.i ~~Discussion and Possible Direction to Staff~~ Regarding Consideration of Updating the Central Marin Sanitation Agency (CMSA) Joint Powers Authority Agreement  
(Report from Nisha Patel, Senior Civil Engineer)

Senior Civil Engineer Nisha Patel stated Jason Dow, CMSA's General Manager is present to support the item and answer any questions. The matter before the Council is to discuss revisions to the CMSA JPA agreement revisions, and she provided the Council and audience with Exhibits A and B which were not included in the packet.

The CSMA JPA agreement was initially developed and executed 40 years ago in 1979 and it dealt with items related to the construction of the CMSA wastewater treatment plant. The agreement has been amended 6 times and has 2 supplemental MOUs. When amendments were made, she did not believe the agreement was reviewed fully. The supplemental MOUs dealt with clarifications of ownership, operation and maintenance of responsible JPA member agencies, and the most recent supplemental MOU was brought to the Sanitary District Board in March 2016.

Ms. Patel stated the CMSA Board initiated revisions to the agreement to improve its accuracy and usefulness and requested Mr. Dow to work with District Managers to determine any needed updates in the agreement. In early 2015, JPA Managers began discussing revisions and reviewed a few sections every month. At the monthly JPA Managers' meetings they discussed and confirmed revisions to sections. In December 2016 they had completed review of the entire agreement and a compilation of all revisions is provided in Attachment 1.

The CMSA Board was presented with revisions at their January Board meeting, agreed the agreement was outdated and needed to be revised, and voiced concerns and further discussion with Section 5; Powers, Section 21; Dispute Resolution; and Section 22; Withdrawal and Dissolution. They also requested member agency boards 1) confirm that the JPA agreement needs to be revised to reflect current CMSA business and JPA relationships; and 2) to assign a board representative to a multi-board working committee.

Greg Norby, the Manager of Ross Valley Sanitary District (RVSD) presented the JPA agreement revisions to its board on January 25<sup>th</sup> and the board was in favor of revising the agreement and plan to appoint a board member to the working committee at their April board meeting.

The RVSD Board comments were as follows:

- To allow for greater flexibility and range of financing options;
- An exit clause as not practical as is;
- The working committee should seek public input from customers of the JPA member agencies;
- The Larkspur seat should be revisited and revised;
- The process for appointment of CMSA board offices such as President should be reviewed;
- They did not want to let a few issues of political nature such as the Larkspur seat to detract from or derail other provisions from moving forward;

Doris Toy, Manager of the San Rafael Sanitary District (SRSD) discussed JPA agreement revisions with the its Board on February 24<sup>th</sup> and the SRSD Board was in favor of revision of the JPA agreement and their Board appointed Director Mary Beth Bushey to the working committee.

Tonight, she requested the Sanitary District Board confirm that the JPA agreement needs to be revised to reflect current CMSA business and JPA relationships and to assign a Board representative to a multi-board working committee.

Jason Dow, CMSA General Manager, said he was available for questions and thanked Ms. Patel for her presentation of the matter.

Boardmember Andrews asked Mr. Dow to comment on the Larkspur situation.

Mr. Dow stated historically the City of Larkspur had two wastewater zones; one was a subsidiary of the City and located around the downtown area which was a separate enterprise fund. Outside of that, sanitary services were provided by the Ross Valley Sanitary District. When CMSA was formed in 1979 when the agreement was executed and the board convened for the first time, Larkspur had a seat as a member agency and they provided wastewater collection and transport services to the Ross Valley wastewater plant located by Country Mart off of Sir Francis Drake Boulevard.

In 1991/92, RVSD began having discussions with staff and the Larkspur City Council regarding the potential to annex that small collection agency into RVSD. This moved forward and in 1993, RVSD and the City of Larkspur entered into an annexation agreement which was approved to annex all wastewater assets, all liabilities and infrastructure into the RVSD. A key provision in that agreement was the maintenance of the Larkspur seat on the CMSA Board. The CMSA Board has 6 representatives; one from Larkspur, one from Corte Madera's Sanitary District No. 2, two from SRSD and two from RVSD. Since that time there has been a lot of discussion about why Larkspur continues to have a seat given they have no wastewater assets.

President Furst disclosed that she represents Corte Madera's Sanitary District No. 2 on the CMSA Board.

Boardmember Ravasio asked and confirmed with Ms. Patel that RVSD indicated they wanted to revisit the Larkspur seat on the Board and whether it should or should not be eliminated.

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

President Furst stated she was not present at the CMSA meeting when the three sections mentioned by Ms. Patel were discussed which were Section 5; Powers, Section 21; Dispute Resolution; and Section 22; Withdrawal and Dissolution. She stated she would be happy to represent Corte Madera on the working committee.

Boardmember Ravasio stated while the District can defer to President Furst's recommendations, changing the voting from requiring 4 affirmative votes is something he suggested considering very carefully, given CMSA seems to be working very well now. There was a time in the past where members of CMSA were suing each other over various issues and some of these things were borne out in Board meeting votes.

President Furst recognized this point and said attendance at meetings is very high and if she cannot attend she requests an alternate attend.

Mr. Dow clarified that when managers reviewed this particular voting provision, he thought it would be worthwhile to recommend to the CMSA Board that this be changed from requiring 4 affirmative votes to move anything forward to having a majority, or 3 votes. He stated there are times when some members do not send their representatives and the Board of 3 members could not move forward. When this was presented to the CMSA Board in January, the Board did not support the reduction in voting provision and



requested keeping the current provision which he noted is maintained in the current revised JPA agreement.

Boardmember Bailey asked if the word “direction” is the same as the word “action” in terms of what is provided as notice to the public.

Interim Town Attorney Propp stated it has no legal significance; the direction is to take an action to appoint a committee member. There are some items such as land use items where action needs to be taken and not direction. President Furst noted this is contained on page 4 under options.

