

MINUTES OF JANUARY 21, 2020

**REGULAR MEETING
OF THE
CORTE MADERA TOWN COUNCIL**

Mayor Andrew called the Regular Town Council Meeting to order at Town Hall Council Chambers, 300 Tamalpais Drive, Corte Madera, CA on January 21, 2020 at 7:50 p.m.

1. CALL TO ORDER AND ROLL CALL

Councilmembers Present: Mayor Andrews; Vice Mayor Beckman; Councilmembers Bailey, Kunhardt and Ravasio

Councilmember Absent: None

Staff Present: Town Manager Todd Cusimano
Town Attorney Teresa Stricker
Finance Director Daria Carrillo
Director of Planning and Building Adam Wolff
Director of Public Works R.J. Suokko
Senior Planner Martha Battaglia
Fire Marshal Ruben Martin
Town Clerk/Assistant Town Manager Rebecca Vaughn

SALUTE TO THE FLAG – Mayor Andrews led in the Pledge of Allegiance.

2. OPEN TIME FOR PUBLIC COMMENTS

MARGARET BANDEL, Prince Royal Drive, suggested the Town work with the garbage company to provide a shredding event for residents, similar to Chipper days.

DENNIS RODONI, County Supervisor, wished the Council a Happy New Year and said he looks forward to working with Corte Madera's Council and staff.

PAT RAVASIO, Oakdale Avenue, thanked the Council for the electronic sign in front of Town Hall. She spoke about the measure's loss of local control and said it would override the San Geronimo Valley plan. If passed, the measure will not bring golf back, given the Trust's interests is to turn it over to the public for a public commons space.

3. PRESENTATIONS – None

4. CONSENT CALENDAR

Vice Mayor Beckman referred to page 3, top paragraph of Item 4.D's report, which he recited and asked staff to speak about the interrelationship between this stand-alone project and Madera Gardens and the larger Climate Adaptation Plan.

Director of Public Works R.J. Suokko clarified that staff will take any data from the cap and try to fold it into the Madera Gardens assessment, which is a more extensive flood control scope of work.

Councilmember Kunhardt referred to the map included in Item 4.D and asked why the map is incomplete, stating it does not include the area not strictly in Corte Madera but just north which is the shore. He questioned how to get Larkspur and the County to step up for this critical northern tip of the study area.

Mr. Suokko explained there are some limitations with the grant funds and how the Town can spend it. Some of the concepts such as Lucky Drive, the Sonoma Marin Area Rail Transit (SMART) right-of-way, or Mariner's Cove could also speak to solutions in those areas.

Councilmember Kunhardt requested removal of Item 4.C, 4.M and 4.N.

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

- A. Authorize Introduction and/or Adoption of Resolutions and Ordinances by Title Only.
(Standard procedural action – no backup information provided)
- B. Adopt Resolution No. 01/2020 (1) Endorsing the Spark (Larkspur-Corte Madera Schools Foundation) Annual Art Show Fundraiser, (2) Allowing Two Temporary Signs in the Public Right-of-Way from January 22, 2020 to February 13, 2020 Publicizing the Spark Foundation’s Annual Art Show February 7-12, 2020; and (3) Determining that the Project is Exempt from the California Environmental Quality Act (CEQA) Pursuant to CEQA Guidelines 15061(B)(3)
- D. Authorize Public Works Director to Execute a Second Contract with Adaptation International and a First Addendum with San Francisco Estuary Institute to Increase Scope of Services for an Amount Not to Exceed \$51,500 and \$43,000, respectively; and Extend the Terms
- E. Adopt Resolution No. 02/2020 Revising the Mid-Management Salary Schedule to Include Project Manager and Code Enforcement Officer and to Remove Town Clerk/Assistant to the Town Manager
- F. Adopt Resolution No. 03/2020 Revising the Department Head Salary Schedule to Include the Town Clerk/Assistant Town Manager Position
- G. Adopt Resolution No. 04/2020 Approving a Publicly Available Pay Schedule in Accordance With CalPERS Regulations
- H. Approval of the Annual Statement of Investment Policy
- I. Approval of the General Fund Revenue and Expenditure Report for the Period Ending November 30, 2019
- J. Approval of the Quarterly Investment Report for the Quarter Ending December 31, 2019.
- K. Receive and File Warrants and Payroll for November 2019
- L. Receive and File Warrants and Payroll for December 2019
- O. Approval of Minutes of the December 19, 2019 Special Town Council Meeting

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

To approve Town Consent Calendar Items A, B, D, E, F, G, H, I, J, K, L and O.