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

To confirm the JPA Agreement needs to be revised; and appoint President Furst to serve as Sanitary District No. 2's representative to serve on the Working Committee.

## **7.II TOWN ITEMS:**

- 7.II.i ~~Consideration and Possible Action to Endorse the Proposed Terms for a Non-Exclusive Easement and Development Agreement to Allow Corte Madera Village, LLC to Improve the Town's Gravel Lot (APN 024-032-19) and Utilize the Resulting Parking Spaces for Required Parking for the Village at Corte Madera, Including a Potential Restoration Hardware Expansion Project; and Provide Direction and Authorization to Town Staff to Draft the Non-Exclusive Easement and Development Agreement Consistent with the Negotiated Term Sheet.~~  
(Report from Todd Cusimano, Town Manager and Judith Propp, Assistant Town Attorney, Regarding Discussion and Possible Action to Endorse a Development Agreement for the Overflow Parking Area Also Known as the “Gravel Lot”)

Mayor Furst noted the Council is not discussing the Restoration Hardware project (“project”) tonight and will discuss and potentially take action just to endorse proposed terms for the gravel lot. This does not authorize the Town to enter into any agreement at this time. If the Town approves the proposed terms and if in the future the project is approved, at that time the Town would be entering into an agreement under the proposed terms for the gravel lot.

She received a few questions regarding the process the Town is taking and she read a summary of why the item is coming before the Town now. The reason the Council is discussing parking when the project has not been approved is that any expansion of the shopping center will require additional parking spaces. Macerich, owner of the Village Shopping Center, and Restoration Hardware wanted to identify upfront before investing significant costs whether or not there could be agreement reached with the Town to use the gravel lot to satisfy those parking requirements. If no arrangement could be reached between the parties, Macerich and Restoration Hardware would need to arrive at an alternative to develop more parking.

If the terms of the agreement related to the gravel lot are accepted by the Town, it appears Macerich and Restoration Hardware will proceed with their application for a new Restoration Hardware building. She reiterated that if that project is approved then the agreement for the gravel lot would presumably be approved at the same time in order to satisfy the additional parking requirements. The agreement for the gravel lot will only be

signed if and when the project is approved.

She stated the public will have many opportunities to learn more about and to discuss the project but this is not what this meeting is about. It is to discuss and possibly endorse the proposed terms for the gravel lot.

Town Manager Todd Cusimano welcomed Macerich and Restoration Hardware representatives and stated the item before the Town Council is a request to endorse a term sheet which reflects discussions between Corte Madera Village and Town staff concerning the use of the 5.14 acre gravel lot for further improvement and use of a parking lot of up to 455 spaces to meet the parking requirements of the Corte Madera Village and the biological preserve area.

He emphasized that tonight was not an approval of the term sheet, but if the Council endorsed the term sheet, staff would draft the agreement and ultimately return it to the Council after completion of public hearings and CEQA review. The gravel lot is owned by the Town and is currently used for public parking.

If endorsed, staff is also requesting direction to proceed with the preparation of a non-exclusive easement and development agreement which Ms. Propp could further explain. The use of the lot would be brought back to the Council for consideration of approval at the same time and in the event the project is ultimately approved.

Mr. Cusimano then provided a comprehensive background on the matter which began in September 2015. He emphasized that one of the criticisms of the community at the October 20, 2015 Council meeting was the noticing and confusion about what was being discussed. On Monday, staff provided significant notice to the community on all social media avenues, as well as notice to an email list of interested parties on the project. He recognized Councilmember Bailey for his efforts to make the notice as clear as possible.

There were questions at the October Council meeting regarding why the Town would even consider any negotiation for the gravel lot before ultimately approval of the project is considered. Factually, the entire project is contingent upon parking being available to the Village Shopping Center. The applicant also requested reasonable certainty that the Town would allow parking under the negotiated term sheet before considerable expenditures are made through the environmental and public hearing review process, which staff believes to be logical. The Town has a long-standing and successful relationship with the Village Shopping Center which is important and the request is appropriate in these circumstances.

Also important was the history revealed about the gravel lot which is very accurately outlined by Town Engineer David Bracken. The Council has been clear in 2015 through the present time that the word "sale" is not being considered in the negotiated term sheet. On the same note, he pointed out it was just important for the applicant that the agreement term is 99 years which can be discussed, as well.

Mr. Cusimano explained that in December 1995 the Town entered into an agreement (Attachment 3) with the owners of the Village Shopping Center referred to as "The Village owners" whereby the Town would acquire what was then referred to the "habitat site" from General Electric Capital Corporation who owned that property. An assessment district comprised of the Village owners would be established to pay \$1.3 million purchase price of the lot and to pay an additional \$900,000 for the financing and improvements.

Under a separate assessment district, the Village owners would also pay a flat rate of \$10,000 per year for maintenance of the lot. Thus, the Village owners paid for the purchase price of the lot and paid for improvements. In addition, they will continue to pay \$10,000 per year for maintenance of the lot until the existing agreement is terminated or

superseded. The purchase and sale agreement between the Town and General Electric Capital Corporation was consummated on December 27, 1995.

In the fall of 2015 in order to establish the Town's position, staff obtained an appraisal of the lot, and although the existing agreement between the Town and Village owners was predicated that the lot could only be used specifically for public parking and no other use, and that it could only be modified or terminated by mutual consent. Village owners paid for the lot in 1995 and the Town did not. The appraisal was based on the most probable price a property should realize in a competitive and open market under all conditions requisite to a fair sale. The buyer and seller acting prudently, knowledgeably and assuming the price is not affected by undue stimulus, and the appraisal made was \$8 million. The appraisal was based on the ability to sell it at the highest bidder without any restrictions or approvals from the Village owners.