Items Removed from the Consent Calendar:

- C. Authorize Public Works Director to Execute and Record a Notice of Completion for the High Canal Embankment Repair Project, Project No. 17-803

Councilmember Kunhardt congratulated staff for saving money and doing a good job on the project.

M. Informational Item: Update on the Proposed Hotel Floor Area Ratio (FAR) Bonus Ordinance Environmental Analysis

Councilmember Kunhardt stated there is a discussion paragraph of the motion wherein there is reference to staff modifying the ordinance to avoid concentration. He asked what this refers to and asked how staff arrived at this modification.

Director of Planning and Building Adam Wolff explained that this was done in response to some of the commentary and discussion that staff had when bringing the draft policy before the Council in August 2019. It responds to the idea of clustering or over-concentration potentially of hotels that might seek to use this ordinance which was raised during discussion of the Council in 2018 and 2019.

Secondarily and more importantly, when staff began looking at the CEQA analysis, the limitations on how many times this ordinance could be used or the maximum amount of development one might expect, essentially become a way to simplify and contain the scope of the analysis. He also felt it still accomplished the economic development goals that were fundamental to the ordinance and it will ultimately have to come back for public hearings and CEQA review before the Planning Commission and Council. The Initial Study is expected to be completed in March at which time the 30-day public noticing period could have comments. Thereafter, it would come to the Planning Commission for public hearing.

N. Approval of Minutes of the December 3, 2019 Regular Town Council Meeting

Councilmember Kunhardt asked that the spelling of the names, Ms. "Goody" and Architect James "Bill" in the of discussion section on the Climate Action Committee agenda item in the minutes be corrected.

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

To approve Town Consent Calendar Items C, M and N (as corrected).

5. **PUBLIC HEARINGS** – None

6. **BUSINESS ITEMS**

A. Consideration and Possible Adoption of Resolution No. 05/2020 Approving the Corte Madera Chamber of Commerce 2020 Budget and Accepting the Financial Statements (Audit) for the Years Ending December 31, 2018 and December 31, 2017

Town Clerk/Assistant Town Manager Rebecca Vaughn gave a historical overview and request of the Town Council to consider and adopt Resolution No. 05/2020 approving the Corte Madera Chamber of Commerce 2020 Budget and financial statements.

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

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

To Adopt Resolution No. 05/2020 Approving the Corte Madera Chamber of Commerce 2020 Budget and Accepting the Financial Statements (Audit) for the Years Ending December 31, 2018 and December 31, 2017.

B. Second Reading And Possible Adoption Of Ordinance No. 992 To Repeal And Replace Chapter 18.31 (Accessory Dwelling Units) And Amend Chapters 18.04 (Definitions), 18.18 (Special Purpose Overlay District), And 18.20 (Off-Street Parking And Loading) Related To Accessory Dwelling Unit Regulations

Recusal: Vice Mayor Beckman and Councilmember Kunhardt recused themselves from participating in this matter and left the Chambers.

Senior Planner Martha Battaglia gave an overview of the staff report and request to consider the second reading and adopt Ordinance No. 992 relating to ADU regulations.

Councilmember Ravasio asked what would occur if the Council does not adopt the ordinance tonight.

Mr. Wolff stated given the Town has not yet adopted an ordinance by January 1st, they are defaulting to State law AB 881 and provisions of the Town's existing ordinance which are consistent with State law.

Mayor Andrews asked and confirmed with Ms. Battaglia that the Town has a couple of building permits submitted for ADUs and several people he's been in contact with are exploring ADUs on their properties.

Mayor Andrews asked how any of the building permits would be affected if the Council adopted the ordinance tonight.

Mr. Wolff explained that the Town has 60 days with which to approve an application for an ADU. If adopted tonight, the ordinance would go into effect in 30 days and staff would have the ability to review and approve applications with the proposed ordinance rather than existing State law. Those applying just for a building permit would use the ordinances or State laws in effect. It is the submission of the building permit that triggers which regulations should be used to review the building permit application.

Councilmember Ravasio asked what would occur if the Council wished to make changes inconsistent with State law.

Town Attorney Teresa Stricker replied that if changes are inconsistent with State law, the ordinance is then submitted to HCD (California Department of Housing and Community Development) under the new process. HCD will review and make a determination and advise the Town if any aspect of the ordinance is in violation of State law. The Town is then given an opportunity to respond to HCD which may necessitate re-amending the ordinance to make correction(s) or the Council could decide not to amend the ordinance and leave it as is, at which case HCD could make an enforcement action referral with the Attorney General's Office.

Mayor Andrews opened the public comment period.

Public Comments:

PHIL SIMON, Simon Ranch Road, said he believes there is a conflict with the proposed ordinance and State law, most likely caused by a redundant and confusingly written part of State law, which he recited under Section 65-852.2 (c)(2)(c) and 18.31.080, Section 65-852.2(a)(1)(d)(7) relating to square footage of an ADU that is 16 feet in height with 4 foot setbacks, reduction of setbacks from specific lot lines, stating the Town cannot regulate its way into preserving desirable Town characteristics by coming up with arbitrary measurements of building and space. Instead, he asked that the Council establish the most restrictive requirements the State will allow and then apply the greatest discretion allowed in order to approve designs that retain the desirable things for the Town.

LOUISE BROWN, Christmas Tree Hill, read an excerpt from one of her many letters on the subject, in part that pertains to 1) State law which puts local governing bodies in difficult positions, 2) the State's aggressive pursuit and implementation of dual strategic imperatives to increase housing while also hardening the State against the devastating effects of wildfires that come into direct conflict when considering impacts of ADU regulations for Wildland Urban Interface areas, 3) the Christmas Tree neighborhood and its unique physical constraints, and 4) zoning of the neighborhood which places a 10% cap or 25 total ADUs which keeps density within safe parameters.

She urged the Town to preserve the study and analysis that initially triggered the development and implementation of the Christmas Tree Hill zoning district and establish a maximum number to protect public safety, ensure emergency response and provide for safe evacuation. She thinks there are a number of other towns that also ban together with Corte Madera to go to the State to request local controls in these situations.

MIKE ANDERSON voiced confusion with the wording of Section 18.31.080(9) and windows which state, "All windows that face a side yard adjoining a side yard or rear yard of an adjacent property or are located within 15 feet of the shared property line that shall be clerestory windows except that this standard does not apply if a structure on an adjacent property does not have any non-clerestory windows on the building." He asked if the standard would still be in play if he has regular windows at his house. He also questioned discretionary review and asked if it would still be imposed upon the ADU.

A SPEAKER stated if someone complies with all ADU requirements, she did not see any need for discretionary review, and asked if this was true.

Ms. Battaglia clarified that review of ADUs is a ministerial action which means there is no discretion. She explained that the prior version of the ordinance that went to the Planning Commission included options for discretionary review where they could apply for design review if an applicant did not meet a development standard or wanted to exceed a development standard. However, the Planning Commission removed all of those options.

At the December 3rd meeting, the Council put back in an allowance for an ADU that exceeded the size standards in the ordinance with approval of design review by the Planning Commission. The ordinance before the Council has one option for discretionary review which is to exceed the size as established in the ordinance up to a maximum of 1,200 square feet.

The speaker then asked that the Council consider and include as much discretion in the ordinance and noted that the next and important step is monitoring all ADUs such that they are rented for 30 days and, for JUDs, that there is an owner living in the home.

PAT RAVASIO believed the State is hasty in developing laws and communities like Corte Madera should challenge them. She also noted that Alta Way on Chapman Hill is an area similar to Christmas Tree Hill which cannot withstand more density.

Councilmember Bailey asked how the Christmas Tree Hill Overlay District connects with the ADU ordinance.