Staff recognized that the existing agreement along with the fact that the Village owners paid for the acquisition of the lot originally should impact the appraised value but nevertheless felt the unrestricted appraisal would be a good starting point for negotiations. The sale value was \$8 million with a ground value of approximately \$640,000 per year. Not surprisingly, Macerich representatives did not agree with those estimates and the value and they began the value beginning at a zero base given facts stated above; that the agreement restricted use of the lot for parking and the Village had already paid for the Town's acquisition of it. There are many questions under discussion regarding past history of why the Village owners would enter into an agreement, the financing of it, and there are many factors that point to the relationship and history of how important the Village is to the Town and how important the Town is to the Village. And staff believes the term sheet is the best and final offer.

Staff also supports and recommends the Council consider endorsing the term sheet as it best positions the Town financially and with regard to its rights, title and control of the property under the recommended development agreement rather than a standard lease or sale of the property which was important to the Town Council over the past 18 months.

At conclusion of his staff report Interim Town Attorney Judith Propp will be asked to speak to what a development means, its differences, and why it puts the Town into better standing as compared to a lease or sale.

There is no immediate fiscal impact if this term sheet is endorsed today; however, if the development agreement is ultimately approved by the Town Council, it would have significant and positive effect to the Town's General Fund, as follows:

- It would bring in \$320,000 per year for the lifetime of the agreement which is just under \$32 million over 99 years.
- It would eliminate all maintenance costs. Currently, the Village pays \$10,000 annually for maintenance costs, so anything over that amount the Town expends funds to cover additional maintenance costs. Those costs over the last 10 years have ranged anywhere from \$2,000 to \$40,000. He noted \$40,000 was spent on some resurfacing of gravel a few years ago and the Town has \$65,000 in its budget and if this agreement is not ultimately approved the Town estimates expenditure of \$60,000 in two years for that resurfacing to occur.
- The elimination of any future improvements costs is undetermined at this time; however, this is significant within the terms. Macerich and Restoration Hardware have estimated those improvements with environmental approval at \$5 million. Again, all maintenance costs would be the responsibility of the Village owners and not the Town.
- Currently liability falls within the Town and moving forward, that liability would be transferred to the shopping center.

- Currently the Town is responsible for security of the lot and moving forward this also would be eliminated as a responsibility.

Mr. Cusimano recognized the work of Mr. Bracken who formulated a matrix of 8 points of differences which compare the existing agreement today and what is proposed in the agreement in the term sheet, as follows:

- The Village owners and Nordstrom's and Macy's paid for the lot, which cost \$2.2 million. The Town helped with financing through a bond under the Town's name and those payments are made annually by the shopping center.
- The duration of the agreement is in perpetuity and it requires mutual consent to modify or terminate this agreement. The Town receives zero dollars annually, it has full liability if anything happens on the lot, they must pay anywhere from \$2,000 to \$40,000 annually in additional maintenance costs, and the Town is in a lifetime agreement unless the other party agrees with discontinuance of the existing agreement.
- The Town currently receives no revenue.
- Regarding improvement costs, originally the Village shopping center paid initial improvement costs of approximately \$70,000. There has been a lot of discussion for its use in overflow parking and how it would be used. This lot would serve up to 455 parking spaces. The lot cannot accommodate 455 spaces during the holiday season as it is currently used, and if 455 spaces were proposed it adds parking to the community which is important.
- Regarding permitted uses, although the lot has periodically been used for public and private events, the agreement specifies the lot can only be used for parking for the general public. Currently, the Town is in violation of its own agreement given the events held throughout the year which is an issue. Regarding liability, the Town assumes all liability.
- The agreement is silent on security and therefore the Town as owner is responsible for security.
- The agreement is up to 99 years and currently the Town is in a lifetime agreement until they can mutually agree to terminate. The 99 year term is for cycling of tenants and this reflects 2 to 3 cycles of leases.
- The Town revenue generated is a flat rate of \$320,000 of up to 99 years and just under \$32 million. Given the appraisal, \$5 million of additional improvements, annual maintenance costs and the liability and analysis based on current conditions, the Town believes this is a fair offer which provides Town revenues it does not and will not have under the current agreement.
- The Village would pay all maintenance costs and they estimate \$5 million in improvements up front to the gravel lot and they would no longer pay the annual \$10,000, but would be responsible for all future maintenance costs.

Lastly, Mr. Cusimano stated he would be happy to go through the term sheet and he asked if the Council had any questions.

Mayor Furst asked the Town Manager to comment on the 12 special events per year which included the Wood Chipper Day, the School's Foundation fundraiser, Circus under the Big Tent, etc.

Mr. Cusimano stated there are 6 to 12 special event permits per year currently allowed, and while technically not permitted, these community events are very important to the Town and this can be included in the language to allow them to continue to move forward.

He noted there is activity on the lot involving staging and delivery trucks and the Town has staged for Town projects which has not been particularly enjoyed by the community. Again, staff would return and work with Macerich to develop language for intended use by the

patrons and the Village Shopping Center.

Councilmember Andrews referred to staging and noted that most County projects and most recently PG&E have used the lot to stage equipment.

Mr. Cusimano stated the Town would be flexible during construction and they would assist in allowing staging for the project. In moving forward after construction is completed, the Town and Village owners do not want to see the area used for staging or overflow parking and instead, for use by patrons and employees.

Councilmember Andrews asked what would occur if the Village Shopping Center underwent extensive reconstruction on one or two buildings.

Mr. Cusimano replied that the Town expects the Village to be allowed to use this lot or other parking lots in the center. He then asked for Interim Town Attorney Judith Propp to provide comments.

Interim Town Attorney Judith Propp said as the Town Manager indicated, the process began in 2014 but the formal request was received in 2015 from the Village owners indicating they wished to purchase the gravel lot. Staff came to the Council in Open Session, indicated they wanted authority and permission to authorize the then Town Manager David Bracken to negotiate on the Town's behalf. Staff was directed not to sell the lot but hold discussions with Macerich as to what else could be worked out.

Over the last 18 months this has been a process where for security, consistency and Macerich's business model of wanting to sell and the Town and Council not considering sale of the property. A variety of models have been explored and some have been discussed through Closed Session where further direction has been received.

Through the process and what is before the Council is a proposal to negotiate a development agreement which is a term under the California Code for a contract that involves property under development. State law allows for development agreements where a public agency and private developer enter into discussions regarding property and no title or interest in the property transfers. The Council restricted any sale and also voiced concerns with transferring any kind of title or interest and a lease agreement, as a long-term lease agreement would transfer some sort of interest in the real property that the Town owns.

Before the Council is a proposal just to enter into a contract. It would be under the California Government Code provisions for a development agreement which is a planning tool that allows public agencies greater latitude to ensure its planning policies can be met. It provides more flexibility in imposing conditions and requirements on a project that might otherwise be allowed under general land use law.

The Village owners would be afforded greater assurance and certainty. If agreement could be reached the project could be built and conditions and rules would be known, the Village owners would not have to return with further approvals.

Additionally, the development agreement would ensure facilities such as the parking lot, lighting or other infrastructure items to be in place prior to any expansion or opening of the additional square footage at the Village Shopping Center. It would be concurrent but parking would have to be in place. And, through a negotiated contract under these proposed terms the Town could ensure the schedule of construction. Ms. Propp emphasized that the Council stressed to the Town negotiating team that the Town retain the utmost control through the development agreement process.

Additionally what is proposed in the term sheet is the non-exclusive easement, whereby the Village owners would have the right to access the parking lot for the specified use and the Town would retain the rights for specified special event uses in the parking lot.

Councilmember Andrews said if it turned out that the Village owners wanted to dedicate the parking lot for use of a valet or concierge parking, he asked this would be allowed under the terms of the agreement.

Ms. Propp said this certainly has not been how the initial discussions for the actual use of the lot have been conveyed. However, this is currently how it is being used during peak periods of use and this use could be spelled out in great detail.

Ms. Propp also pointed out that under CEQA, it does not allow the Town to approve an agreement and this is why an agreement is not before the Council without conducting environmental review. As much as the project would have to come before the Town and go through a robust environmental review, the gravel lot does as well. Just because it has been used for parking and some other uses, this is repurposing the lot for a specified use which requires its independent environmental review. Therefore, based on the Council's direction, CEQA would need to be conducted for the project as well as CEQA review of the gravel lot and its proposed uses which would need to be approved by the Planning Commission and certified by the Town Council before the Town could begin to consider approval of the development agreement and non-exclusive easement.

Mayor Furst stated she received some questions about what the parking might look like, what would be some of the features, will there be environmental considerations made to things to help mitigate runoff, etc. She assumes this will be addressed during the parking lot design and application process and the CEQA process.

Ms. Propp confirmed, stating there have been preliminary discussions regarding lighting, protection of the adjacent marsh, considerations of buffer, State stormwater requirements and there will be a submittal for design. All environmental concerns will be adequately studied during the process and brought back to the Planning Commission and the Town Council.

Mayor Furst emphasized there will also be plenty of opportunity for public comment throughout this entire process.

Mr. Cusimano then described the proposed term sheet and displayed it on the overhead screen, stating it reflects discussions between CMV and Town staff concerning use of the 5.14 acre gravel lot owned by the Town, currently used for public parking, for further improvement and use as a parking lot with up to 455 spaces to meet the parking requirements of The Village at Corte Madera (Village) and a biological preserve area, in the event the Restoration Hardware (RH) Expansion Project is approved by the Town Council after completion of public hearings and environmental review under the California Environmental Quality Act.

- 1) The Town will continue to own the 5.14 acre parking lot (Parking Lot).
- 2) The Town and CMV will enter into a Development Agreement for a term of 99 years, unless sooner terminated as described below, which will contain the following terms:
  - a) The Town will record a non-exclusive public parking easement against the Parking Lot for the benefit of CMV providing that for as long as any of the up to 455 spaces are needed to meet the parking requirements for patrons and employees of the Village, but not to exceed 99 years, the

Parking Lot will be available for use as a public parking lot, at no charge to the public.

- b) CMV will improve the Parking Lot as follows, at an estimated cost of \$5 million:
- Replace the current gravel finish with pavement, to provide up to 455 public parking spaces.
  - Install landscaping, using rain garden bio retention areas where feasible.
  - Extend utilities from the Village to better serve the Parking Lot.
  - Install environmentally sensitive lighting, using energy efficient LED lighting.
  - Upgrade drainage to meet current water quality standards, using low-impact development (LID) elements.
  - Improve the biological preservation area between the areas of the lot that will be paved and the bay, as appropriate to preserve its current biological features.
  - Include any other improvements required by other regulatory agencies.
- c) The Town will agree that for the term of the Development Agreement the up to 455 parking spaces on the Parking Lot will be counted as parking spaces eligible for use in satisfying the parking requirements for the Village. Concurrent with approval of the Development Agreement, the Town will amend its Zoning Code to be consistent with this provision, and the Development Agreement will vest CMV with respect to such Zoning Code amendment. The Development Agreement will not vest CMV with respect to any other Town development regulations, including without limitation, the General Plan, the Municipal Code, impact, processing and development fees and/or other development requirements that may be imposed in connection with future development of the Village.
- d) The non-exclusive easement described above will provide that notwithstanding the public parking easement rights, the Town may exclude public parking and instead permit occasional community events on all or a portion of the Parking Lot up to 12 days per year between January 10 and October 31, which will not be held on consecutive weekends, will not last more than 2 consecutive days and will not coincide with known promotional events at the Village. Under the Development Agreement, CMV will provide the Town, by February 1 of each calendar year, with the known dates of promotional events planned at the Village. Also under the Development Agreement, the Town will give CMV 90 days' written notice of any proposed community event on the Parking Lot that will exclude public parking and CMV will have 30 days thereafter to reasonably approve the timing of such event in writing. The Town will assure that the sponsor of the community events (which may

be the Town or another party) will obtain appropriate property and liability insurance naming both the Town and CMV as insureds and will be responsible for maintenance and repair of the Parking Lot such that it is returned to the Town in the same condition as it was prior to the community event.