Ms. Battaglia explained there are 11 capacity districts in Christmas Tree Hill and an allotment of ADUs allowed within each capacity district; a total of 25 ADUs. Per the Town's ordinance, the 25 units include new attached or new detached ADUs and not existing spaces. Therefore, someone could convert a basement which is not included in the cap.

Because the State makes a distinction between new ADUs and the conversion of existing spaces, staff created a 5-year rule where someone would need to wait at least 5 years to propose an addition or convert an existing space to an ADU.

Councilmember Ravasio asked if an owner would be exempt from providing additional parking if they made the conversion to an ADU.

Ms. Battaglia replied that conversion of existing space does not require additional parking per new State law. Mr. Wolff added that owners also may be exempt from parking if they are within a one-half mile walking distance to public transit. Therefore, a significant amount of Christmas Tree Hill would also be exempt due to the proximity of Menke Park.

Councilmember Bailey thanked Mr. Simon and Mr. Brown for their comments. In response, he thinks everybody would like broader discretionary review and local control but the State is restrictive. He thinks the ordinance is the furthest the Town could legitimately push it without violating State law as it is not realistic to isolate specific properties in the ordinance, and the Planning Commission and staff will be responsive to concerns and questions as developments occur. He was supportive of the ordinance given it has some objective standards which are acceptable and not subject to override by State law.

Councilmember Ravasio also voiced support of the ordinance and asked to explore an amendment specifically related to Christmas Tree Hill. While it most likely will cause ramifications with the State, he would try and get other towns involved as the problem is statewide. Also, Christmas Tree Hill is in an Urban Wildland Fire Risk Zone and is 6.7% of the town's population, and the Town cannot afford the fire safety risk associated with adding more units on Christmas Tree Hill.

He thought it was crazy that the State is having some of the most severe wildfires in history and also allowing added units in unsafe areas. He suggested possibly adding the overlay to Chapman Hill and other areas in town and recommended adapting the ordinance to make it work for the Town. He also commented that insurance brokers are not writing fire insurance for homes in certain areas any longer, which is a big problem. Therefore, he thinks the Town should adopt the ordinance and at the same time, determine what is needed to preserve the safety of its residents which is the Town's primary responsibility.

Mayor Andrews referred to the hundreds of thousands of dollars the Town has spent over the decades identifying the Federal Emergency Management Agency (FEMA) flood plains and working to identify safe areas to build housing or ways to modify housing so it is safe. The Town has worked on sea level rise analysis and in 2008 identified the wildfire areas, all of which is being ignored by the State. Even worse, in 2022 the Planning Department will be required to identify evacuation routes and he suggested updating the Health and Safety section of the General Plan to specify evacuation routes. If there are places with one way in and one way out and are 9 feet wide or less, he was not sure the Town should encourage further development in those particular sections and voiced support of the ordinance.

MOTION: Moved by Bailey, seconded by Ravasio, and approved unanimously by the following vote: 3-0-2 (Ayes: Bailey, Ravasio and Andrews; Noes: None; Recused: Beckman and Kunhardt)

To Adopt Ordinance No. 992 to Repeal and Replace Chapter 18.31 (Accessory Dwelling Units) and Amend Chapters 18.04 (Definitions), 18.18 (Special Purpose Overlay District), and 18.20 (Off-Street Parking and Loading) Related to Accessory Dwelling Unit Regulations.

Noted as Present:

Vice Mayor Beckman and Councilmember Kunhardt returned to participate in the remainder of the meeting and were noted as present.

C. Consideration and Possible Adoption of Resolution No. 06/2020 Approving the 2019-20 Mid-Year Budget Revision

Finance Director Daria Carrillo gave an overview of the staff report and requested the Council adopt Resolution No. 06/2020 approving the Mid-Year Budget revision.

Councilmember Kunhardt referred to the Town Hall savings, the Ring Mountain Trailhead and the Preserve, and confirmed these projects would not incur or represent any reduced funding or reduction in their scope of improvements.

Councilmember Bailey questioned the nature of work relating to the additional legal costs in the budget. Ms. Carrillo replied that much of it has to do with code enforcement work and the abatement process.