- e) During the term of the Development Agreement, CMV will (1) insure or pay the Town for the cost of insuring the Parking Lot, naming CMV and the Town as insureds, (2) maintain the Parking Lot, (3) pay the cost of providing utilities to the Parking Lot, and (4) indemnify the Town for all claims arising from CMV's use of the Parking Lot, excluding negligence or willful misconduct of the Town.
- f) In consideration of the Town's entering into the Development Agreement, CMV will pay the Town \$320,000 per year for the term of the Development Agreement.
- g) Annual assessments of \$10,000, currently paid by the Village property owners for maintenance of the Parking Lot, will be terminated.
- h) CMV will have the right to terminate the Development Agreement upon six months' written notice, in the event the up to 455 spaces are no longer needed to satisfy the Town's parking requirements at the Village.
- i) The Development Agreement and the non-exclusive easement may be assigned by CMV, without the Town's consent, on the same terms to any Macerich affiliate, or to any party that acquires (or to any lender whose loan encumbers) substantially all of the CMV-owned portions of the Village.
- j) The Development Agreement will include customary protections, including notice and cure rights, in favor of any lender to CMV.
- k) The Town will have the right to terminate the Development Agreement if CMV fails to perform its obligations under the Development Agreement, after reasonable notice and cure periods (to be negotiated).

Councilmember Andrews referred to the development agreement which is between the Town and the Village and asked who would have rights to enforce the agreement.

Ms. Propp replied that the Town owns the property, is party to the agreement and while they have not looked at the issue of third party beneficiaries, the Town would have the ability to enforce restrictions if not met.

Councilmember Andrews asked what would occur if the circus came to Town and wanted to be there for two weeks which would cover two weekends and the Town and Village agreed it was fine. He asked if anyone else could step in and indicate the circus was a violation of the agreement.

Ms. Propp said if and when the Council was to adopt the development agreement it would be adopted by ordinance of the Town and can be amended by this Council or any other future Town Council.

The agreement cannot be terminated without mutual consent and this agreement has clear guidelines about how it can be amended, who can terminate it, how it can be terminated,



and it can be amended just like other ordinances but it is simply not codified into the Municipal Code.

Mayor Furst invited the applicant to speak.

Giancarlo Filartiga, Macerich, stated there is not much he had to add onto the statements of the Town Manager and Town Attorney. He can say that they have been working very closely with team members; Stan Hoffman, General Manager of the Village and Rob Eddington with Restoration Hardware and they have spearheaded an effort of outreach for them. They continue to meet with various community groups and they are listening to concerns and see how they can best accommodate their concerns in the project. They are excited to be part of the process and have worked cooperatively with Town staff and would like to move forward.

Councilmember Andrews asked Mr. Filartiga if the gravel lot was not considered, he asked if this would 'kill' the Restoration Hardware project.

Mr. Filartiga replied yes, as they could not meet parking requirements.

Councilmember Bailey stated it has been reported to the Council through staff that Mr. Filartiga has conducted himself professionally throughout the entire discussion and negotiation process, and he voiced appreciation for this.

Rob Eddington, Restoration Hardware, stated their corporate offices are located in Corte Madera and they are incredibly excited about the project and for the opportunity to be here tonight. They have been conducting orientation with local groups, plan to hold a question and answer event as well as a study session with the Planning Commission before the project formally is before the Planning Commission. They are excited to hear comments from the community and support this process. He thinks the project will be amazing and emphasized it will be part of the community, and thanked the Council for the opportunity to comment tonight.

Mayor Furst opened the public comment period.

JENNIFER LARSON, Willow Avenue, said it is disappointing to think the Council is discussing this in the same breath as Restoration Hardware. She said when the matter came to the Town's attention, comments from the Planning Department were that these are two separate issues. When discussing parking spaces for the Village this, there are no additional parking spaces required right now for the Village unless a new Restoration Hardware is built. She thinks the public is not completely prepared for what is to come and voiced concerns with information not being relayed to the public.

Mayor Furst reiterated that the Council is not entering into the agreement today. This is simply a discussion and possible endorsement of the terms. An agreement will be considered if and when a project to expand the Village, which most likely is the Restoration Hardware project, is approved.

BARBARA SALZMAN, Marin Audubon Society, stated they met with planning staff and some members of the project and discussed the need for fencing given additional public use. She realized this will be discussed under CEQA, but she wanted to be sure this would be allowed under the agreement. She asked if it would be possible to amend the agreement if information became known that would warrant an amendment.

Lastly, she referred to Item "k" regarding termination for the Town and asked whether this would be in the best interest of the Town, given the only ability the Town has to terminate

the agreement is if the Village fails to do something. She asked that more clarity be included for the Town's ability to terminate the agreement.

DAVID MACPHERSON, Corte Madera Avenue, said he is a huge fan of the Town Center and the Village in its evolution over his 23 year residency and of allowing them to continue their evolution of bringing retail to Corte Madera which suits the Town and those who visit and spend money into the Town's tax base. He supported what he has seen thus far of the Restoration Hardware Galleria and thinks it is world class. He trusts Town staff to have been on top of negotiations over the last 18 months and trusts the Council will make the right decision.

The one thing that struck him was the fixed fee over such a long period of time. He assumes that staff and Macerich went back and forth on this topic and thought Macerich and the Town Center would not enter into a lease with any retail store with a fixed fee even for 3 or 5 years, as there will always be an increase. There is a difference between a lease and a development agreement and has seen the Council make financial decisions that have come back to haunt the Town. He asked to ensure that 5 to 10 years from now that future Town Councils are not stuck with a development agreement that does not provide for increases that are somehow linked to an appropriate model.

PAT RAVASIO, Oakdale Avenue, agrees there have been bad decisions made in the past with regard to development but this is not one of them. Not only are Macerich and the Village important to Corte Madera as the Town Center is, but Restoration Hardware is headquartered here and this is the best, most visible international corporation which is doing beautiful things.

She saw a recent project in Chicago where she used to live and said Restoration Hardware has created a true new de facto community center with a beautifully furnished and gathering area which has become a place where special things happen. She understands Restoration Hardware's preference to hold off on spending significant funds unless the Town gives them parking and believes Restoration Hardware deserves great consideration, as well as the Town's discussions regarding pedestrian and overpass improvements along Tamalpais Drive, a potential retail bridge across Hwy 101 to connect the two shopping malls, and the many amenities the community wants.

OWEN MCMILLAN referred to the fixed payments in the terms of the lease. He said even when pegging this to inflation at a very conservative 1% rate, Macerich is still getting a 2/3 discount at the end of the lease. This does not seem like the right balance and he thinks the Town was taking on too much risk. He referred to Section "g" regarding annual assessments of \$10,000 being terminated if the agreement is accepted. He also noted there is 6-month period where this agreement can be terminated and asked to ensure that the \$10,000 assessment would be triggered back in if the agreement was terminated at any point.

Mayor Furst referred to Mr. McMillan's comment regarding the \$10,000 assessment and asked if the old agreement would be reinstated after 6 months.

Ms. Propp stated that under the term sheet, the old agreement is dissolved and would no longer exist. If this matter returns to the Council and a development agreement and non-exclusive easement agreement are approved, the old agreement is terminated. In the event that through a variety of ways this agreement ends either through Macerich not performing or Macerich not needing the lot for parking and the old agreement is not revived, then the shopping center has no right to use the parking lot. The Town will continue to own it and can repurpose it however it sees fit at that time.

Mr. Cusimano thanked speakers for their comments. He again pointed out this is not a lease, but an agreement. In coming up with the \$320,000 figure, it assumes a fair rate for both sides. He restated that the Town currently receives nothing and through negotiations will receive \$5 million in improvements, will transfer all liability and annual maintenance costs, as well as the fact that the Village Shopping Center paid for the lot in the amount of \$2.2 million. He reiterated the importance of its history, as well as the direction the Town wants to go in continuing to make the shopping center and the Town viable.

Mr. Cusimano referred to Ms. Salzman's point and said improvements are part of the term agreement. He met with Restoration Hardware who is incorporating all comments received and in going through environmental review, any requirements and criteria will be added to this agreement which will ultimately be reviewed and considered by the Council.

Lastly, to the point of Item "k"; that the Town will have the right to terminate the Development Agreement if CMV fails to perform its obligations under the Development Agreement, after reasonable notice and cure periods (to be negotiated).

Under Item "h", CMV will have the right to terminate the Development Agreement upon six months' written notice, in the event the up to 455 spaces are no longer needed to satisfy the Town's parking requirements at the Village. He did not believe the Village would want to leave the current existing agreement and move to this agreement if they did not have strong assurances of the 99 year agreement. For the Town to have the same language to say that tomorrow they could cancel the agreement, so this is their most important point. The Town's most important point is that it does not want to sell the property. This is the best and final offer between both parties and he supported this as the right deal for the Town.

Mayor Furst confirmed there was no further public comment.

Vice Mayor Condon stated Macerich is willing to assume liability for 99 years, and these rates increase each year which she thinks is a fair trade-off. She thanked the Town Manager, Town Attorney, staff, Macerich and Restoration Hardware representatives. She thinks this is a win/win for everybody, a great advantage for the Town's financial picture and important in today's retailing to keep a step ahead. This agreement enables Macerich to do that, and she hoped fellow Councilmembers would agree.

Councilmember Bailey said he believes the Council's primary mission is to be responsible for the Town and the community, both of which will want the community to include a successful shopping center and businesses, and part of that includes a need for vehicles and parking. He said the Village has been reasonable corporate citizens and he agreed this was the best the Town could do and one which benefits the Town and the entire community.

Councilmember Ravasio stated he was also comfortable and supportive of the recommendation. He thanked the public speakers and clarified that the Council was not endorsing the Restoration Hardware project in any way. The project will go through numerous public hearings at the Planning Commission and Council level should it ever get approved. The Council is discussing whether or not it is willing to endorse an agreement which would allow Restoration Hardware to park the project and move forward.

Regarding whether or not the deal makes sense, he came a bit late into the process but comes back to the fact that the lot cannot be used for anything else right now and it requires mutual consent of the Village and the Town in order for that to happen. The value of the appraisal was based on fair market value and not based on the constraint of the lot

only being used for parking for the Village. Lastly, he believes the matter was fair for both sides and voiced his support of staff's recommendation.

Councilmember Andrews referred to the points made about the fact there will be a constant payment stream, this is devoid of maintenance the Village will take on as well as liability costs which are indexed to inflation. Therefore, the Town has off-loaded those inflationary costs onto the Village if the agreement goes through, and he supported staff's recommendation.