Town Manager Todd Cusimano further explained that the legal budget has been fairly low since 2016. Since that time, there have been cases where the Town has been able to remove itself from litigation through negotiations by the Town Attorney. Costs have also been the result of development of Town ordinances and other items. He noted that later in the year, a more refined accounting will take place for the Council's review and also noted that some costs are charged back to the Insurance Fund.

Councilmember Ravasio asked for an explanation about the data from staff received regarding pensions and the plan to pay them off.

Ms. Carrillo explained that using the Gov-Invest software and the most recent information from CalPERS actuarial, assuming a conservative 5% discount rate going forward, making trust payments and the \$1 million payment, in 2034 or 2035 the Town's pension liability will be fully funded, including all payments.

Councilmembers commented that this is a remarkable accomplishment.

Mr. Cusimano commended the work of the Finance Committee, Council and staff, stating that this story should be told. The Town also plans on having retiree health fully funded in 2032. He explained the Town's worst deficit of \$2.5 million and because of economic development and revenue streams and creation of the Pension Trust, the Town can now sustain three times that deficit and not freeze positions.

On the capital improvement side, given the Town's susceptibilities of sea level rise, climate change and earthquakes, Mr. Cusimano stated the Town has an \$88 million revenue stream over the next 10 years. There is no other community in the State that can claim this.

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

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

To adopt Resolution No. 06/2020 Approving the 2019-20 Mid-Year Budget Revision

7. COUNCIL AND TOWN MANAGER REPORTS

- Town Manager Report
 - Mr. Cusimano reported staff is continuing the Town Hall project discussion with the community and their next meeting will be Thursday, January 30th at 6PM at the Community Center.
- Council Reports
 - Councilmember Bailey had no report.

- Councilmember Kunhardt reported on the Transportation Authority of Marin (TAM):
 - The FASTER Bay Area Transportation proposal has moved to the State legislature on a 2-year bill format. There is no lead agency approved but TAM staff and its Board identified top projects.
 - The design has been approved by Caltrans for the widening of the shoulder of the crossing of Corte Madera Creek for bicyclists and pedestrians.
 - The East Blithedale re-design in Mill Valley is commencing if TAM authorizes this.
- Vice Mayor Beckman gave the following report:
 - Central Marin Sanitation Agency (CMSA) is now exporting power to the grid and selling energy generated from sewage to Marin Clean Energy (MCE).
 - He will be meeting with a representative from Amazon tomorrow regarding the petition on the reuse of cardboard.
 - He will be in Sacramento on Thursday for a League of California Cities Policy Committee meeting regarding SB 50 and they are recommending the Council oppose this and have provided a sample letter for the Council's consideration.
- Mayor Andrews reported that the Mayor of San Jose has been contacting him repeatedly to get the Town to sign on to support a ratepayer-owned PG&E. He deferred taking a position on this until the new Council is seated. Also, the Council has a policy that if it was a member to a group that would have expertise they would be looked to for guidance. In this case, a ratepayer-owned PG&E would directly impact MCE. MCE's position is that individual officials can take a position one way or another, but MCE is not taking a position now because there are many details that need to be clarified before they can take a position one way or the other.

8. REVIEW OF DRAFT AGENDA FOR UPCOMING TOWN COUNCIL MEETING

A. Review of Draft Agenda for February 4, 2020 Town Council Meeting

Councilmember Kunhardt questioned and confirmed there were approximately 9 applications received for the new Climate Action Committee.

Councilmember Bailey cited pending expiration of terms for Parks and Recreation Commissioners and Planning Commissioners, and he suggested the Clerk advertise for applicants.

Ms. Stricker briefly described situations relating to results of the upcoming election and potential write-in candidates, but stated the Council can begin the process. She recommended not making an appointment until after the election. The Clerk then described the Commission's advertisement, interview and appointment process, and Mr. Cusimano confirmed that staff can begin the process.

9. ADJOURNMENT

The meeting was adjourned at 7:50 p.m. to the Sanitary District No. 2 Meeting, and thereafter, to the next regular Town Council Meeting on February 4, 2020 at Town Hall Council Chambers.