Mayor Furst agrees with Councilmember comments, thinks Councilmember Andrew's comments about off-loading liability and maintenance costs were important because right now the Town is on the hook for the bulk of maintenance costs. The Town is also responsible for liability. The lot is gravel and there are no features to prevent runoff straight into Shorebird Marsh, and this will be greatly improved by Macerich and environmental-friendly if this project moves forward and the agreement is ultimately signed. It will be paved and more comfortable and safer for shoppers. It will have lighting and security, and the Town will be getting much needed funding. She also recognized there was no price inflator, but said this is a trade-off given the fact the Town is removing its liability and maintenance costs.

She thinks this is a good deal for both parties and cited the need for parking for Restoration Hardware to pursue its new project. She was pleased with how the Town has gone through the process and thanked Macerich and Restoration Hardware representatives, the Village owners and Town staff for their long hours of negotiation. She then entertained a motion.

Councilmember Bailey referred to the insurance term under Item 2(e) and asked if this will be reviewed by the Town's Risk Manager, given there are Type 1 and Type 2 indemnity provisions. He believes the concept is that the Village will both insure the Town and indemnify the Town. Ms. Propp confirmed this was the case; that it is intended to be both.

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

To endorse the proposed term sheet for a non-exclusive easement and development agreement to allow for Corte Madera Village, LLC to improve the Town's gravel lot and utilize resulting parking spaces for required parking for the Village at Corte Madera, including a potential Restoration Hardware expansion project and provided direction and authorization to Town staff to draft the non-exclusive easement and development agreement consistent with the term sheet.

### **BREAK**

Mayor Furst called for a break at 10:02 p.m. and thereafter reconvened the meeting at 10:18 p.m.

7.II.ii ~~Approve Resolution 17/2017 Amending Resolution No. 13/2017 to Incorporate the Responsibilities and Duties of the Accessibility Advisory Commission (AAC) Into the Town's Bicycle Pedestrian Advisory Committee (BPAC); Possible Action to Introduce an Ordinance Repealing Chapter 2.22 (Sections 2.22.010-2.22.050) of the Corte Madera Municipal Code To Dissolve the Accessibility Advisory Commission, and Amending Section 2.06.020 to Delete All References to the Accessibility Advisory Commission Qualifications~~  
(Report from Todd Cusimano, Town Manager)

Town Manager Cusimano stated this is a follow-up to the Council's previous meeting of possible action to incorporate the responsibilities and duties of the Accessibility Advisory Commission (AAC) into the Town's Bicycle Pedestrian Advisory Committee (BPAC). If the Council approves amending the responsibilities for BPAC, the following actions should be taken:

1. Introduce an ordinance repealing Chapter 2.22 of the Corte Madera Municipal Code to dissolve the AAC, and amending Section 2.06.020 to delete all references to the AAC Qualifications; and
2. Approve Resolution 17/2017 Amending Resolution No. 13/2017 to incorporate the responsibilities and duties of the AAC into the Town's BPAC.

He said his intent was to roll the responsibilities and duties of AAC into the BPAC with the approach of contacting the three current sitting AAC members to determine their interest in joining BPAC in an advisory role. AAC members would not attend all meetings and they would be available to BPAC should there be a need for expertise in accessibility laws and/or requirements.

He took this recommendation to the BPAC last week and received the following comments:

1. BPAC requests recruiting one person with accessibility knowledge to be on the BPAC rather than have 3 AAC members as an advisory panel to BPAC members.
2. BPAC would like this additional member at all meetings in case accessibility issues come up with existing projects.
3. It would be good to have an accessibility perspective on all projects and items discussed.
4. Bring in members as an advisory or to meetings as needed could bring up new accessibility projects or issues to consider.
5. If there is just one member and they attend regular meetings, they can benefit from discussion of projects and items.
6. There was concern of adding multiple members to an already 7-member BPAC.

In taking these comments into consideration, Mr. Cusimano said his recommendation is to have 7 members of BPAC and consider increasing BPAC up to 9 members, or adding 2 potential AAC members.

In looking at BPAC's comments that the member should attend all meetings to have this expertise, his recommendation is to approach the 3 members of the ACC and determine if 2 members would be interested in joining. Also, if the BPAC is up to 9 members at least one member will always have expertise in accessibility issues and if one member is absent, the other can serve as backup.

Councilmember Bailey confirmed that BPAC comments were not included in the packet but understands that BPAC wants people with expertise and adding one member for a slightly larger BPAC. He recommended 2 members, as this will ensure there is an extra member who could serve as back-up if one accessibility expert member was absent.

Councilmember Ravasio stated BPAC discussed having an advisory group and while he tries to keep the meetings to 2 hours, invariably they sometimes extend to about 3 hours. He said all BPAC members were in agreement and would be happy to take this on. They deal with many pedestrian issues and think their expertise would be enhanced by someone who has experience with accessibility issues. They suggest adding at least one person and possibly up to 2 people and to have them be actual full-time members so every project gets reviewed for accessibility.

Councilmember Bailey asked if there has ever been a 4-4 vote.

Councilmember Ravasio replied that BPAC does not vote on many things given they are an advisory commission. Much of what they do is provide direction to staff so this has not been an issue.

Vice Mayor Condon supported having 2 members versus one, given it is important that the AAC has some standing. She explained the importance when the Town experienced legal issues regarding accessibility, and if 2 members served in this capacity there would be more cohesiveness.

Councilmember Ravasio said he did not see a problem with adding 2 people except how to fit 9 people at the dais; however, he felt this could be resolved.

Vice Mayor Condon cited membership on the AAC which has been difficult to retain and suggested an alternate be considered for appointment.

Councilmember Andrews referred to Scope of Work Item A which states, "Obtain input from bicyclists and pedestrians". He asked if language needed to be inserted regarding this.

Mr. Cusimano said he has proposed language in Item B which speaks to the role of what encompassing the AAC, and this is an addition. However, additional language could be inserted.

Vice Mayor Condon suggested adding to the end of Item A, "and the disabled" to the phrase, "Obtain input from bicyclists and pedestrians."

Ms. Propp suggested Item A be revised to state, "Obtain input on topics regarding bicycle, pedestrian ~~and on accessibility~~" which would describe categories rather than people themselves. Councilmembers concurred.

Councilmember Andrews referred to proposed SB 1 which is being moved through the legislature which mandates that the Department of Highways come out with their Complete Streets criteria by January 1, 2018. He asked if the Town was incorporated into that, whether BPAC was evolving into a transportation planning commission, and whether the Council needs to reconsider what BPAC does.

Mayor Furst stated the Town has already adopted a Complete Streets program which has been satisfied. The BPAC is an advisory committee that the Town created to receive input as to how to improve things for bicyclists and pedestrians. She said she knows Councilmember Andrews has voiced concerns with Tamalpais Drive, but explained that adding a bike lane is a benefit to drivers in that drivers do not have to share their lane with the bicyclist. She said BPAC is also staffed and it is the Town Council who decides on the projects from recommendations from BPAC.

Councilmember Andrews noted that Tamalpais Drive was delayed for a year, and he did not remember the matter coming to the Council with information it would be delayed.

Mayor Furst said she remembers many people in the community voicing concerns with what was occurring on Tamalpais Drive and proposing/requesting certain features. She was of the strong opinion that if the Town is investing a lot of money into certain projects, the Town should get those projects done right.

She said she is glad BPAC exists to help ensure that projects are built right and that the Town gets the "biggest bang for the buck". It is unfortunate that delays occur, but if a better

project is the result often times it is a better trade-off.

Councilmember Andrews restated that he believed BPAC was evolving into becoming a land transportation group within the Town. He suggested re-thinking or re-emphasizing BPAC's charter to reflect the fact that this is how they are evolving and to make certain that all constituencies in the Town are reflected in their activities. He noted he chaired a traffic committee in the past but BPAC was different.

Councilmember Ravasio disagreed, stating he did not believe BPAC was evolving this way. He felt what Councilmember Andrews was referring to would be something of a much larger scope. BPAC was not prepared to deal with something like this but possibly this might be a future discussion, given any need.

He commented that BPAC spent an hour at its last meeting talking about improvements to a crosswalk and landscaping at Winona and Madera, which is much different from transportation planning.

Mayor Furst opened the public comment period.

PATI STOLIAR, Casa Buena Drive, member of the AAC, said she thinks the idea of having one person and an alternate so someone is always available would probably suffice. She did not know the Council would get 2 people who would commit attending BPAC meetings. She thought Councilmember Ravasio's points were valid; that there used to be a traffic committee and because traffic is the number one complaint in Town, the Council may want to revisit this.

DAVID MACPHERSON, Corte Madera Avenue, Vice Chair of BPAC, stated Ms. Propp was accurate in terms of her approach to an amendment addressing accessibility rather than disability. He thinks any re-working of the scope should ensure that citizens know the AAC has been merged into BPAC and that they are here to address concerns, which is precisely what BPAC wanted to do.

He explained that prior to BPAC becoming aware that the AAC was not meeting regularly, BPAC would address questions of accessibility. They floated the idea of having someone on BPAC that would be qualified either as a member of the AAC or had other knowledge.

Lastly, he referred to Councilmember Andrews' comment and asked that he consider studying the minutes, attending some of their meetings, reviewing the reports from David Parisi and witness how BPAC agonizes over balancing the needs of motor vehicles, truck deliveries, bike transportation and pedestrians to make the community safer. He noted that all members of BPAC own one or more cars and would ask that Councilmember Andrews revisit the idea that members do not care about those who need to park and drive just because they are called a bike and pedestrian advisory committee, as every decision BPAC undertakes accounts for the needs of all citizens.

He supported Council's adoption of the resolution to merge the AAC with BPAC and asked that the Town's website reflects that the new the BPAC serves as both the AAC and BPAC so the community understands.

Vice Mayor Condon referred to Scope of Work C; and asked that it read "Identify prime targets for improving bicycle, pedestrian and accessibility infrastructure."

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

To adopt Resolution 17/2017 Amending Resolution No. 13/2017 to

incorporate the Responsibilities and Duties of the Accessibility Advisory Commission (AAC) Into the Town's Bicycle Pedestrian Advisory Committee (BPAC), as amended under Section 3A, B and C; Scope of Work as discussed earlier adding in accessibility language.

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

To introduce an Ordinance repealing Chapter 2.22 (Sections 2.22.010-2.22.050) of the Corte Madera Municipal Code to dissolve the Accessibility Advisory Commission, and Amending Section 2.06.020 to delete all references to the Accessibility Advisory Commission qualifications

#### 7.II.iii ~~Review of Draft April 4, 2017 Town Council Agenda~~

Town Manager Cusimano commented that staff will seek to agendize the Tam Ridge presentation. He also noted that Item 7.I are the bids for the Tamalpais Drive project which will be brought to the Council. A staff meeting will be held tomorrow morning and any changes will be forwarded to the Council.

Mayor Furst asked for information regarding the item for update of accessory dwelling units.

Ms. Propp replied that when the Council adopted the new regulations for ADUs and JADUs, one condition upon approval was that planning staff would return in the spring and provide an update on the number of applications, whether the ordinance was or was not working or whether amendments needed to be considered.

#### 7.II.iv ~~Approval of Minutes of March 7, 2017 Town Council Meeting~~

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

To approve Minutes of the March 7, 2017 Town Council Meeting, as submitted

### **8. ADJOURNMENT**

The meeting was adjourned at 10:49 p.m. to the next regular Town Council meeting on April 4, 2017 at Town Hall Council Chambers.